



Financial Action Task Force
Groupe d'action financière

**THIRD MUTUAL EVALUATION ON
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF TERRORISM**

GREECE

29 JUNE 2007

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PREFACE - INFORMATION AND METHODOLOGY USED
FOR THE EVALUATION OF GREECE

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Greece was based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Methodology 2004¹. The evaluation was based on the laws, regulations and other materials supplied by Greece, and information obtained by the evaluation team during its on-site visit to Greece from 20 November to 1 December 2006, and subsequently. During the on-site the evaluation team met with officials and representatives of all relevant Greek government agencies and the private sector.

2. The evaluation was conducted by an assessment team, which consisted of members of the FATF Secretariat and FATF experts in criminal law, law enforcement and regulatory issues: Mr. John Carlson and Mrs. Catherine Marty from the FATF Secretariat; Mr. Giovanni Francesco D'Ecclesiis, financial expert, Bank of Italy; Mrs. Amélie Josse, law enforcement expert, Ministry of Economy and Finance (TRACFIN), France; Mr. Ian Matthews, financial expert, Financial Services Authority, UK; Mr. Miguel Angel Recio Crespo, legal expert, Ministry of Economy, Spain and Mr. Robert Stapleton, legal expert, Department of Justice, USA. The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems².

3. This report provides a summary of the AML/CFT measures in place in Greece as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, sets out Greece's levels of compliance with the FATF 40+9 Recommendations (see Table 1³), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2).

¹ As updated in June 2006.

² The list of all bodies met during the on-site mission, the copies of the key laws, regulations and other measures and the list of all laws, regulations and other materials received and reviewed by the assessors are available in the Annexes of this report.

³ Also see Table 1 for an explanation of the compliance ratings (C, LC, PC and NC).

EXECUTIVE SUMMARY

1. Background Information

1. This report provides a summary of the AML/CFT measures in place in Greece as of November 2006 (the date of the on-site visit). The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Greece's levels of compliance with the FATF 40 + 9 Recommendations (see attached table on the Ratings of Compliance with the FATF Recommendations).

2. Greece's legal requirements in place to combat money laundering and terrorist financing are generally inadequate to meet the FATF standards and there are some serious concerns about the effectiveness of the AML/CFT system in place. The AML Law came into force in August 1995 and was amended in December 2005 in order to expand the scope and clarify certain aspects of the definition of ML. In general, it appears that the ML offence is not effectively implemented. The limited data on prosecutions and convictions for ML show that there is a very low rate of conviction. The criminalisation of terrorist financing is very recent (July 2004) and there have been no FT cases as yet. The provisions in relation to confiscation of criminal proceeds do not fully comply with the international standards and the lack of statistics inhibits the measurement of the current level of implementation. The level of implementation of S/RES/1267(1999) and S/RES/1373(2001) is inadequate. Generally, the data and other information available are not sufficient to positively conclude that there is an effective system for investigating, prosecuting and taking related action on ML and FT cases in Greece.

3. The Greek FIU has been assigned extensive powers and responsibilities, and there is a clear desire on the part of the authorities to create an effective FIU that can lead the fight against money laundering and terrorist financing. However, the evaluation team has serious doubts about the current structure and capacity of the unit to properly perform its tasks and functions, in particular the traditional core functions of an FIU. Greece should address as a matter of priority the issues of a structural nature that are raised by the current FIU model.

4. The preventive system that deals with customer identification is generally insufficient and not in line with the international standards. The Bank of Greece (BOG), after the enactment of the new AML Law, has taken the initiative to introduce more comprehensive requirements for the financial institutions under its supervision. In relation to the reporting obligation, given the size and increasing sophistication of criminal activity in Greece, the total number of suspicious transactions reports appears low, with virtually none from outside the banking sector. Moreover, the results in terms of cases passed on are also inadequate. There are deficiencies in AML/CFT supervision in the banking area and, to a more severe extent, in the securities sector. Measures are non-existent in the insurance sector. Although DNFBPs are now covered by the requirements under the AML Law, there are serious concerns regarding the level of awareness and commitment to implementation of effective AML/CFT measures by the non-financial businesses and professions.

5. There is no comprehensive study of the amount of money earned from criminal activity or how it is laundered. However, in 2006 the Ministry of Economy and Finance prepared a study of the proceeds earned from four types of illegal activity: illegal prostitution, drug trafficking, and cigarette and alcohol smuggling. In that study, the estimated gross amount earned in 2000 from those four forms of criminal activity is approximately €1.6 billion (1% GDP in 2000). It is thus expected that the proceeds of all crimes in Greece would be very significant amount.

6. Limited information is available on the most commonly used money laundering methods and techniques. Greek investigations have revealed the use of banks, investment firms, mutual funds, offshore companies, bureaux de change, newly founded companies, and traders of precious metals. In the majority of the cases, "traditional" placement methods, e.g. bank deposits and share acquisition in the Athens Stock Exchange (ASE), as well as other methods of layering, such as structured domestic and international transactions performed by relatives and other third parties connected to the predicate offenders, have been used.

7. Greece is perceived by the authorities as a low risk country for terrorist financing, though it has in the past been subject to some domestic terrorist activity. As for financing international terrorism, no assets of terrorist groups or terrorists have been found in Greece so far. The Greek authorities are not aware of alternative remittance systems operating in the country (although the assessors were told that such systems take place using call centres), but again, no systemic study has been conducted to ascertain their existence. Greek authorities did note however the use of cross-border cash transfers, particularly using tourist buses, which may suggest potential TF risks.

8. A wide range of financial institutions exists in Greece: credit institutions and financial institutions/organisations that include the following companies and services: life insurance companies, portfolio investment companies, mutual fund management companies, real estate investment companies, management companies of mutual funds investing in real estate, investment intermediation companies, investment services firms including members of the Stock Exchange, consumer credit companies (leasing and factoring), bureaux de change, and money remittance firms. A range of designated non-financial businesses and professions became subject to the AML Law as of 13 December 2005. Greece is currently in the process of further reviewing its legislation for the purposes of implementing the third EU Money Laundering Directive.

2. Legal System and Related Institutional Measures

9. ML is defined by Article 1.B of the AML Law and the definition's physical and material elements closely follow and are in line with those set out in the Vienna and Palermo Conventions. However, the interpretation of proof of the predicate offences seems restrictive and certainly makes prosecution of ML, in particular "third-party" laundering, difficult.

10. Greece has opted for a combination of a list of predicate offences and a threshold approach. Certain of the FATF "designated categories of offences" are not expressly included in the AML Law and the catch-all provision for other predicate offences has a threshold which only includes predicate offences where the offence "generated a property of at least EUR 15,000". The ancillary offences of attempt, aiding and abetting, facilitating and counselling the commission of the money laundering offence are adequately covered in the Penal Code. With regard to conspiracy, the act of joining another person for the purpose of committing a misdemeanour punishable by imprisonment of at least one year, aiming at an economic or other material benefit could potentially apply to a concerted act of ML. The available data on prosecutions and convictions is limited, but it appears that the conviction rate is very low, and that the offence is not therefore effectively implemented.

11. Neither Greek law in force nor legal doctrine recognise the principle of corporate criminal liability and there are no fundamental or constitutional principles of domestic law prohibiting holding corporations criminally liable. The basic penalties for natural persons (5-10 years imprisonment) and for legal persons (an administrative fine of up to nearly EUR 3 million) involved in ML would appear to be adequate. However, certain other provisions reduce the effectiveness and dissuasiveness of these penalties (in particular, the ML sentence cannot exceed the sentence for the predicate offence and there is also concern about the provisions that allow a defendant to pay a fine instead of serving a prison sentence for sentences of less than a year). The exact scope and mechanisms for implementing the civil and administrative liability of legal persons for criminal offences are also difficult to identify.

12. While some of the material elements of the FT offence correspond to those required under Article 2 of the U.N. Convention and Special Recommendation II of the FATF, the scope of the offence is too narrow as it does not make it a crime to collect or provide funds or material support to terrorist individuals or for specific terrorist acts. In addition, terrorist financing is not an offence in itself, whether or not a terrorist act has actually occurred and whether or not funds were used to finance a particular act. The defence to the law in Article 187.A (8) is very broad and appears to create the potential to completely undermine and negate the intentions of the provision.

13. Regarding the scope of seizure and confiscation, the different provisions are not sufficient to fully address

the FATF standards. The law does not appear to permit confiscation of indirect proceeds and there is considerable uncertainty as to whether Greek authorities can confiscate instrumentalities intended for use in ML or a predicate offence. Courts have not been given the power to void or prevent actions involving the proceeds of crime from the time the predicate offence was convicted. Powers of seizure do not extend to all property that could be the proceeds of crime and general confiscation legislation does not provide for freezing on an *ex parte* basis, with the right to appeal. The powers to trace, seize, freeze and confiscate have not been used by investigators since the powers required are set out in a number of different pieces of legislation.

14. With regard to S/RES/1267 (1999) and S/RES/1373 (2001), Greece has implemented some measures through the EU Regulations but has taken very limited action to implement the resolutions for the provisions that are not covered by the EU legal instruments. Greek authorities have not frozen any funds under either UNSCR 1267 or UNSCR 1373. However, the current process for notifying ministries and the financial sector of entities on UN lists would take too long and therefore these entities would not be able to comply with freezing terrorist assets without delay. Greece has not yet provided guidance to financial institutions or DNFBPs on freezing assets of listed entities without delay, and does not monitor FIs and DNFBPs for compliance with measures taken under the Resolutions, apart from the passing of relevant information to the appropriate authority. There are no clear and publicly known procedures for de-listing and unfreezing in appropriate cases.

15. The Greek FIU was originally set up in 1995 and became operational in July 1997. After the amendment of the AML Law in 2005, the Greek FIU was upgraded into an independent administrative authority, and given extensive powers in certain areas. It is composed of the President and eleven part-time members proposed by ministries, supervisory authorities and the private sector (the Committee members). While the Greek authorities have a clear intention to create a strong, independent and effective FIU, which would take a leading role in AML/CFT matters, the current structure, organisation and resourcing of the FIU raise serious concerns.

16. The FIU has limited access to all financial, administrative and law enforcement information it requires to properly undertake its functions. At the time of the on-site visit, it was also severely understaffed (especially with regard to skilled financial analysts) and critically lacked organisational and technical resources to fully and effectively perform its functions. The FIU also needs to take enhanced measures to ensure that the information it holds is more securely protected. The periodic reports that are published on the Unit's activity are not sufficiently comprehensive (especially in relation to detailed statistics, typologies and trends). From 2001 to 2006, only 1.5 to 3.5% of STRs received have been sent to the public prosecutor. Greece needs to restructure the FIU for it to be effective, for example, this could include tasking the President and Committee members with a broad oversight and/or coordination role at national level and leaving specialised staff to perform the daily task of investigating incoming STRs.

17. The powers and capacity of the law enforcement services are generally sound. The FIU is allocated preliminary investigation powers with respect to offences punishable under the AML Law. The Hellenic Police is the national agency responsible for the detection and investigation all types of crime (including drug law violations and terrorism). The Special Control Service (SCS) within the Ministry of Economy and Finance (MOEF) is authorised to investigate any cases of ML relating to tax-related offences, customs offences and other types of economic crime which constitute predicate offences for ML. The Hellenic Customs service is authorised to investigate predicate offences related to smuggling, tax fraud and other customs offences. All ML and FT cases are prosecuted by the Greek prosecution office, which refers the cases to the investigative magistrate. The investigations of financial crimes in Greece have focused for a long time on the predicate offence and not on the ML offence or proceeds of crime as such, and a more proactive approach to detecting and exposing third party ML cases as opposed to self-laundering should be developed. More resources should be dedicated to investigations in relation to CFT and to the prosecution service. Consideration should also be given to making use of special investigative techniques in relation to ML and FT as they have proved successful in relation to drug trafficking and consideration should be given to a greater specialisation of prosecutors and judges in financial crime and ML cases.

18. Greece has not implemented comprehensive measures to detect the physical cross-border transportation of

currency and bearer negotiable instruments that are related to ML or FT. The authorities in charge of monitoring the entry and exit of goods and persons are the police (or port authority regarding water ports) and the Hellenic customs authority, but there is no obligation to declare currency or bearer negotiable instruments that are being imported or exported. However, the implementation of the EC Regulation on Cash Control will result in changes to Greek requirements.

3. Preventive Measures - Financial Institutions

19. In Greece, the preventive side of the AML/CFT system is based on the AML Law. Except for insurance brokers and agents, the AML Law covers all of the financial institutions defined by FATF. Three regulatory agencies have been designated as “Competent Authorities” under the AML Law. They have been given the power to issue binding regulations and/or comprehensive guidelines and are responsible for the AML/CFT supervision of Greek financial and credit institutions. These are: (1) BOG for banks and other credit institutions, leasing and factoring, bureaux de change, and money remitters; (2) Hellenic Private Insurance Supervisory Committee (HPISC) for insurance companies (the supervision of insurance companies is being transferred from the Ministry of Development to the HPISC); and (3) Hellenic Capital Market Commission (HCMC) for securities firms. The BOG and the HCMC have adopted further enforceable requirements with sanctions for non-compliance. The provisions issued by the MOD/ID are non-binding guidance and the MOD itself has had no legal status as a competent authority since the amendment of the AML Law in December 2005. Greece has not adopted a risk-based approach in full, and there has been no thorough assessment of the various AML/CFT risks, but the BOG has introduced certain risk-based elements into its new requirements.

20. In relation to the required customer due diligence measures, certain basic requirements are set out in the AML Law and these have been recently expanded by BOG requirements in the BOG Governor’s Act 2577/2006, which sets out more comprehensive requirements for institutions regulated by the BOG. As regards customer identification requirements, not all of the basic obligations are currently set out in law or regulation. The AML Law does not fully impose a requirement for financial institutions to conduct CDD in all cases contemplated by Recommendation 5.

21. The AML Law and guidance issued by the competent authorities on the identification of legal persons, partnerships and other legal arrangements is fragmented, and contains inconsistencies and gaps; while the measures on ascertaining beneficial ownership should be strengthened. The requirement to ascertain the purpose and nature of the business relationship does not extend to the securities and insurance sectors, and provisions concerning ongoing due diligence and simplified and enhanced due diligence are insufficient. The CDD requirements relating to existing clients are not fully satisfactory. Laws, regulations and other mechanisms should be amended to ensure that the full CDD requirements are implemented.

22. The requirement to identify and take relevant enhanced measures in relation to politically exposed persons (PEPs) does not extend to the securities and insurance sectors and is incomplete in relation to the financial institutions supervised by the BOG. The provisions of the BOG in relation to cross-border correspondent banking are broadly satisfactory, but do not cover banks in EU Member States. The requirement for financial institutions to have measures to prevent misuse of technological developments is limited and the current means proposed for dealing with the risks of non face-to-face business appear to be too limited generally. There is currently some uncertainty within the regulated sector as to whether third parties are being relied upon to carry out CDD, or whether they are strictly being used in an outsourcing context. The existing provisions from the BOG are not fully consistent with the FATF standards.

23. Bank secrecy is imposed for deposit accounts at credit institutions under Law 1059/1971. However, there is a lack of clarity on the extent of Law 1059/1971, and what its interaction is with the AML Law and other legal provisions. In particular, the provisions lifting bank secrecy in the AML Law appear only to apply to money laundering. Although it may not currently be a problem in practice, Greece should clarify exactly when Law 1059/1971 is over-ridden by other statutory provisions, and clarify the provisions of the AML Law on matters such

as the scope of money laundering/terrorist financing.

24. Greece's record-keeping requirements are generally satisfactory. In relation to SR.VII, Greece relies principally on the implementation of the EU Regulation on the payer accompanying transfers of funds that has been in force since 1 January 2007, though some limited provisions are contained in the AML Law and BOG requirements. The Regulation meets many of the technical requirements of the FATF standard. However, the derogation set out in the EU regulation for wire transfers within the EU (classified as domestic transfers) is not in compliance with the FATF requirements under SR.VII⁴ and there are currently no sanctions for non-compliance with the EU regulation, and the sanctions regime in Greece generally is neither effective nor dissuasive. Finally, in terms of effectiveness, there is insufficient evidence of its implementation, given its recent enactment.

25. The current requirements to pay special attention to all complex and unusual large transactions that have no apparent economic or lawful purpose do not adequately meet the FATF standards. The obligation to give special attention to business relationships and transactions with persons from countries which do not follow the FATF Recommendations is not met either.

26. The AML Law requirement to report STRs in Greece covers both suspicious transactions and any other incident that could be an indication of criminal activity, and the basic legal measures are covered. However there are also some important omissions, most notably the non-coverage of insurance agents and brokers and the requirement to submit STRs in respect of all predicate offences. The obligation to report attempted transactions should be clarified. In general, the effectiveness of the reporting system is inadequate, with very few STRs being made outside the banking system, while the conversion rate of STRs leading to law enforcement investigations may be an indication that the quality of the reports is poor. Existing guidelines to assist financial institutions to implement the reporting obligation are incomplete and are insufficient to meet the FATF requirements. The BOG, the HCMC and the HPISC should adopt sector-specific guidance with updated information on ML and FT trends and techniques, and a broader scope in order to comprehensively address the FATF requirements. The FIU should provide greater and a further range of feedback to competent authorities and reporting institutions to assist in improving the quality of STRs submitted.

27. Financial institutions supervised by the BOG are required to have internal controls but the link to AML/CFT provisions should be strengthened (e.g. in relation to the requirement to put in place screening procedures to ensure high standards when hiring employees). The implementation of the requirements has not been evidenced as yet. For the securities and insurance sectors, existing requirements are either very general or non-existent. The AML Law provisions are insufficient to address all of the requirements of Recommendation 22.

28. The provision that prevents SIs to enter into, or continue, correspondent banking relationships with shell banks only applies to SIs operating in non-EU countries and there is no obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

29. The BOG and the HCMC have been given appropriate powers to monitor and ensure compliance by financial institutions with their AML/CFT requirements. However, the implementation of existing provisions is challenging for the BOG and the HCMC (due in particular to a lack of resources). The Ministry of Development previously had the power to conduct on-site inspections in the insurance sector but has not used that power in the AML/CFT area, but it is expected that this will change when the HPISC takes over supervision. The BOG should implement a risk-based supervisory program for AML/CFT and adopt a more systematic consolidated approach to the supervision of AML/CFT policies and risk management systems. The BOG should also improve the quality of the supervision carried on in bureaux de change and money remittance companies. The HCMC and the HPISC should similarly implement a robust supervisory programme for AML/CFT purposes with proper inspection procedures.

⁴ The FATF decided at the June 2007 Plenary to further consider this subject.

30. The MOD/ID has not imposed any sanctions on the firms they supervise. The BOG has imposed sanctions, but the most usual requirement takes the form of a non-interest bearing deposit and this applies to all types of breaches, whatever their seriousness. No information on sanctions imposed is published. In practice, the sanctions that have been applied in many cases have been the minimum permissible. The supervisory authorities should ensure that the sanctions in place fully meet the FATF standards i.e. are effective, proportionate and dissuasive and are implemented properly.

31. The Greek authorities should introduce a licensing requirement for insurance agents by the insurance regulator to enable application and enforcement of the AML/CFT legal requirements in this sub-sector. Fit and proper tests should be conducted for all directors of credit institutions. The Greek authorities should also review the existence of informal remittance businesses for purposes of registration of licensing and oversight for AML/CFT purposes.

4. Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBPs)

32. The obligations laid down in the AML Law apply to the following non-financial professions and businesses: chartered accountants, auditors, independent accountants and audit firms; tax consultants, tax experts and related firms; real estate agents and companies; casinos (including internet casinos) and entities engaging in gaming activities; auction houses; dealers in high value goods and auctioneers, whenever the transaction value exceeds EUR 15,000 to be paid as a lump sum or in instalments; notaries and lawyers when they engage in a range of activities that are covered by the FATF Recommendations. AML/CFT measures do not apply to TCSPs, despite the fact that some businesses offer company formation services in Greece. In addition there is a lack of effective coverage of certain types of casinos: internet casinos are covered by law but no action is being taken in practice, and casino type gambling facilities are being offered on Greek operated ships leaving from Greece, but no AML/CFT measures appear to apply.

33. The main deficiencies in the AML/CFT preventative measures applicable to financial institutions as set out in the main AML Law (i.e. Recommendations 5, 6, and 8-11 and described above) apply also to DNFBPs, since the core obligations for both DNFBPs and financial institutions are based on the same general AML/CFT regime, but there are some additional weaknesses since the more comprehensive requirements issued by the BOG do not apply.

34. Practical application is extremely limited e.g. there is a serious lack of awareness of the requirement to submit STRs in the DNFBP sector. This raises serious concerns in relation to the effectiveness of the measures in place. DNFBPs are subject to the requirement to establish adequate procedures of internal control and communication in order to forestall and prevent operations related to money laundering and terrorist financing. However, when they exist the control requirements are very general. Equally, none of the DNFBPs have been provided with guidance on submitting STRs.

35. In practice, no AML/CFT supervision is being undertaken (although Greece has assigned competent authorities to supervise the relevant DNFBPs), and compliance with the provisions in the AML Law is ineffective with regard to these non-financial professions. Greece should take steps to fully implement the provisions of the AML Law in respect of DNFBPs. In particular the relevant competent authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, to develop guidance relevant to the individual sectors, and to undertake appropriate monitoring.

5. Legal Persons and Arrangements & Non-Profit Organisations

36. There are several different types of legal persons in Greece, characterised by their nature, function and legal status. Greek law provides for two main structures for the purpose of carrying on a business for economic gain: companies and partnerships. Apart from these business organisations, provision is also made for single traders, joint ventures, and branch offices and foreign companies. Businesses organised as companies limited by shares are

the most significant economically.

37. The information available in the different existing companies' registries relates to the composition of the board of directors as indicated in the articles of incorporation of the company. The changes of shareholders are not registered. The measures currently in place to ensure adequate transparency concerning the beneficial ownership and control of legal persons are incomplete and insufficient. Information is decentralised in registers across 52 prefectures, is often not computerised and is not transparent. A centralised registration system for all legal persons should be established. Competent authorities do not have access in a timely fashion to adequate, accurate and current information on beneficial ownership and control. There should be easier gateways to access ultimate beneficial ownership and control records by the competent authorities, in a timely manner.

38. Under current Greek law, there is no appropriate provision to ensure transparency as to the share ownership (direct or indirect) of corporations that have issued bearer shares, except in the case of corporations listed on a stock exchange. The Greek authorities should either remove the power to issue bearer shares from their law or otherwise take measures to ensure adequate transparency regarding the beneficial ownership of such shares. Trusts cannot be set up and are not recognised in any way under Greek law.

39. The different legal forms in which non-profit organisations can operate in Greece are: civil societies, associations, foundations and committees for collection. Their statutes are detailed in the Greek Civil Code and associations and foundations are the most common forms. Greece has not carried out a review of its non-profit sector and is unable to provide information on the activities, size and other relevant features of this sector. The Greek authorities consider that the non-profit organisations sector is not at risk of being used for FT. Greece has not implemented the FATF requirements in this area and the various basic requirements with regard to registration and record keeping are not sufficient to meet the FATF standards. Greece should implement adequate measures in line with the international requirements.

6. National and International Co-operation

40. The development, co-ordination and implementation of AML/CFT policy in Greece is carried out through the MOEF. The MOEF is also responsible for coordinating the activities of the supervisory authorities. Co-operation and co-ordination mechanisms are ad hoc and generally insufficient and should be improved. There are no effective mechanisms in place which would enable the police, SCS, the Customs, the FIU, and other competent authorities (e.g., regulators) to coordinate domestically with each other, and together implement a national policy to combat ML and FT⁵. Greece should, as a matter of priority, develop and implement effective mechanisms to enable all authorities dealing with AML/CFT issues to co-operate and collaborate closely and effectively with each other, and as noted above, the FIU Committee could play a key role in such co-operation and co-ordination.

41. Greece ratified the Vienna Convention in 1991 and signed the Palermo Convention in 2000, though it has not yet ratified the latter. Greece ratified the International Convention for the Suppression of the Financing of Terrorism in 2002. Certain aspects of the ML and FT offences should be strengthened in order to ensure a proper implementation of the international Conventions. Moreover, Greece has partially implemented the UN Conventions' provisions relevant to the FATF recommendations.

42. Incomplete and imprecise information is available on the mutual legal assistance system in Greece and the effectiveness of the measures and mechanisms in place is difficult to assess. There may be delays when dealing with requests that are not transmitted directly to the Greek judicial authority but the lack of systematic compilation of data and statistics on all incoming and outgoing requests prevents to form a comprehensive view on the use of mutual legal assistance. It seems that the dual criminality requirement in the context of mutual legal assistance deserves some clarification and clear guidance. The apparent ambiguity regarding dual criminality as regulated

⁵ The MOEF Decision of 22 February 2007 introduces formal mechanisms for exchanging information between the MOEF, the FIU and the supervisory authorities.

under the applicable treaties and the domestic legal framework on the one hand and contradictory judicial practice on the other should be resolved. There are also concerns as to whether Greece would be able to provide mutual legal assistance in all cases involving FT and ML as required by the FATF standards, due to the definitions of those offences and the requirement for dual criminality. In the absence of a treaty, the apparent limitation on the forms of assistance available for mutual assistance appear to constitute an obstacle to undertaking certain types of investigatory acts that are authorised in the domestic context.

43. In Greece, extradition is carried out on the basis of bilateral or multilateral intergovernmental agreements, with concurrent application, as the case may be, of the relevant provisions of the Criminal Procedure Code for those matters not regulated by the agreements. In case an extradition issue arises between Greece and another country without a relevant agreement being in place, the extradition is carried out only on the basis of the reciprocity principle, and always in conformance with the relevant procedural provisions.

44. The extradition process seems to work efficiently despite the workload of the officials handling extradition requests. There is relatively little experience with “pure” ML cases and none with regard to the financing of terrorism. The current limitations in relation to the criminalisation of ML and FT potentially have an impact on Greece’s ability to extradite persons sought for these offences. There are also potentially some cases where extradition could be limited because a different threshold of punishment exists for some of the predicate offences of ML. Finally, there is a risk that the dual criminality requirement for extradition is applied in a narrow sense (the assessment team cannot ensure that differences in the manner in which Greece and the requesting country categorise or denominate the predicate offence do not pose an impediment to the provision of mutual legal assistance). There is a lack of statistics in relation to extradition requests.

45. The supervisory authorities (BOG, HCMC and the Ministry of Development) have been given the power to exchange information with their foreign counterparts. The HCMC and the MOD/ID have not received requests for such cooperation in the AML/CFT area and therefore the effectiveness of their respective procedures cannot be measured. As far the BOG is concerned, there is little indication that cooperation with its counterparts is effective and is provided in line with the FATF standards.

46. In general, law enforcement authorities can engage in a wide range of international co-operation. However, due to the lack of personnel and technical resources, there are serious doubts about the FIU’s capacity to provide the widest range of international cooperation to its counterparts in a rapid, constructive and effective manner. The Greek FIU should ensure its access to the FIU.Net in order to secure and increase the exchange of information with its foreign counterparts. More generally, it is essential to provide the FIU with more appropriate resources to fulfil its tasks, including at the international level. Given the lack of statistical data, the evaluation team was not able to determine that the mechanisms for international co-operation are fully effective.

7. Other issues

47. The Greek criminal justice system allows for a full rehearing of all criminal cases in the Court of Appeal. The assessment team was advised that a very large majority of convicted defendants in criminal cases exercise their right to a full rehearing of the case in the Court of Appeal. Legal costs are also apparently lower than in many other countries. These factors, combined with the resources available to the courts and to the criminal justice system appear to create an overburdened criminal justice system with inherent long delays. The assessment team was informed that an average criminal case for a serious offence would take approximately five years from the time that a case was first passed to an investigating judge, through to the completion of the hearing in the Court of Appeal. However it was stated that money laundering cases would be fast-tracked so that they may only take an average of three years to complete. The assessment team believes that the combination of factors as described above may impact adversely on the ability of the system to commence and complete money laundering and terrorist financing cases within a reasonable timeframe.

48. As a member of the EU, Greek law has been greatly influenced by European Union law and the “*acquis*

communautaire". Greece has also been active ratifying international conventions and adopting (in a rather protracted way) domestic legislation to respond to its international commitments. In the criminal law area and its extension in AML/CFT matters, Greece has adopted a large set of repressive measures that generally lack the precision and the quality that is required by international and domestic law in order to impose efficient AML/CFT systems. In their project to adopt a new AML Law, the Greek authorities should elaborate a more harmonised and sophisticated set of measures in line with international standards keeping in mind the necessary elaboration and integration with existing domestic legislation.

MUTUAL EVALUATION REPORT

1. GENERAL

1.1 General Information on Greece

1. *General background information.* Greece or Hellas, officially the Hellenic Republic, is a country in south-eastern Europe, situated on the southern end of the Balkan Peninsula. It is bordered by Albania, Bulgaria, Turkey, the Former Yugoslav Republic of Macedonia as well as the Aegean Sea, Ionian Sea, and the Mediterranean Sea, with a total territory of 131,940 square kilometres, which includes over 4,000 islands, and a total coastline of 13,676 kilometres. Greece has a population of approximately 10.5 million having a mean age of 40 and life expectancy averaging 79 years. Athens (the capital), Thessalonica, Piraeus and Patras are the country's major cities. Greece consists of 13 administrative regions known as peripheries, which subdivide further into the 54 prefectures. Greece has one autonomous region, Mount Athos in Macedonia and three free economic zones (Piraeus, Thessalonica and Heraclion). Albanians, Bulgarians, Georgians and Romanians constitute the most important foreign communities. The literacy rate is 97.5% (as of 2003).

2. *Government and legal system.* The 1975 Constitution, which describes Greece as a "presidential parliamentary republic", grants extensive specific guarantees of civil liberties and vests the powers of the head of state in a President elected by parliament for a 5 year term. The Greek governmental structure is similar to that found in many Western democracies, and has been described as a compromise between the French and German models. The Prime Minister and cabinet play the central role in the political process, while the President performs some executive and legislative functions in addition to ceremonial duties. The Prime Minister of Greece is the head of government, and Executive power is exercised by that government. Legislative power is vested in both the government and the Hellenic Parliament. Greece elects a legislature by universal suffrage of all citizens over the age of 18. The Hellenic Parliament has 300 members, elected for a four-year term.

3. Greece joined the European Economic Community on 1 January 1981 and became the twelfth member of the Euro-zone in 2002. It is also a member of a number of international organisations, including the International Monetary Fund (IMF), the United Nations, the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe.

4. The Judiciary is independent of the executive and the legislature and comprises three Supreme Courts: the Court of Cassation, the Council of State and the Chamber of Accounts. The Judiciary system is also comprised of civil courts, which judge civil and penal cases and administrative courts, which judge administrative cases, namely disputes between the citizens and the State. Prosecutions are conducted by the Public Prosecutor's Office, which is divided by geographic region and level of court. Prosecutors are bound by the principle of mandatory prosecution, i.e. they must commence proceedings upon receiving information of a crime; they have no discretion to not proceed.

5. The Greek legal system is part of the family of civil or continental law systems in Europe that is especially influenced by German and French laws. For the most part, Greek law is codified and only laws enacted by Parliament, in the form of codes or other statutes are the sources of law in addition to international law (Article 1 of the Civil Code). Pursuant to Article 28(1) of the Greek Constitution, the generally accepted rules of international law as well as ratified international treaties become part of domestic law. Greek courts only interpret the law and do not have law-making capacity. While lower courts are not formally bound by judicial precedent, the decisions of

the higher courts, especially those of the Supreme Court (*Areios Pagos*), play an important role in the decision-making process of lower courts.

6. Criminal offences in Greece are divided into more serious offences punishable by more than five years up to life imprisonment (sometimes referred to as “felonies”) and less serious offences punishable by a imprisonment of 10 days to five years (“misdemeanours”). The penalties for some offences will be determined by the value of the property involved in the offence. The criminal justice system in Greece provides that criminal cases are first heard at the Court of First Instance and that there is then an automatic right of appeal to one of the Courts of Appeal. For all criminal cases there is a full rehearing of the criminal case, including the reintroduction of all the evidence, in the Court of Appeal. Appeals can only be made to the Supreme Court on points of law (see also sections 2.6 & 7.3 of this report).

7. Since its membership of the now European Union, Greek law has been greatly influenced by European Union law and the “*acquis communautaire*,” with the Directives, Regulations, and Framework Decisions becoming an integral part of the Greek legal system either automatically or through implementing legislation. Greek law is also shaped by other types of international law, in particular the treaties adopted within the framework of the United Nations and the Council of Europe. Greece is also subject to the jurisdiction of the European Court of Human Rights (Council of Europe) and the European Court of Justice (European Union), whose decisions directly influence law-making and legal policy in Greece.

8. *Economy.* Greece has a capitalist economy with the public sector accounting for about 40% of GDP and with per capita GDP at least 75% of the leading euro-zone economies. The nation's main economic activity is primarily based on the tourism, shipping, banking & finance and construction sectors. Greek banks have invested heavily in the Balkan region. Immigrants make up nearly one-fifth of the work force, mainly in menial jobs. Greece is a major beneficiary of EU aid, equal to about 3.3% of annual GDP. The Greek economy grew by about 4.0% for the between 2003 and 2005, largely because of an investment boom and infrastructure upgrades for the 2004 Athens Olympic Games. Economic growth slowed to about 3% in 2005. Greece has not met the EU's Growth and Stability Pact budget deficit criteria of 3% of GDP since 2000. Public debt, inflation, and unemployment are above the euro-zone average.

9. *Structural issues in relation to AML/CFT.* The AML/CFT Methodology used for this assessment calls for an identification of “apparent major weaknesses or shortcomings” that may impair the implementation of an effective AML/CFT framework. The Methodology requires that these structural issues be noted in the mutual evaluation report. In the assessors’ view, whereas Greece, in general, has a sound system of government, it could be exposed to some apparent structural weaknesses that may potentially undermine the overall efficiency of its anti-money laundering (AML) and combating the financing of terrorism (CFT) regime. While these apparent weaknesses may not prove structural and systemic upon further examination, the assessors have decided, based on information received during the on-site visit, that they should be mentioned so that the authorities can verify them, monitor the situation and, if necessary, take any corrective action they deem appropriate. The following apparent structural weaknesses deserve mentioning:

- a) the inadequate understanding of the risks posed by ML and FT for most of the financial system and the apparent lack of commitment to implement AML/CFT measures in certain business sectors, in particular the non-financial sector (see comments in Sections 3 and 4 of the report);
- b) the protracted nature of the process of incorporating international AML/CFT standards into Greek legislation (see also comments in Section 7.3 of the report); and
- c) the overloading of, and duplicative systems within, the judicial system that prevent law enforcement authorities, prosecutors and courts from effectively prosecuting ML and confiscating criminal proceeds (see comments in Section 7.3 of the report).

10. *Ethics and measures against corruption.* Greece, through its participation in international organisations has taken action in the direction of modernising its anti-corruption legislation. Greece has been a Member State of the Council of Europe's Group of States against Corruption (GRECO) since 1 May 1999. Greece has signed the Organisation for Economic Co-operation and Development (OECD) 1997 Convention on Combating Bribery of Foreign Public Officials in International transactions (the OECD Bribery Convention) on 17 December 1997 and ratified it on 1 December 1998. Greece implemented the Convention by enacting Law 2656/1998. Public officials working for the state, local and regional authorities and other statutory public law bodies must comply with the legislation in force and act in the general interest. In carrying out its activities, any body with a public service role must abide, in particular, by the principles of legality, equality, neutrality, continuity and probity. Successive public service reforms have laid great emphasis on ethical requirements and quality of service. There is no anti-corruption or general strategy for the public sector in a single written document. Greece has no codes of conduct applicable to government service, with the exception of the Code of Police Ethics adopted by Presidential Decree 254/2004. Legislation is generally considered to lay down adequate rules of conduct and duties for civil servants and other public officials. Such rules are provided for in the Constitution, in the Civil Servants' Code and in the statutes regulating the operation of administrative bodies.

11. As indicated in the Evaluation Report on Greece adopted by the GRECO in December 2005⁶, the fight against corruption appears to be one of Greece's political priorities. In the recent years, Greece has made decisive steps in the direction of enriching its anti-corruption legislation to cover all forms, phases and stages of corruption crimes and to encompass corruption with international ramifications. Successive public service reforms have laid great emphasis on ethical requirements and quality of service. One of the challenges for Greece is now to take all necessary measures to implement the evolving legal and regulatory framework in an effective manner. In its report, the GRECO has addressed some of the following recommendations to Greece: (1) to ensure that all public officials are bound by appropriate rules and guidelines designated to prevent corruption and (2) to regulate more strictly conflicts of interest, incompatibilities and accessory activities in respect of all public officials.

1.2 General Situation of Money Laundering and Financing of Terrorism

12. *Money laundering.* Greece is vulnerable to money laundering. Its geopolitical location, bordering with the Balkan states and as the "eastern front" of the EU, its long coastal borders and its many islands make it vulnerable to illegal activities. In particular, law enforcement investigations have shown the following types of profit generating criminal activity that are predicates for money laundering: Greece is vulnerable to narcotics trafficking, trafficking in human beings and illegal immigration (which also generate forgery of documents as a secondary crime), prostitution, cigarette and other forms of smuggling, large scale tax evasion and serious fraud or theft and illicit gambling activities. Often, these crimes are conducted by criminal organisations originating in former constituent republics of the Soviet Union, as well as in Albania, Bulgaria, Romania, and other Balkan countries. Money laundering in Greece is controlled by organised local criminal groups. Greek organised criminal elements also play a significant role in the laundering of the proceeds of crime associated with narcotics trafficking and other serious offences. The police indicated that the various types of organised criminal groups are becoming more international in character, are using multiple different methods to launder their illegal proceeds, and are using modern and sophisticated technology in their criminal activity.

13. Another risk factor is the large cash economy in Greece. Cash is traditionally the preferred method of payment by many in business, but also facilitates a widespread "black" economy based on tax evasion. Various sources suggest that special additional risk factors in the Greek system are the potential abuse by lawyers of the wide scope and application of lawyer-client privilege laws.

14. With an extensive coastline, numerous islands, and land borders with other countries through which drugs are transported, Greece's geography has established it as a favoured drug transshipments country on the route to Western Europe. The utilisation of cargo vessels is the cheapest, fastest and most secure method to transport drugs.

⁶ [http://www.coe.int/t/dg1/Greco/evaluations/round2/GrecoEval2\(2005\)6_Greece_EN.pdf](http://www.coe.int/t/dg1/Greco/evaluations/round2/GrecoEval2(2005)6_Greece_EN.pdf)

Greece is a transshipment country for heroin and hashish from the Middle East, and heroin and marijuana from Southwest Asia. Metric ton quantities of marijuana and smaller quantities of other drugs are smuggled across the borders from Albania, Bulgaria, and the Former Yugoslav Republic of Macedonia. Hashish is off-loaded in remote areas of the country and transported to Western Europe by boat or overland. Larger shipments are smuggled into Greece in shipping containers, on bonded Trans-International Route trucks, in automobiles, on trains, and in buses. The Greek authorities believe drug trafficking to be one of the most common predicate offences, though in recent years seizures of drugs have declined, perhaps due to a shift by traffickers from the “Balkan route” to the “Silk route”.

15. Another possible special area of concern is the presence in Greece of a large number of branches of offshore companies since those entities have been granted preferential taxation treatment (tax exemption) until 31 December 2005 (see more details in Section 1.4 of the report). It appears that such entities have been used in particular to buy real estate and boats.

16. There is no comprehensive study of the amount of money earned from criminal activity or how it is laundered. However, in 2006 the Ministry of Economy and Finance prepared a study (for national accounts purposes) of the proceeds earned from four types of illegal activity: illegal prostitution, drug trafficking, and cigarette and alcohol smuggling. In that study (which used 1995-2000 data) the estimated gross amount earned in 2000 from those four forms of criminal activity is approximately €1.6 billion (1% GDP in 2000). Given that this estimate only covers four types of criminal activity, that it is based on values in the year 2000, and that both these types of criminality and other types of crime, such as human-being trafficking, serious fraud and tax evasion continue to remain a serious criminal issue in Greece, it is expected that the proceeds of all crimes would be a very significant amount.

17. Despite the volume, variety and sophistication of criminal activity noted above, the risk of ML is perceived as low by both the Greek authorities and by the private sector, and the level of awareness in the private sector (other than for banks) is also low.

18. Limited information is available on the most commonly used money laundering methods and techniques, though some information is available based on the results of STRs and on other information provided by the authorities. Greek investigations have revealed the use of banks, investment firms, mutual funds, offshore companies, bureaux de change, newly founded companies, and traders of precious metals. In the majority of the cases dealt with by the Greek FIU and the judicial system, “traditional” placement methods, e.g. bank deposits and shares acquisition in the Athens Stock Exchange (ASE), as well as other methods of layering, such as structured domestic and international transactions performed by relatives and other third parties connected to the predicate offenders, have been used.

19. Greece has three free trade zones, located at the ports of Piraeus, Thessalonica, and Heraklion, where foreign goods may be brought in without payment of customs duties or other taxes if they are subsequently transhipped or re-exported. During the on-site visit, the Customs Service was unable to provide information on the specific controls carried out in these zones to address their potential risk for being used in trade-based money laundering or in the financing of terrorism.

20. *Terrorist financing.* Greece is perceived by the authorities as a low risk country for terrorist financing. As for financing international terrorism, no assets of terrorist groups or terrorists have been found in Greece so far. The Greek authorities are not aware of alternative remittance systems operating in the country, but again, no systemic survey has been conducted to ascertain their existence. The Greek authorities are also not aware of the existence of unlicensed bureau de change businesses, although there have been reports of such businesses which offer more attractive exchange rates (0.5 percent cheaper) than licensed firms. Greek authorities did note however the use of cross-border cash transfers, particularly using tourist buses, may suggest potential TF risks.

21. *Domestic terrorism.* Greece has suffered a history of domestic terrorism from far-left groups. The ageing members of a radical, leftist Greek terrorist group known as “17 N” or “November 17” were captured before the 2004 Olympics. The trial of the terrorist suspects commenced in Athens in March 2003. In December 2003, fifteen of the accused were found guilty; another four defendants were acquitted for lack of evidence. All those convicted defendants appealed and the appeal trials are currently underway. After “November 17”, the most important group was “Revolutionary People’s Struggle” known by its Greek acronym ELA, a radical leftist terrorist group strongly anti-American. In October 2004, four former members of the group were convicted by a special Athens anti-terrorism court on charges ranging from weapons possession to complicity in forty-two terrorist bombings. In addition, on 12 January 2007, the US embassy in Athens was subject to a rocket attack, and a militant left-wing group claimed responsibility.

1.3 Overview of the Financial Sector and DNFBP

a. Overview of the Financial Institutions sectors

Banking sector and other financial institutions

22. The commercial banking system makes up about 88.1 percent of the Greek financial sector in terms of assets and is concentrated in five large banking groups. Despite recent privatisations and merger activity, the State still directly or indirectly controls about one sixth of banking sector assets, down from 70 percent in 1995.

23. The Bank of Greece sets the regulatory framework and supervises all credit institutions and some types of financial institutions. More specifically, according to the provisions of the Greek Banking Law 2076/1992 and Bank of Greece Governor’s Act 2526/2003, a prior approval by the Bank of Greece is required for the operation of any credit institution. The credit institutions are divided into commercial banks (which operate in the form of “*sociétés anonymes*”)⁷ and cooperative banks that conduct transactions mainly with their members.

24. Apart from the credit institutions, the Bank of Greece is the responsible authority for granting authorisation to the following financial institutions:

- leasing companies (Law 1665/1986)
- factoring companies (Law 1905/1990, Bank of Greece Governor’s Act 2168/1993)
- bureaux de change (article 15 of Law 2515/1997, Bank of Greece Governor’s Act 2541/2004)
- money remittance companies (article 18 of Law 3148/2003, Bank of Greece Governor’s Act 2536/2004)
- credit companies (article 2 of Law 3424/2005)
- postal companies only to the extent that they provide money transfer services – new provision for their supervision by the Bank of Greece of their compliance with the AML/CFT legislation, with the cooperation of the Ministry of Transportation and the National Telecommunications and Post Commission (article 2a of Law 3424/2005).

Securities sector

25. Total market capitalisation of the Athens Stock Exchange (ASE) is about EUR 148 billion. The brokerage industry has been operating in a competitive market and has experienced low levels of activity and will probably experience a period of consolidation of players. The ASE operates a joint share trading platform with the exchange

⁷ "Credit institution" means (Article 2, par. 1 of Law 2076/92) (a) an undertaking whose business is to receive deposits or other repayable funds from the public and to extend credit for its own account or (b) an electronic money institution (Article 2, par. 16 of Law 2076/1992).

in Cyprus and nine members of ASE have direct access to the Cyprus Stock Exchange in the sense of using identical trading, clearing, settlement and record keeping systems. The ASE also plans to further expand its operations to regional markets, especially in the Balkans. This could raise the degree of ML/FT risk in the securities market as a number of these countries have been identified by the authorities and financial institutions as being particularly risky for ML. There are 69 investment services firms that are members of the ASE, with the 4-5 largest controlling about 60-80 percent of the market. In addition, there are between 22 non-member firms and about 26 mutual fund management companies. Currently, the Athens Stock Exchange is the only exchange operating in Greece and also operates a derivatives market and a fixed income/bond market with very little activity.

Insurance companies and intermediaries

26. The insurance sector in Greece remains relatively under-insured but has experienced strong growth since 2003. The total production of gross written premiums from all classes during 2005 reached 4.2 billion EUR. From the above amount, the amount of 2.3 billion EUR represents the production of non-life insurance and the residual amount of 1.9 billion EUR is the production of life insurance. The own funds of the insurance companies with head-offices in Greece total 1.5 billion EUR and the investments amount to 7 billion EUR. The industry is relatively concentrated since the five biggest insurance companies possess 63.70% of the total production of premiums of life insurance and the 10 biggest insurance companies hold 89.19% of the total production of premiums of life insurance. Three of the largest companies are predominantly owned by public banks or banks with significant State ownership. Life insurance products account for more than half of the local insurance market and there has been growth in the use of bancassurance products and investment-linked (e.g., mutual funds) policies.

27. The principal distribution channels remain tied agents⁸. With respect to infrastructure, agents are treated more like quasi-employees because insurers cover administration costs and provide them with training. Links with banks are considered very important and many life insurers have already teamed up with bank partners to market their products.

Bureaux de change

28. In October 2006, there were 14 currency exchange firms licensed and operating in Greece. Since adopting the Euro in 2002, the number of firms offering money exchange business contracted from 52 to 14 firms. This was caused by a decline of about 90 percent in currency exchange business from pre-Euro levels. With this contraction, the risk of ML in this sector is believed to have decreased by making this sector less attractive as a conduit for ML. On the other hand, it also removed one stage in the ML process for criminals wishing to convert illicit proceeds to/from national currencies within the European Union. Bureaux de change are also authorised to conduct money remittance business.

Money remitters

29. In October 2006, there were 13 licensed money transfer firms in Greece (including the Postal companies and giro transfers), six of which are representatives of large international firms, namely Western Union and Moneygram. Money transfer firms operate through a wide network of branches and subagents. There are indications that money transfer services are provided outside the formal sector. The authorities were not aware of any other informal systems.

30. The following chart sets out the types of financial institutions that are authorised to carry out the financial activities that are listed in the Glossary of the FATF 40 Recommendations:

⁸ Tied agents work exclusively under contract for a single insurance company.

TYPES OF FINANCIAL INSTITUTIONS TO CARRY OUT FINANCIAL ACTIVITIES IN THE GLOSSARY OF THE FAFT 40 RECOMMENDATIONS	
Type of financial activity (See the Glossary of the 40 Recommendations)	Type of financial institution that is authorised to perform this activity in Greece
A. Acceptance of deposits and other repayable funds from the public (including private banking)	Credit institutions
B. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	Credit institutions, credit companies, factoring companies. Investment services companies (EPEY ⁹ , AEEX and brokers) under certain conditions.
C. Financial leasing (other than financial leasing arrangements in relation to consumer products)	Credit institutions, leasing companies
D. The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	Credit institutions, fund transfer intermediaries, bureaux de change
E. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	Credit institutions, credit companies
F. Financial guarantees and commitments	Credit institutions, credit companies, factoring companies
G. Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	(a) Investment services companies (EPEY, AEEX and brokers), Mutual funds investment companies (AEDAK) (b) Investment services companies (EPEY, AEEX and brokers) for the purpose of providing investment services only (c) Credit institutions - Investment services companies (EPEY, AEEX and brokers) Mutual funds investment companies (AEDAK) (d) Investment services companies (EPEY, AEEX and brokers) - Investment services companies (EPEY) (e) Investment services companies (EPEY, AEEX) reception and transmission only.
H. Participation in securities issues and the provision of financial services related to such issues	Credit institutions - Investment services companies (EPEY, AEEX)
I. Individual and collective portfolio management	Credit institutions - Investment services companies (EPEY), Mutual funds investment companies (AEDAK)
J. Safekeeping and administration of cash or liquid securities on behalf of other persons	Credit institutions - Investment services companies (EPEY AEEX and brokers)
K. Otherwise investing, administering or managing funds or money on behalf of other persons	Credit institutions - Investment services companies (EPEY AEEX), Mutual funds investment companies (AEDAK) _ Insurance undertakings
L. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance	Insurance undertakings

⁹ EPEY or investment brokerage firms; AEEX or portfolio investment companies and AEDAK or mutual funds investment companies.

intermediaries (agents and brokers))	
M. Money and currency changing	Credit institutions, bureaux de change

31. The following chart sets out the types and numbers of financial institutions subject to AML/CFT requirements in Greece (2003-2006):

Credit Institutions	2003	2004	2005	2006
Commercial banks, including:	22	21	21	22
<i>Branches of banks from other EU member countries</i>	16	19	19	20
<i>Branches of banks from third countries</i>	4	4	4	4
Savings banks	1	1	1	-
Cooperative banks	15	16	16	16
Subtotal (A)	58	61	61	62
Securities	2003	2004	2005	2006
Investment services firms members of the Athens Stock Exchange	83	79	76	69
Investment services firms non-members of the Athens Stock Exchange	46	40	29	22
Collective investment schemes	35	26	17	10
Investment intermediation firms (AELDE – AEED)	1.024	830	710	190 approx
Mutual funds companies	25	25	25	26
Subtotal (B)	1.213	1.000	857	317
Other financial institutions	2003	2004	2005	2006
Financial leasing companies	15	14	14	14
Factoring companies	5	4	4	4
Bureaux de change	22	20	17	14
Money remittance companies	-	6	10	13
<i>- representatives of Western Union</i>	-	2	2	2
<i>- representatives of Moneygram</i>	-	2	3	4
<i>- subagents</i>	-	-	1325	1876
<i>- branches</i>	-	6	910	923
Credit companies	2	2	2	2
Postal companies (only to the extent they act as money remitters)	-	-	1	1
Subtotal (C) (without subagents)	44	56	963	977
Insurance companies	2003	2004	2005	2006
Life insurance companies, including:	32	32	32	32
<i>Branches of insurance companies from other EU members</i>	3	3	3	3
<i>Branches of insurance companies from third countries</i>	1	1	1	1
Insurance intermediaries	N/A	N/A	N/A	N/A
Subtotal (D)	32	32	32	32
Financial Institutions subject to AML requirements (A+B+C+D)	1347	1149	1903	1388

b. Overview of the Non-financial Businesses and Professions sectors

32. According to Article 2a of Law 2331/95 as amended by Law 3424/05, the following natural and legal persons are also subject to the obligations of the AML/CFT legislation:

- tax consultants, tax experts and related firms;

- real estate agents and companies;
- casinos (including internet casinos) and entities engaging in gaming activities;
- auction houses;
- dealers in high value goods and auctioneers, whenever the transaction value exceeds EUR 15,000 to be paid as a lump sum or in instalments;
- notaries and lawyers when they participate, either in or arranging on behalf of their clients transactions involving: transfer of real estate or a business; management of cash, securities or other assets owned by their clients; opening and operation of bank accounts, savings accounts or securities accounts; establishment, operation or management of trusts or similar entities, or by acting on their own behalf or on behalf of their clients in the context of financial or real estate transactions. Legal advice remains subject to the obligation of professional secrecy, unless the legal counsellor himself/herself is involved in money laundering or counsels the commission of money laundering or knows that the client is seeking legal advice for the purpose of committing money laundering.

33. Greece's DNFBPs consist of 9 licensed casinos (7 private, 1 state-owned and 1 with 51 percent state ownership), 7,500 licensed real estate agents, 7,500 licensed dealers in precious metals and stones, 41,000 lawyers, 3,200 notaries, 2,000 accountants, and 500 auditors. Trust and company service providers are not known, separately recognised nor regulated as a separate business category to operate in Greece, and the Greek authorities were not aware that such businesses operated in Greece. However, the assessment team did find that at least one business, with offices in two Greek cities, offered services related to the creation and management of companies. Trusts cannot be set up under Greek law.

Casinos

34. Land-based casinos must be licensed to operate, and nine licences have been issued. They are supervised by the Casino Operations Oversight Committee. The Ministry of Economy and Finance is the competent authority for internet casinos. Casinos that function in passenger ships, sailing for more than twelve hours outside the territorial waters of the Hellenic State are under the inspection of the Directorate of Security of the Ministry of Commercial Shipping (Ministry of Merchant Marine), and their operation is regulated by the provisions of Law 2206/1994 as well as the provisions of the Decision of the Minister of Commercial Shipping (Ministry of Merchant Marine) No 3312.61-01-95. However, they are not subject to any oversight for AML/CFT purposes.

Real estate agents

35. Of the 15,000 real estate agents, half are not authorised. Real estate agents must register their businesses with the tax authority, prior to commencing operations. A separate authorisation is required from the Professional Chamber in their prefecture, as must any self-employed person running their own business. However this is not strictly enforced and of the estimated 15,000 real estate agents, more than half are not registered and are not members of the national association of real estate agents (OMASE). Real estate agents are generally not subject to any supervision or oversight, though for the purposes of the AML Law 3424/2005 they are subject to the supervision of the MOEF.

Dealers in precious metals and stones

36. High value goods dealers are required to register their businesses with the tax authorities and to obtain operating licences. In addition the Association of High Value Goods Dealers is a group of local syndicates formed in 30 prefectures. The evaluation team was told that around 7,500 shops were members of the association, mostly jewellers or dealers in other high value goods.

Auditors and accountants

37. The Accounting and Auditing Supervisory Board (ELTE) determines accounting standards and carries out checks on the quality of chartered accountants in Greece. ELTE has around 2,000 members, and has the power to issue and revoke licences. The Chamber of Economists (SOEL) is the licensing authority for other accountants. The evaluation team was told that there are approximately 20,000 individual accountants who fall under its auspices. In practice, the types of activities referred to in Recommendation 12 are performed by the “big 4” auditing firms through separate legal entities which have licences to conduct such activities.

Notaries

38. A notary must graduate in law. Once they pass the necessary examinations, notaries must then be licensed by the Ministry of Justice. Notaries are appointed only to specified posts, which are designated by the Ministry, and the Ministry controls the number of posts and supervises the profession. Notaries can only go back to practising law within the first 5 years of being notary.

39. A notary’s main duty is to draft contracts, wills, prepare company formation documents, participate in the sale or auction of real property etc. Their conditions of service are governed by the Notaries Code, and they are organised in professional associations of notaries. Clients can go directly to a notary. A notary’s function is not to offer legal advice but to prepare legal documents based on what the client declares but under law cannot write down false declarations. Lawyers check ownership at Mortgage Registry Offices.

Lawyers

40. Lawyers enter the profession by competition and are organised in bar associations, one for each court of first instance. The profession is subject to the Lawyers Code, which regulates disciplinary law, fees and advancement in status in general. They must also comply with a Code of Conduct and the rules of the bar associations. They are initially admitted to the courts of first instance, after which they practise in the courts of appeal and in the Supreme Court, depending on how long they have been in practice and the type of cases they accept.

41. Lawyers who are nationals of Member States of the EU, and have obtained their qualification in another Member State, may practise on a permanent basis in Greece, in either a self-employed or a salaried capacity. They must register with the bar association and keep chambers in the area in which they practice. They are subject to the same obligations and have the same rights as Greek lawyers, and may integrate fully into the legal profession in Greece once they have practised their profession on a regular basis in Greece for three years. Acts or duties which Greek law considers to constitute an exercise of public authority may be performed only by lawyers of Greek nationality.

42. There are separate professional associations for lawyers and notaries. Lawyers must belong to a local bar association but in practice little supervision is exercised. Notaries must belong to the Association of Notaries with supervision being carried out by the Public Prosecutor’s Office in each of the 52 prefectures.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

43. There are several different types of legal persons in Greece, characterised by their nature, function and legal status. Legal persons under Public Law include municipalities, tertiary educational institutions, etc. Legal Persons under Private Law are: (1) legal persons under civil law of a non-profit nature, whose functions are governed by the Civil Code, such as associations, fund-raising committees, civil companies with a legal personality; and (2) commercial companies – whose functions are governed by the Commercial Code such as personal companies (i.e. general partnerships, etc.) and capital companies (i.e. incorporated companies, etc.). The legal persons of a mixed character are legal persons of private law which have been established or nationalised through an act of the State and are commercially active in certain fields e.g. the State Electricity Company. Political parties and trade unions are de facto associations, and by virtue of a decision of the Supreme Court, these bodies are liable for their actions.

44. Greek law provides for two main structures for the purpose of carrying on a business for economic gain: companies and partnerships. Apart from these business organisations, provision is also made for single traders, joint ventures, and branch offices and foreign companies.

Companies

Company limited by shares (A.E.) or SA companies

45. Businesses organised as companies limited by shares are the most significant economically. The shareholders own either registered or bearer shares. Shareholders are not personally liable and their liability is limited to the amount of their share investment. The General Meeting of Shareholders is responsible for taking the most important decisions, including electing the Board of Directors. The Board consists of at least three persons charged with the management of the company's business.

46. Two shareholders and a minimum share capital of EUR 60,000 are required for the formation of a company limited by shares. To form a company limited by shares, the initial step is the execution of the constitutional document (articles of incorporation) before a notary public. A copy of the constitutional document is submitted to the competent tax authority and a special tax of 1% of the company's share capital is payable. The right to use the name of the company must also be confirmed by the Hellenic Chamber of Commerce and Industry. The constitutional document is then filed with the competent prefecture which then approves the formation of the company. The constitutional document and approving decision are then recorded in the Registry of Companies Limited by Shares (this is conclusive evidence of formation) and published in the Official Gazette. Within one month from establishment, the company's share capital must be paid up, and the company is also then registered with the Taxation Registry.

Limited liability company (E.P.E.)

47. In a limited liability company partners are not personally liable, and liability is limited to the amounts contributed by each partner in return for their "parts" of participation. The internal organisation consists of the meeting of partners and the management. Although all partners of the limited liability company are entitled to manage the company's business, in practice management is assigned to one or more administrators.

48. Two partners and a minimum share capital of EUR 18,000 are required for the formation of a limited liability company. The share capital must be fully subscribed and paid up at formation and at least half must be paid up in cash. The initial company contract is drawn up in the form of a notarial deed. This is followed by the submission of a copy of the contract to the competent tax authorities and payment of the 1% tax. The right to use the company's name is then certified. A copy of the company's contract is then submitted to the Court of First Instance for obtaining a registration and a summary thereof must be published in the Official Gazette. The company's establishment is then followed by its registration with the Taxation Registry.

Partnerships

General partnerships (O.E.)

49. General partnerships consist of at least two partners whose liability is unlimited. The partnership agreement affords certain flexibility to partners in determining their relationship. For instance, the parties can determine who will participate in the management of the partnership and may agree on the way profits and losses are to be shared. In the absence of agreement to the contrary, all partners normally participate in management and partners share profits and losses. There are also mandatory provisions, such as the joint and several and unlimited liability of partners, the authority of partners to bind the partnership to obligations within its apparent scope, the partners' fiduciary duty and their power to dissolve the partnership. There is no minimum capital requirement. The partnership is not required to be in the form of a public document. A copy of the agreement is submitted to the

competent Court of First Instance for publication purposes and entry in the Company Register. The right to use the partnership's name must be certified and a copy of the agreement is filed with the competent tax authorities where the 1% tax is payable.

Limited partnerships

50. Limited partnerships consists of one or more partners whose liability is unlimited (general partners) and one or more partners whose liability is restricted to their contributions (limited partners). General partners are responsible for management whilst limited partners are typically investors. If a limited partner becomes involved in management or if the partner's name is part of the partnership's name then he will become jointly and severally unlimitedly liable for any debts. The partnership contract may be in the form of a notarial deed and the procedure for creation is the same as general partnerships.

Silent partnership

51. A silent partnership is created by an informal agreement between at least two persons, one being a passive partner with capacity to enter into commercial transactions (silent partner) and the other an active partner with capacity to acquire commercial identity. The liability of silent partners is limited to the amount of their contribution, whilst that of active partners is unlimited.

Joint ventures & Single traders

52. Joint ventures involve an association of natural or legal persons jointly undertaking a particular transaction for mutual profit. A joint venture does not involve a continuing relationship, but in practice the legal principles governing civil companies or general partnerships also apply to joint ventures. Single traders own their business directly and are fully liable for business debts without limitation of liability. They are entitled to the business profits which may either be taken out or re-invested into the business.

Branch offices and foreign companies

Branch offices

53. The establishment of a branch is subject to approval by the competent Prefect. The following documents are required: parent company's constitutional documents; minutes of a meeting of the Board of Directors of the parent company authorising this; power of attorney executed before a consular office or a notary public in the country of registration of the foreign company whereby the agent, proxy, and process agent are appointed to form the branch; a certificate confirming that the parent company is in good standing; a certificate on the parent company's share capital (the requirements for Greek companies apply e.g. branch of a foreign company limited by shares requires a minimum share capital of 60,000 Euros); and a solemn declaration of the agent, proxy, and process agent as regards the registered seat of the branch in Greece.

Foreign companies

54. Foreign companies can choose to form a fully owned subsidiary in the form of a company limited by shares. This typically requires: a decision of the Board of Directors; the parent's current constitutional documents; a certificate as to good standing issued by the relevant foreign competent authority in the place of registration of the parent; a notarised or consular deed to appoint an attorney or one of the company's officers to proceed with all necessary formalities regarding persons authorised to represent the company.

Offshore Companies

55. According to law 89/1967, foreign commercial or industrial entities of any legal form which exclusively engage in commercial activities outside of Greece may establish offshore branches in Greece. Law 378/1968 grants the same right to foreign shipping companies. To establish an offshore office the following prerequisites apply:

- The business must be exclusively engaged in activities outside of Greece.
- Bank letter of guarantee for USD 50,000 must be deposited to the Ministry of Economy and Finance
- Branches of foreign shipping companies must cover their annual operating expenses in Greece (at least USD 50,000) and all payments in Greece for themselves or for third parties.
- An offshore branch must keep a receipts and expenses book but has no obligation to publish any financial statements.

56. Commercial and industrial companies establishing offshore offices in Greece are exempt from all Greek taxes if they were established prior to 31/12/2001. This preferential treatment was abolished for companies which are established from 01/01/2002 and is only applicable to offshore offices of foreign shipping companies. The tax exemption ended on 31/12/2005 for the existing companies.

Foundations

57. Foundations in Greece are self-governing, non-membership organisations with an endowment which serves public or private purposes, and they receive legal capacity by state approval. There are several types of foundations:

- Most foundations are private law foundations, which are regulated in Art.108–121 of the Civil Code. Private foundations are described as organisations created by disposition of assets under a deed of establishment made *inter vivos* or under a will, for the pursuit of a lasting purpose.
- Public benefit foundations are regulated by special law 2039/1939 and Art. 109 of the Constitution. They are created by a disposition of assets, made *inter vivos* or under a will for the pursuit of general interest purposes over a definite or indefinite period. They receive tax exemptions.
- There are also public foundations, which are incorporated by the state and are subject to different public rules, and non-autonomous foundations (which have no legal capacity).

58. The law does not require a minimum capital but the deed of foundation will only be approved if the foundation has or will soon have an endowment proportionate to the purpose. A governing board usually governs the foundation. Beneficiaries can take legal action against a foundation under the Civil Code.

Associations

59. An association of persons pursuing a non-profitable purpose (see Art 78 Civil Code) shall acquire personality by means of its registration at a special public register (of associations) kept at the Court of First Instance in the district of which is situated the seat of the association.

Civil companies

60. Civil companies with a legal personality are registered in the Register of associations. The register contains the incorporation of the company, the publicity formalities and the payment of subscriptions by the associates/partners

Trusts

61. Trusts or other fiduciary entities cannot be set up under Greek law. However, there are no obstacles for a Greek citizen to be trustee of a foreign trust. In this case, the settlers and beneficiaries will therefore necessarily be

governed by the law of the jurisdiction which is designated in the deed of trust as the country whose law should apply.

Registries

62. The Ministry of Development (Corporate Registry Section) and the Court of First Instance in the city or area of incorporation hold separate registries of companies. The Ministry of Merchant Marine is responsible for the registration of shipping companies. A public register of associations is kept at the Court of First Instance and the Ministry of Economy and Finance keeps a register of foundations.

Land ownership

63. The assessors were told that Greece has not a land registry yet (a land registry system has only been recently launched in Greece. Law 2308/95, as amended by Law 3212/2003, introduced the National Land Registry - National Cadastre, which gradually replaces the existing Registries of Mortgages. Property transactions used to be recorded by hand in small local land registries). This raises a major concern with regard to transparency of land ownership in Greece.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

64. Greece has recently adopted a series of AML/CFT provisions. In December 2005, Law 3424/2005 was enacted, and it substantially amends the main AML legislation Law 2331/1995, and transposes into Greek Law the requirements of the second European Union Directive on ML (Directive 2001/97/EC) as well as several requirements of the revised FATF 40 Recommendations and the 9 Special Recommendations on Terrorist Financing. In this report Law 2331/1995 as amended, including by Law 3424/2005, is referred to as “the AML Law”. The main changes were:

- Extension of the list of predicate offences for ML, including adding the TF offence as a specific predicate;
- Extending the list of entities covered by the law: in particular including a range of DNFBPs, such as accountants, auditors, tax advisors, lawyers, notaries, real estate brokers, high-value good dealers, casinos and auction houses;
- Setting up a central coordination body to assess the effectiveness of Greece’s AML/CFT efforts: the General Directorate of Economic Policy of the Ministry of Economy and Finance;
- Designation of reporting channels for lawyers through the setting-up of a self-regulatory body (intermediate) to which STRs will be submitted by lawyers at the first stage;
- Reorganisation of the FIU and expansion of its competences and powers.

65. In addition, a drafting committee has been set up in the Ministry of Economy and Finance aiming to transpose into Greek legislation the provisions of the Third AML/CFT Directive 2005/60/EU.

b. The institutional framework for combating money laundering and terrorist financing

Ministries

66. ***The Ministry of Economy and Finance (MOEF)***. As with many jurisdictions, Greece has a number of ministries and agencies which have responsibilities under the AML/CFT framework. The General Directorate of Economic Policy in the MOEF monitors the function and operation of the financial competent authorities and has also been designated as the central coordinating authority in AML/CFT matters. It cooperates with the Bank of

Greece and has broad oversight of the Hellenic Capital Market Committee and the Committee of Auditing Standards and Controls¹⁰. It also oversees the Insurance Supervision Commission for Private Insurance.

67. The General Directorate of Tax Controls within the MOEF is the competent authority for AML/CFT supervision of real estate agents, dealers in high value goods, auction houses, and organisers of public auction procedures.

68. **The Ministry of Justice (MOJ) and the Ministry of Foreign Affairs (MOFA).** The MOJ is the central authority for mutual legal assistance. It is also responsible, in collaboration with the MOFA, for taking the necessary legal and administrative measures to implement international treaties and other instruments of the EU, the U.N., and the Council of Europe. Provisions related to financial matters are implemented at the initiative of the MOFA. This Ministry is also responsible, at a political level, for international cooperation concerning ML and FT in matters not subject to the jurisdiction of other ministries and authorities. The MOFA is responsible for circulating UNSCR 1267 lists to other ministries, including the MOPO.

69. **Ministry of Development (MOD) – Corporate Registry Section.** The Central Service of the MOD oversees SA companies that are listed companies, mutual fund companies, banks, brokerage firms, professional football and basketball companies, and branches of foreign banks (whether SA companies or limited liability companies).

70. **Ministry of Merchant Marine.** The Ministry of Merchant Marine (MOMM) maintains the register for shipping companies, unless they are publicly traded, in which case they are registered with the MOD. The MOMM also maintains the register for companies created under Emergency Law 89/67.

Supervisory authorities

71. **The Bank of Greece (BOG).** The Bank of Greece is responsible for monitoring compliance with the provisions of Law 3424/2005 by credit and financial institutions, e.g. leasing and factoring companies, the bureaux de change¹¹, companies intermediating in fund transfers¹², credit companies¹³ and postal companies only to the extent that they provide money transfer services¹⁴. The BOG is also responsible for prudential supervision of credit and specific financial institutions. In addition, the Bank is responsible for monitoring compliance with the AML/CFT requirements by branches of credit institutions established in foreign countries, either in EU countries or in third countries.

72. **The Hellenic Capital Markets Commission (HCMC):** The HCMC is an independent supervisory body under the MOEF. It supervises securities and investment firms. Its main objective is to enforce capital market laws and regulations. The HCMC licenses investment services firms, investment intermediation firms and fund management companies. The HCMC then issues regulations to the extent provided for by law. It has also issued binding rules on AML matters.

73. **HPISC/The Ministry of Development/Insurance Directorate (MOD/ID).** According to the AML Law, as amended by Law 3424/2005, the competent authority for monitoring compliance with the provisions of the law of the insurance companies (life insurance), insurance intermediates and the branches established in Greece of insurance companies with head office out of Greece is the Insurance Supervision Commission for Private Insurance (HPISC). Law 3229/2004 created the HPISC, which is under the authorisation of the Minister of Finance. The HPISC was not operational at the time of the on-site visit. It will be responsible for, *inter alia*, the issue and revocation of licences, prudential supervision and enforcement for non-compliance with legal and regulatory requirements, including for AML/CFT. Until the amendment of Law 2331/1995 by 3424/2005, the competent

¹⁰ ELTE, Law 3148/2003.

¹¹ See Article 15 of Law 2515/1997 and the Bank of Greece Governor's Act 2541/2004.

¹² See Article 18 of Law 3148/2003 and the Bank of Greece Governor's Act 2536/2004.

¹³ See Article 2 of Law 3424/2005.

¹⁴ See Article 2a of Law 3424/2005.

authority was the Ministry of Development/Insurance Directorate (MOD/ID), which is still in existence, but which does not carry out effective supervision for AML/CTF.

74. **The Greek Accounting and Auditing Oversight Board (ELTE).** ELTE has been established by law 3148/2003 as the supervisory body for the accounting and auditing profession. It has been established as a Greek State controlled legal entity under the direct supervision of the Minister of Economy and Finance.

75. **The Casino Operations Oversight Committee** is responsible for the supervision of casinos. The AML Law specifies that the MOEF is the competent authority for internet casinos.

Law enforcement bodies

76. **The Public Prosecutor's Office.** In Greece, the prosecution authorities are the Public Prosecutors who are organised in a separate independent hierarchy from the judges. Each district in Greece has a Public Prosecutor's Office, with a total number of 504 prosecutors nationally. It is their responsibility to freeze and seize assets and property of persons under the judicial procedures, including in cases of ML and FT. Confiscation can be ordered only by court decision. The examining magistrates play an important role in investigating cases referred to them by the Public Prosecutor's Office.

77. **The Courts.** The ordinary court system has four tiers, i.e. Courts of First Instance, Magistrate Courts, Courts of Appeal and the Supreme Court. They all deal with civil and criminal cases alike, with the exception of the Supreme Court, which has a separate chamber for each. There are 2,322 judges in these ordinary courts in Greece. A separate court system exists for administrative legal issues, with Courts of First Instance, Courts of Appeal and the Council of State. There are 1,200 judges in these courts.

78. **The Financial Intelligence Unit (FIU).** The Greek FIU was originally set up by Article 7 of the AML Law (dated 1995) as the "Committee of article 7" and became operational in July 1997. After the amendment of the AML Law in 2005, the Greek FIU was upgraded into an independent administrative authority, officially designated as the "National Authority for the Combating of Money-Laundering". It is composed of the President (a full-time appointment) and 11 part-time Members (with 11 alternates) nominated by ministries, supervisory authorities and the private sector (two representatives from the MOEF, one representative from the Ministry of National Defence, the MOJ, the MOPO, the MOMM, the BOG, the HCMC, the Committee for the Supervision of Private Insurance, the Accountant Standards and Audit Committee and the Hellenic Bank Association).

79. **The Special Control Service (SCS or YPEE in Greek):** The SCS is part of the Ministry of Finance, and is a unit that deals with important cases of tax-related offences, customs offences, and other types of economic crime, including money laundering.

80. **The Ministry of Public Order.** The MOPO oversees the police authorities that investigate most of the predicate offences for ML. The Ministry is responsible, amongst other things, for safeguarding and maintaining public order and protecting public and state security. It also supervises, coordinates and controls the activities of forces reporting to the Ministry and its internal services.

81. **The National Intelligence Service** (secret service) falls under MOPO. It has an anti-terrorist unit which collects financial intelligence regarding financing of terrorism, and an organised crime department. The National Intelligence Service also plays an important role in drug related cases.

82. **The Hellenic Police.** The Hellenic Police falls under MOPO. It is responsible, inter alia, for general policing duties, preventing and interdicting crime and implementation of public and state security policy. It comprises both central and regional Services. The unit in charge of CFT investigation is the Special Violent Crime Division (SVCD) at MOPO. SVCD is an independent service of the Hellenic Police and its competence include all terrorist issues. The Public Security Division combats crimes in general, organised crime, drugs and financial crimes.

83. **The Customs Service.** The Customs Service investigates smuggling, which is a predicate offence for ML. The Customs Service is a part of the MOEF and may submit STRs to the Greek FIU.

Trade associations acting in AML/CFT matters

84. **The Hellenic Bank Association.** The Hellenic Bank Association (HBA) is a non-profit organisation representing Greek and foreign banks operating in Greece. It was founded in 1928 and in 2006 has 28 members, of which 24 are regular and 4 associated. The HBA seeks to promote the collective modernisation of its member banks and develop the banking sector in general, thereby contributing to the advancement of the Greek economy. Moreover, as a representative body, the HBA contributes in a consultative capacity to regulatory issues, by participating in the formulation of legislative proposals or in technical committees on the international, European and national levels. The HBA (via the Hellenic Banking Institute) offers training to compliance officers and senior staff of banks, and to branch network staff.

85. **Other associations.** There are associations for all DNFBPs. However, these do not perform any self-regulatory role and only real estate agents and lawyers have codes of conduct.

c. *Approach concerning risk*

Global assessment of ML/TF risk factors

86. The AML/CFT guidelines and circulars that have been issued so far by the three regulatory bodies contain some risk elements which are largely transactional rather than systemic, (e.g., business with offshore shipping companies operating under Emergency Law 89/67 and uncooperative countries - NCCT list). There has been no system-wide assessment of ML/FT risk in the various economic sectors and no specific guidelines or typologies have been issued. Other than those risk-based elements contained in the AML guidelines and circulars, supervision of compliance by FIs with the AML requirements is not risk-based. The authorities acknowledge that there is a need for continuous review of the effectiveness of the AML/CFT regime, including sectoral risk assessments, to ascertain whether simplified or enhanced customer due diligence could be applied in certain cases.

87. In October 2006, the Bank of Greece adopted a Governor's Act on the prevention and suppression of ML/TF, which substitutes Administration Circular 16/2004. Under this Governor's Act, supervised entities are requested to shift from a mostly rule-based approach to a more risk-based approach and to construct an effective AML/CFT system based on the rating and classification of customer and transaction risk.

d. *Progress since the last mutual evaluation or assessment*

88. Greece was evaluated by the FATF in 1997. The main deficiencies identified in the FATF Mutual Evaluation Report of Greece dated 17 July 1997 were: the limited scope of the ML offence; incomplete confiscation legislation; the lack of active role in checking the implementation of effective anti-money laundering measures in the non-bank financial sector; the limited scope of the obligation to report suspicious transactions and inadequate penalty imposed for failure to report; the lack of guidance and education provided in relation to reporting; some issues in relation to the unique nature of the FIU (its part-time nature, its limited number of permanent staff)

89. Greece was assessed by the International Monetary Fund (IMF) in 2005. The key findings of the previous assessment conducted by the IMF were, *inter alia*, as follows: (i) the need for a coordinated national AML/CFT strategy and institutional framework to implement the required legislative and institutional reforms; (ii) improved transparency and governance in key sectors (e.g., gaming and securities); (iii) enhanced public and private sector awareness of ML/FT risks particularly in the securities, insurance, and DNFBP sectors; (iv) implementation of measures to combat FT; (v) implementation of AML/CFT measures in the DNFBP sector; and (vi) general improvement in efficiency and effectiveness in certain public sectors, notably the judiciary and law enforcement.

90. In response, Greece adopted Law 3424/2005 for the implementation of the second EU Directive. In the assessors' opinion, overall, little progress has been achieved since the IMF evaluation. Many of the implementation-related weaknesses in the system, as well as the more structural problems, have not been adequately addressed. The assessors also believe that the provisions of the new AML Law (and, to a certain extent, the guidance issued by the BOG) partially address the weaknesses identified in previous assessments but that the measures are insufficient.

2 LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1 & 2)

2.1.1 Description and Analysis

Recommendation 1

91. Greece originally criminalised ML by Law 2145/1993 “on the Suppression of Legalisation of income from criminal activities,” which was later superseded by Law 2331/1995 “on the Prevention and Combating of the Legalisation of income from criminal activities”. The AML Law came into force in August 1995. This law has been amended several times, the most important being the ones made in Law 3424/2005. Law 3424/2005 expands the scope and clarifies certain aspects of the definition of ML. The AML Law has been fully in force since its publication in the Government Gazette of 13 December 2005.

92. The Greek authorities have indicated that in the AML Law, the legislator does not use the exact term “laundering” but the term “the legalisation of illicit proceeds”. As *termini technici* both the above mentioned terms seem to describe the same situation.

93. *Definition and scope of ML offences.* ML is currently defined by Article 1.B of the AML Law and the definition's physical and material elements closely follow and are in line with those set out in the Vienna and Palermo Conventions, covering specifically purchase, concealment, receipt, possession, use, conversion or transfer of proceeds derived from a closed list of “criminal activities,” as defined by Article 1.A of the same law. Specifically, Article 1.B of the AML Law establishes four different types of acts :

- *the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of his/her action;*
- *the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;*
- *the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;*
- *participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing indents.*

94. *Definition of property and connection with the predicate offence.* Article 1.C of the AML Law defines the term “property” in accordance with the Vienna Convention (Article 1.q) and covers any type of property, corporeal or incorporeal, movable or immovable, material or immaterial, as well as to any legal deeds or documents which prove ownership of title or rights for the acquisition of such property.

95. The law as amended appears to effectively require the prosecution of the predicate offence in order to obtain a money laundering conviction. The assessors were advised that the prosecutor would have to prove *all* of the elements of the predicate offence in order to obtain a conviction for money laundering. Having to prove all the elements of the predicate offence is equivalent to proving the offence.

96. *Predicate offences.* Greece has opted for a combination of a list of predicate offences and a threshold approach (see sub-paragraph (q) below). The AML Law contains the following list of categories of predicate offences (those followed by an asterisk have been not provided to the assessors):

- a) participation in a criminal group (paragraphs 1, 2, 4 and 5 of article 187 of the PC);
- b) terrorist activities (article 187A of the PC);
- c) financing of terrorism, as provided for in paragraph 6 of article 187A of the PC;
- d) passive bribery (article 235 of the PC);
- e) trafficking in human beings (article 323A of the PC) and migrant smuggling (article 19 of Law 1941/1991*);
- f) computer fraud (article 386A of the PC*);
- g) exploitation of prostitution (article 351 of the PC);
- h) the offences provided for in articles 4,5,6,7 and 8 of Law 1729/1987* re: "Combating illicit trade in narcotic drugs";
- i) the offences provided for in articles 15 and 17 of Law 2168/1993* re: "Weapons, ammunition, explosives etc."
- j) the offences provided for in articles 2, 53-55, 61 and 63 of Law 3028/2002* re: "Protection of antiquities and cultural heritage in general";
- k) the offences provided for in article 8, paragraphs 1 and 3, of Legislative Decree 181/1974* re: "Protection from ionised radiation";
- l) the offences provided for in article 87, paragraphs 5, 6, 7 and 8, and article 88 of Law 3386/2005* (illegal entrance etc.);
- m) the offences provided for in articles 2, 3, 4 and 6 of Law 2803/2000 re: "Protection of the interests of the European Communities";
- n) bribery of a foreign civil servant, as provided for in article 2 of Law 2656/1998 re: "Combating bribery of foreign civil servants in the context of international business transactions";
- o) bribery of employees of the European Communities or of European Union Member States, as provided for in articles 3 and 4 of Law 2802/2000;
- p) market abuse (insider trading or market manipulation), as provided for in Law 3340/2005*;
- q) any offence punishable by deprivation of liberty, the minimum threshold of which is over six months and the commission of which generated a property of at least EUR 15,000 (fifteen thousand).

97. The last category of offences (q) aims at covering serious offences not specifically listed in the AML Law. The categories of offences that were designated by the FATF to be covered as predicate offences and that are not specifically included in the AML Law are: sexual exploitation of children; illicit arms trafficking; illicit trafficking in stolen and other goods; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crimes not involving radiation; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery and theft; smuggling; extortion; forgery; and piracy. Despite this, it should be noted that terrorist financing is inadequately criminalised – see section 2.2 below.

98. Article 1(A)(q) is intended to be a catch-all provision. A predicate offence is any offence punishable by any sentence over six months in prison AND which generated property worth at least EUR 15,000. Misdemeanours in Greece are criminal acts punished by imprisonment of a minimum threshold of 10 days and maximum of 5 years (articles 18 and 53 of the PC) and felonies are criminal acts punishable with life imprisonment or 5-20 years imprisonment (articles 18 and 52 of the PC). The Greek authorities believe that a wide series of criminal acts (approximately 90% of the criminal acts of the Greek PC) can thus be characterised as predicate offences. However, since only a few Articles of the Greek PC were translated into English, the assessors did not have the

opportunity to check which crimes are punishable by more than six months in prison. Article 1(A)(q) would not apply for an offence that ranges from less than six months or equal to six months in prison. The minimum sentence of imprisonment must be more than six months in prison in order for it to be considered a predicate offence under the catch-all provision. Thus, if the minimum sentence were six months and one day, it would be considered a predicate offence. But, if the sentence is six months to five years, it does not mean the crime is a predicate offence to money laundering despite the fact that the defendant might have been sentenced to greater than six months. This removes certain types of fraud from the list of predicate offences.

99. The assessors also note that the current approach under Article 1(A)(q) excludes offences where a defendant had not “generated a property of at least EUR 15,000”. This is not in line with Recommendation 1. Moreover it is not clear exactly how to interpret this term, and what must be proved to meet this element of the offence.

100. The authorities advised the assessment team that Article 17 of Law 3472/2006 (a copy of which was not provided to the assessors) has introduced an amendment in relation to Article 1.A(q) and tax fraud/evasion. Any property derived from tax evasion or the non payment of debts to the State as criminal offences, regardless of the value, is not considered under that law as a “property derived from a criminal activity”. According to the tax legislation, tax evasion is considered as a capital offence in taxation, in the following cases: a) if the corresponding tax of the hidden net income exceeds the amount of EUR 150,000.00 per accounting period and in case of shipping tax, b) if the amount of non attributed tax exceeds the above mentioned amount, if the total amount of non-attributed or inaccurate attributed annual VAT exceeds EUR 75,000.00, in case of issuing and acceptance of fictitious elements for non-existed transactions (totally or partially), exceeding the amount of EUR 150,000.00.

101. *Extraterritorial predicate offences.* Under Article 5 of the Penal Code, Greek criminal law applies to all offences committed in whole or in part in its territory, whether the offence is committed by a Greek national or not. Under Article 6.1 of the Penal Code, Greece has jurisdiction to proceed against its nationals for offences committed abroad when there is dual criminality.

102. Following an amendment passed in 1998, Article 2 (4) of the AML Law provides that the ML offences set out in Article 2 are punishable even if the predicate offence, referred to as the “criminal activity,” has taken place abroad and was not subject to the jurisdiction of the Greek courts. However, according to some prosecutors, the ML offence would not be applicable if the proceeds were derived from conduct that occurred overseas and which, if committed domestically, had not constituted a criminal offence in Greek law (lack of dual criminality). Similarly, even if such conduct were a criminal offence in Greece, prosecutors were not unanimous as to whether the ML offence would be applicable in general or only to the extent that this extraterritorial predicate offence was included in the list of predicate offences in Article 1. This position was not shared by all prosecutors: some considered that the dual criminality test would be met if ML itself was an offence in both countries and that there was no need to examine the definition of the predicate offence(s) involved.

103. *Self-laundering.* Article 2.1.d of the AML Law deals with the issue of punishment of the perpetrator of the predicate offence. The article provides that criminal liability for the predicate offence does not preclude punishment of the offender for the act of laundering. However, in order for the offender of the predicate offence to be punished as perpetrator or instigator of money laundering, the last act must have been a part of his overall criminal action plan. It is not clear what situation the restriction set out in Article 2.1 (“part of his overall criminal action plan”) refers to. No case law has been provided to the assessors, though they were advised that there had been a Supreme Court decision in which the defendant was convicted both for the predicate offence and for money laundering. The decisions of *Areios Paghos* do not provide legal precedent, but are carefully considered by other courts¹⁵. The Greek authorities acknowledged the current and persistent problem of interpretation (including implementation) in

¹⁵ There is no rule obliging the lower courts to follow the case law created by the Supreme Court. However, the lower courts usually take such case law into consideration, since if they do not follow it, the case is going to be appealed and the Supreme Court will rescind their decision. Also the Supreme Court itself follows as a rule its precedents in other cases, but it is not unusual that a new decision supports a different view.

Greece of self-laundering¹⁶. Based on the information provided, there do not appear to be any fundamental principles of domestic law prohibiting self-laundering, and indeed the law does appear to expressly provide for it.

104. *Ancillary offences.* Ancillary offences in Greek criminal law are covered by Articles 42–49 PC. Attempt is covered by Article 42 and is defined as “performing an act that includes at least the commencement of commission of a felony or a misdemeanour.” Complicity is covered by Article 45, which stipulates that “when several persons jointly commit a punishable act, each one of them shall be punished as the author of that act.” Incitement, and aiding and abetting, are covered by Articles 46 and 47 PC. Article 46 covers direct incitement and complicity, while Article 47 refers to indirect complicity and provides that “a person who intentionally gives another any assistance whatsoever before or during the performance of an unjust action shall be deemed an accomplice and be punished with a lower penalty.” These provisions apply to all criminal offences, unless otherwise specified.

105. There are also additional offences under Articles 2(2) and 2(3) of the AML Law which are types of ancillary offences. Article 2(2) makes it an offence to conceal or disguise the nature, source etc of criminal proceeds, when testifying before or reporting to a judicial authority, and Article 2(3) makes it an offence to create or buy an enterprise for the purpose of committing a ML offence.

106. There is no offence of “conspiracy” in Greek law and the offences that may be committed by a “criminal organisation” (Article 187.1 PC) do not include ML. Criminal organisations must also consist of at least three people. However, Article 187.3 PC (in addition to the cases foreseen in paragraph 1 in relation to criminal organisations) criminalises the act of joining another person for the purpose of committing a misdemeanour punishable by imprisonment of at least one year, aiming at an economic or other material benefit; this could potentially apply to a concerted act of ML.

Recommendation 2

107. *The mental element.* According to the authorities, all ML offences set out in Article 1.B of the AML Law require knowledge about the criminal origin of the proceeds that has to be specific, i.e., the person should know which kind of criminal activity generated the proceeds. The offence of money laundering applies to natural persons that knowingly engage in money laundering activity (intentional money laundering) as required by the FATF Recommendations.

108. In the Greek CCP the principle of «moral evidence» - *intime conviction* in French law - is followed. Namely, by art. 177 «the judges are not obliged to follow any legal rules of evidence, but they must decide according to their conviction, following the voice of their conscience and being guided by the impartial judgement which results from the proceedings, with respect to the truth of the facts, the trustworthiness of the witnesses and the value of the other pieces of evidence». The «main» means of evidence are (a) the indications, (b) the judge’s observations during the trial (c) the expertise, (d) the confession of the accused and (e) the witnesses.

109. Although the law does not expressly say so, the assessors were advised that case law allows for the element of intent to be deduced from objective factual circumstances, which seems consistent with the general approach taken in the penal procedural law.

110. *Corporate liability for ML.* Neither Greek law in force nor legal doctrine recognise the principle of corporate criminal liability. The Greek PC is based on the finding of individual guilt and no attempts have been made to establish the notion of corporate criminal liability into the Penal Code. The assessors were advised by Greek legal

¹⁶ Article 2 of Law 2331/1995 raised some issues of interpretation. Some courts considered that it only allowed the prosecution of third-party ML, and therefore acquitted self-launderers, while other courts convicted self-launderers. Those lower courts that acquitted self-launderers argued that the offender who handles the assets originating from the predicate offence(s) he has committed would be punished twice for essentially the same facts if he was also convicted of ML, the latter offence being by and large subsumed by the predicate offence. Under this interpretation imposing a punishment for ML would run counter the principle of *ne bis in idem* (double jeopardy).

experts, and accept, 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.

111. Corporate criminal liability does not exist, though Article 2.3 of the AML Law provides that persons who establish or acquire an undertaking or form an organisation aiming to commit a ML offence or who knowingly participate in such undertaking or organisations or advise another on committing such crimes are guilty of an offence with a prison sentence of at least two years. Persons involved with such activities may be individually punished. This article does not specifically cover “legal persons” but only undertakings and organisations. However, the assessors were advised that “undertakings” in Greece includes legal persons. The mission further notes that Article 5, paragraph 1 of Law 2656/1998 (ratifying the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions) has now been amended by Article 9 of Law 3090/2002 so as to include ‘legal persons or enterprises’, thus specifically covering legal persons. In neither case can proceeds held in a corporation be confiscated unless the legal representative is found guilty of ML or one of the predicate offences listed in Article 1 of the AML Law. When next amending the AML Law, it would be helpful to modify the language to clearly include both “legal persons and undertakings” for clarity and consistency.

112. Article 8 of Law 2928/2001 permits administrative sanctions for ML by legal entities and enterprises¹⁷. This provision provides that if some of the criminal acts of Articles 1 and 2 of the AML Law attribute direct financial benefit to a legal entity or corporation and provided one or more of the persons having their administration or managing their affairs knew that the benefit accrues from such an act, the following sanctions are imposed to the legal entity or the corporation, cumulatively or alternatively:

- Administrative fine equal to three up to ten times of the benefit.
- Permanent or temporary removal of the licence of operation of the enterprise for a period from one month to two years, or, if such a licence is not provided for by the law, prohibition of the exercise of its business activity.
- Permanent or temporary exclusion of the enterprise, for the same period, from public provisions or allowances or from public tenders.

113. Moreover, Article 8 of Law 2928/2001 provides that if the exact amount of the benefit cannot be estimated for any reason whatsoever, a fine from EUR 29,347 to EUR 2,934,702 can be imposed by the administrative authorities. The fines may be readjusted by common resolution of the Ministers of Finance and Justice. All the above sanctions can be applied cumulatively or alternatively, taking into account the gravity of the breach and the liability, the financial position of the legal entity or the corporation and the circumstances of the particular case.

114. If the ML violation is the result of negligence, i.e., the person administering or managing the legal person ignored the criminal origin of the benefit, an administrative fine of up to twice the benefit or a temporary exclusion up to six months from public provisions, or allowances or public tenders, is imposed under the same conditions as to the rest, cumulatively or alternatively.

115. The administrative sanctions are additional to any criminal penalty imposed due to the criminal liability of a manager or administrator. In fact, a director, manager or ordinary staff member may always face criminal proceedings. In addition, claims for civil liability can be pursued against private or public law companies. For instance, under Articles 71 and 922 of the Civil Code and Articles 104, 105 and 106 of the Civil Code Introductory Act, enterprises may be held civilly liable for acts or omissions by their managers or staff. The purpose of such actions against legal persons is not to punish the person at fault, but to redress the damage suffered by the victim.

116. A criminal conviction of natural persons is not required to invoke the civil liability of an enterprise. However, when criminal proceedings have an essential influence on the subject of the civil proceedings, the civil

¹⁷ Laws 3190/1955 (on limited companies) and 2190/1920 (on incorporated companies) as amended establish the general regime of civil and administrative liability of legal persons for any actions committed on their behalf and the criminal liability of their directors/managers and natural persons connected to them.

court is entitled to adjourn hearings until a final criminal verdict is reached. It should also be noted that in such cases a criminal conviction is not binding on the civil court.

117. *Penalties.* For natural persons, the AML Law attaches various terms of imprisonment to ML, depending on the type of the offence. The penalty provided for the ML offence under Article 2(1) is imprisonment from five to ten years but the sentence for ML cannot exceed the sentence for the predicate offence. This principle becomes important in cases where the predicate offence is punishable as a misdemeanour (particularly one with lesser penalties), whereas the money laundering act is always punishable as a felony. The penalty is more severe in cases where “the perpetrator exercises such activities professionally or he is especially dangerous or he is a recidivist.” In such cases, the penalty is imprisonment of at least ten years unless there is a case of a more severe sentence.

118. The penalty provided for the ML offence under Article 2(2) is imprisonment of at least six months, provided there is no case of heavier punishment. However, the court may decide not to impose a penalty if the examined or reporting person is the husband/wife of or relative by blood up to the second degree with the person who performed criminal activity. The penalty provided for the ML offence under Article 2(3) is imprisonment of at least two years, provided there is no case of heavier punishment. For legal persons, the applicable administrative penalties range from fines to exclusion from tenders, as set out above.

119. The basic penalties for natural persons (5-10 years imprisonment) and for legal persons (an administrative fine of up to nearly EUR 3 million) involved in ML would appear to be adequate. However, certain other provisions reduce the effectiveness and dissuasiveness of these penalties. In particular, the money laundering sentence cannot exceed the sentence for the predicate offence, with regard to a misdemeanour, which could result in sentences for money laundering that are only just over six months in prison. There is also concern about the provisions that allow a defendant to pay a fine instead of serving a prison sentence for sentences less than a year. However, the Greek authorities indicated that the conversion of a sentence into a cash payment generally applies in their legal system.

120. Civil penalties do not exist, but a private citizen may bring a civil suit against a legal person. Penalties in civil trials are in addition to any fines in an administrative action and/or confiscation in the criminal case. Therefore, it is possible that the plaintiff in a civil action may not receive any funds through his or her suit if the natural or legal person does not have any funds or property left after the criminal and administrative actions. So far, no administrative penalty has been imposed under Article 8 of Law 2928/2001.

121. *Statistics.* The Ministry of Justice is currently working on a project to track the number of money laundering cases prosecuted and the number of convictions gained. The Ministry provided the assessors with a list of ML cases in various Courts of First Instance and Appeal, but the data was inconsistent and was insufficient for the assessment team to clearly establish the number of prosecutions and final convictions. Incomplete statistics were also provided by the Special Control Service of the Ministry of Finance (see Section 2.6). As the court system is overloaded with an excessively high number of cases, if a conviction in a first instance court is appealed against (and it is routine to appeal all such criminal cases), it would take several years to obtain a final decision. By far the largest number of ML cases is dealt with by the Athens Court of First Instance, where, from 2001 to 2005, 210 cases have been prosecuted but only ten convictions have been obtained. So far, no administrative penalty has been imposed under Article 8 of Law 2928/2001. The assessors have not been provided with material from which they can determine that the money laundering offence is being effectively implemented and applied.

2.1.2 Recommendations and Comments

122. The basic money laundering offence covers the mandatory physical and mental elements required by the Vienna and Palermo Conventions. However, the interpretation of proof of the predicate offences seems restrictive and certainly makes prosecution of ML, in particular “third-party” laundering, difficult. ML should be a stand alone offence that does not require, in effect and practice, a conviction for the predicate offence.

123. The list of predicate offences should be expanded to include all of the FATF designated predicate offences and Article 1.A(q) of the AML Law should be amended to include all offences punishable by at least six months in prison, regardless of the value of the property generated by the offence.

124. In the absence of fundamental principles of domestic law, self-laundering should be clearly criminalised and appropriate training provided to remove the existing problems of interpretation and implementation.

125. The assessors believe that there are no fundamental principles of domestic law that prevent Greece from extending criminal liability to legal persons, and Greece should make the necessary changes to its law.

126. The AML Law should clarify that it is not necessary to prove all of the elements of the predicate offence in order to obtain a conviction for money laundering. The sentence for ML should stand alone and should not be dependent upon the sentence of the predicate offence. In the absence of corporate criminal liability, it is important that the existing system of administrative and civil liability of companies is used effectively. The assessors had some difficulties to identify the exact scope and mechanisms for implementing the civil and administrative liability of legal persons for criminal offences (in case for instance of concurrent criminal and administrative or civil proceedings) and express doubts about the effectiveness of the current sanctions regime.

127. The statistics provided on ML prosecutions and convictions are neither consistent nor comprehensive, making it difficult to assess effectiveness. However, the limited data on the effectiveness of the ML offence in the Athens Court of First Instance suggests that there is a very low rate of conviction, and the assessors believe that Greece has to take further action to ensure more effective implementation. In addition, administrative sanctions under Law 2928/2001 could be more proactively used.

2.1.3 Compliance with Recommendations 1 & 2

Rec.	Rating	Summary of factors underlying ratings
R.1	PC	<ul style="list-style-type: none"> • the predicate offences for ML are limited by the threshold of EUR 15,000, and terrorist financing is inadequately criminalised as a predicate offence; • the offence of ML effectively requires the prosecution to prove all the elements of the predicate offence; • self-laundering is not clearly criminalised; • the limited data available indicates that the offence is not being effectively implemented, as shown by the very low number of convictions.
R.2	PC	<ul style="list-style-type: none"> • criminal liability does not apply to legal persons and there is no fundamental principle of law prohibiting it; • taking all the relevant provisions into account, penalties are not sufficiently dissuasive (the sentence for money laundering cannot exceed the sentence for the predicate offence with regard to a misdemeanour); • there are doubts about the effectiveness of the current administrative sanctions regime; • the limited data available indicates that the offence is not being effectively implemented, as shown by the very low number of convictions.

2.2 Criminalisation of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

128. *General.* Greek criminal law considers as "terrorist acts" offences which are already provided for and punished independently by the Criminal Code or by special criminal laws, but which are committed in such a way, or to such an extent or under such conditions that it is possible to seriously harm a country or an international organisation and with the purpose of seriously intimidating a population or illegally forcing a public authority or an international organisation to perform or to abstain from performing an action or of seriously harming or destroying the fundamental constitutional, political and economic structures of a country or an international organisation. Such actions are listed in Article 187A of the PC and include in particular: intentional homicide (Article 299), causing severe physical injury (Article 310), causing fatal injury (Article 311), causing an explosion (Article 270), violations with regard to explosives (Article 272), contamination of water supplies and food (Article 279) and the actions provided for by paragraphs 2 and 3 of Article 4 of Law 2991/2002 on the "Application of the Convention prohibiting the use etc. of chemical weapons". Furthermore, threats to commit terrorist acts are punishable and are punished, when they are serious and cause terror, as is the formation, integration as a member and the administration of a structured and continuously active organisation, consisting of three or more persons acting together with a view to committing terrorist acts.

129. *Criminalisation of FT.* The financing of terrorism has been criminalised by Article 40 of Law 3251/2004 on "the European Warrant Arrest," which inserted Article 187A into the PC and which covers a series of terrorism-related offences, collectively designated as "Terrorist Acts" (see above). Paragraph 6 of Article 187A provides that : *"Anyone who, in order to facilitate the perpetration of an act as set out in paragraph 4, provides information or material means or collects or disposes funds, in the meaning of Article 1 paragraph 1 of the International Convention for the suppression of financing terrorism (ratified by Law 3034/2002, Official Gazette Issue No 168/A), in any way whatsoever, or provides financial means in any way whatsoever, shall be punished by a penalty of up to ten years of incarceration"*.

130. Paragraph 4 criminalises "forming or joining a terrorist group" in the following terms: *"Anyone forming or joining a structured and continuously acting group of three or more persons, acting jointly in order to commit the crime of paragraph 1 (terrorist organisation), shall be punished by a penalty of up to ten years of incarceration. The construction, supply or possession of firearms, explosives and chemical or biological materials or irradiating materials which is harmful to human beings in order to serve the purposes of the terrorist organisation, is an aggravating circumstance. The non perpetration by the terrorist group of any of the crimes of the list included in points (a') to (v') of paragraph 1 is an extenuating circumstance"*.

131. By making reference only to paragraph 4 of Article 187A ("forming or joining a terrorist group"), paragraph 6 narrows down the scope of the financing of terrorism offence to the financing of "forming or joining a terrorist group." The interpretation given by the authorities to the phrase "an act as set out in paragraph 4" confirmed that the act in question was that of setting up a terrorist group and that it required at least some material manifestation of the "forming or joining" of a structured group of at least three people in order to commit a "terrorist act" as defined by paragraph 1. As a consequence, the offence of financing of terrorism does not extend to the financing of individual terrorist acts, i.e., acts set out in paragraph 1 when committed by individual terrorists, nor to the financing of individual terrorists, whether they commit specific terrorist acts or not. However there have not been any cases as yet that could provide judicial interpretation of the provisions.

132. The material acts defined by paragraph 6 contain three distinct acts which, however, seem similar: 1) "providing ... material means," or; 2) "collecting or disposing funds," or; 3) "providing financial means," in any form. Taken in combination, these material acts adequately cover the material acts required by the Convention, i.e., "provides or collects funds", but because of the limitation in the drafting of the law, as described above, these acts are only covered when at least three people are involved in financing the forming or joining a terrorist group.

133. The description of the offence does not clarify the type of knowledge or intent (*mens rea*) required for committing financing of terrorism. In the absence of any specific indication, the general provisions of the PC apply, which would suggest that the offence can only be committed intentionally or by gross negligence.

134. *Definition of funds.* Whereas Law 3251/2004 does not contain an autonomous definition of “financial means,” “material means” or “funds,” the text of paragraph 6 specifically refers to the relevant provision of the International Convention for the suppression of the financing of terrorism for the definition of “funds” (see above). With the ratification of the Convention by Greece in 2002, this provision is therefore considered part of Greek law. This said, it would have been preferable in general to provide for domestic legal provisions on all requirements of the Convention, including on the definition of “funds.”

135. *Link to a terrorist act.* Funding a terrorist group is not a crime unless that group consists of three or more people acting jointly in order to commit a crime listed in paragraph 1. This indicates that the three or more persons acting jointly must engage in some preparatory acts for one of the crimes listed in paragraph 1, even if the group could not complete the act. In fact, not perpetrating the ultimate terrorist act is an extenuating circumstance in paragraph 4. Funding a terrorist group ought to be a stand alone offence for which prosecution is available, regardless of whether the group actually carries out or attempts a specific terrorist attack. The law should also make it illegal to fund individual terrorists or individual terrorist attacks.

136. Article 187A also 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 said this provision is to be narrowly construed but could not provide any evidence showing a narrow interpretation. This provision may allow many terrorists to defend their actions, no matter how horrific, by using one of the defences listed above.

137. *Attempt.* Attempt of the financing of terrorism is not specifically provided for in Law 3251/2004 (Article 187A does not criminalise the attempt to commit a terrorist act as defined in Article 187A para.1), but the general provisions of the PC are applicable. Under Article 42 of the PC, attempt is defined as “performing an act that includes at least the commencement of commission [of the felony or misdemeanour]” and is punishable by a reduced penalty if the offence was not completed, though the court has the discretion to apply the penalty applicable to the completed offence. It is therefore possible under Greek law to punish the attempt of financing of terrorism.

138. *Ancillary offences.* Participation in, organisation of and contribution to a group engaging in the financing of terrorism are also regulated by the general part of the PC. Specifically, Articles 45–48 provide for complicity and aiding and abetting, requiring the same penalty for accessories as for principal offenders. The “terrorist group” cannot be held liable for committing financing terrorism, as the crimes it can engage in only include those in paragraph 1 (“terrorist acts”) and not paragraph 6. There is no provision in the Penal Code that is an equivalent notion of Article 2.5 of the Terrorist Financing Convention. It is noted that the Convention has become part of the Greek law; however it is unclear that a person could be prosecuted in Greece for an offence that is only set out in the Convention especially because there would not be any sanction attached to the offence.

139. *Predicate offence for ML.* The financing of terrorism is a predicate offence for ML since December 2005 (see Article 1.A of the AML Law), noting the limitations in the terrorist financing provision discussed above.

140. *Extraterritoriality of the terrorist offence.* It is unclear whether the financing of terrorism offence may relate to a terrorist group that is not located in Greece. Article 187A does not require that the “terrorist group” referred to in paragraph 4 be in the same country, i.e., in Greece, for the financing of terrorism to occur. Given the broad competence of Greek courts over offences committed abroad, it is plausible that a Greek court could establish jurisdiction in relation to a financing of terrorism offence even if the funded “terrorist group” was located abroad.

141. *Objective factual circumstances.* In the absence of judicial case-law, it is unclear whether the intentional element of financing of terrorism can be inferred from objective factual circumstances. Article 187A does neither

specifically provide for such possibility nor prohibit it. The considerations regarding the principle of “*conviction intime*” in Greek judicial practice are therefore also applicable in this regard (see above under Recommendation 2).

142. *Liability of legal persons.* Criminal liability for financing of terrorism only extends to natural persons, as is in the case of ML. However, administrative liability was specifically introduced with regard to all terrorism offences, including the financing of terrorism, by Article 41 of Law 3251/1995. This provision provides that “if any of the crimes of Article 40 of the present Law is committed for the benefit of any legal person under private law by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following: a) a power of representation of the legal person, or b) an authority to take decisions on behalf of the legal person, or c) an authority to exercise control within the legal person, then this legal person shall be punished.” 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.

143. *Sanctions.* The applicable criminal penalty in the case of natural persons is imprisonment for up to 10 years. This penalty, possibly combined with any of the applicable administrative penalties, appears to be effective, proportionate and dissuasive in theory. In practice, however, since there have been no cases of financing of terrorism, it is difficult to judge the sanctions that will be applied in practice.

144. The applicable administrative penalties for legal persons are similar to those for ML (see Section 2.1 above), imposed by a joint decision of the MOJ and any other competent minister, as the case may be, are the following :

- temporary or permanent removal of the operating licence of the business for a period ranging from one month to two years or, if no such license is prescribed by the law, prohibition of practice of commercial activities;
- temporary or permanent exclusion from entitlement to public benefits or aid or participation in public contract award procedures for the same period of time;
- administrative fine of EUR 20,000 to EUR 3,000,000.

145. Article 41(2) provides for a mitigated version of administrative liability where the terrorist offence resulted from the manager’s negligence, while Article 41(3) provides that consideration is given particularly to the seriousness of the violation, the extent of fault, the financial status of the legal person or business and the particular circumstances of the case. These administrative sanctions can also be applied in addition to any criminal penalty imposed by a court and resulting from the criminal liability of a manager or administrator in relation to the commission of a financing of terrorism offence. A private citizen could also bring a civil complaint against a legal person in addition to the administrative penalties.

2.2.2 Recommendations and Comments

146. The recommendations set out below should be seriously taken into account by the Greek authorities, given the local context, where domestic terrorism is raising serious concerns again. It should also be noted that the criminalisation of terrorist financing is very recent (July 2004) and there have been no cases as yet.

147. While some of the material elements of the FT offence correspond to those required under Article 2 of the U.N. Convention and Special Recommendation II of the FATF, the scope of the offence is excessively narrow as it does not make it a crime to collect or provide funds or material support to terrorist individuals or for specific terrorist acts. In addition, FT should be an offence in itself, whether or not a terrorist act has actually occurred and whether or not funds were used to finance a particular act. Greece should expand the coverage of the FT offence to fully meet the FATF requirements. The defence to the law in Article 187.A (8) is too broad and appears to undermine and negate the intentions of the provision.

148. A new provision in relation to SR II should also clarify what “funds” means for the purpose of Article 187A and that the FT offence does not require that the funds be actually used.

2.2.3 Compliance with Special Recommendation II

Rec.	Rating	Summary of factors underlying ratings
SR.II	PC	<ul style="list-style-type: none"> • the scope of the offence is excessively narrow as it does not make it a crime to collect or provide funds or material support to terrorist individuals or for specific terrorist acts; • terrorist financing ought to be a stand alone offence for which prosecution is available, regardless of whether the group actually carries out or attempts a specific terrorist attack; • the defence in Article 187A(8) is too broad and appears to undermine and negate the intentions of the provision; • it is unclear that Article 2.5 of the Terrorist Financing Convention is applicable in relation to the FT offence; • administrative liability with regard to the financing of terrorism is too restrictive; • criminal liability does not apply to legal persons and there is no fundamental principle of law prohibiting it; • there have been no TF cases and it is too early to assess whether the offence is effectively implemented.

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

149. *General confiscation regime in the PC.* As a rule, confiscation is conviction-based and is considered to be both a secondary penalty and a security measure. The general confiscation regime is governed by Article 76(1) of the PC. It provides for the discretionary possibility for the judge to confiscate:

“objects that are proceeds from a felony or misdemeanour that is covered by intent, as well as the price of the proceeds, anything acquired through such proceeds and additionally objects that were of use or were destined to be used in the performance of such act may be confiscated if they belong to the principal or to any one of the accomplices.”

150. Confiscation is compulsory when the items are dangerous or prohibited materials (such as drugs, explosives, arms...) *“if danger for the public order results from such objects even without prior conviction of any person for the act committed”* (PC, Article 76(2)). Reading the two paragraphs together, for the confiscation of property other than that covered by article 76(2), there is a condition that the property belongs to the convicted person, which limits confiscation in the case of gifts to family members and friends.

151. *Special mandatory confiscation regime in the AML Law.* Article 2.6 of the AML Law provides for a special mandatory confiscation regime that supersedes the general confiscation law in Article 76 of the PC with regards to money laundering and its related predicate offences following conviction. Article 2.6 of the AML Law provides for the confiscation of any property which is the proceeds of a criminal activity or which has been acquired in any way as proceeds of such criminal activity or property which has been used, entirely or partly, to commit a criminal activity. Criminal activity is limited to the predicate offences listed in Article 1, including the predicate offences that are punishable by more than six months in prison and that generate at least EUR 15,000 in property. Property is defined to include “property assets of every kind, incorporated and non incorporated, mobile or immobile, material or immaterial, as well as legal deeds or documents which prove ownership of title or right for the acquisition of such property assets.” The AML law fails to address confiscating instrumentalities intended to be used in

committing the offence, but Article 76 permits the confiscation of instrumentalities intended for use in the crime, although when or to what extent an instrumentality is considered intended for use remains unclear. But, Greek officials were not consistent on how these various laws work in harmony with each other and could not provide evidence on the application of these laws. Furthermore, the lack of statistics indicates at best an ineffective implementation of this confiscation regime. There is also no text concerning the confiscation of property the defendant obtained indirectly or the income generated from the illicit proceeds.

152. Both Articles 2.6 and 2.10 appear to provide for equivalent value confiscation. Article 2.6 limits substitute assets of equal value to instances in which property cannot be confiscated and the property exceeds EUR 4,000, whereas Article 2.10 permits a financial penalty where property in Article 2.6 no longer exists or cannot be found, without a limit on its value. Under Article 2.10 a monetary penalty is imposed which is equal to the value of the property as determined by the Court at the time of conviction, while Article 2.6 states that confiscation can apply to other assets of equal value. There should be a single provision that deals with equivalent value confiscation and provisional measures for all types of property, and without any threshold. Also, the consequential orders that could be made should be consistent.

153. *Balance of proof*: Normally, the prosecution authority must establish a link between the offences for which the person is convicted and the assets. However, in ML and predicate offence cases, Article 3.1 of the AML Law provides for a form of civil forfeiture and a reversal of the burden of proof. Where a defendant has been finally sentenced to at least three years' imprisonment for one of the offences listed in Article 1 of the AML Law, the Greek State can bring a civil case against the convicted person. Any property the person has acquired during the five years prior to the commission of the crime is presumed to have been acquired from one of the predicate crimes, even though there has been no prosecution or conviction for those crimes. The onus is then on the convicted person to prove that the property was legitimately acquired. This provision appears to give the Greek State significant legislative power to attack the criminal assets of organised crime, major drug traffickers and other persons engaged in serious crime. It is too early to tell whether it is effective in practice, but it provides the authorities with sufficient legislative power, and it is an important step forward by Greece towards having an effective confiscation system.

154. Confiscation can also be ordered under Article 3 if the property belongs to a third person, who, at the time of acquisition, knew about the crime. According to Article 3.2 of the AML Law, if the property (presumably the property discussed in Article 3.1) is transferred to a third person, the convicted person is liable to the State for the value of the property at the time of the hearing. Gifts to third persons who "[are] a husband or wife or blood relative of first grade to the convicted or his brother or sister or an adopted child, as well as against any third person who acquired the property, *mala fide*, after prosecution for the relevant predicate offence has commenced, and at the time of the acquisition knew that such prosecution had commenced against the convicted person." This allows confiscation of property acquired or transferred to family members or non-bona-fide third parties after the criminal proceedings have been commenced. It is uncertain whether gifts and transfers of property made before the commencement of proceedings may be confiscated. The law does not address voiding contracts.

155. Article 2.8 of the AML Law also permits confiscation absent a conviction in certain limited circumstances:

- where the prosecution began but was stopped or declared inadmissible, for example because the case was time barred because of a statute of limitations expiration;
- where such an action was exercised but was stopped, for example where the defendant became mentally incapacitated; and
- when the suspect dies during the judicial enquiry (led by the Public Prosecutor) before the conviction.

156. The rights of bona fide third parties would be protected under an Article 3 process because of the operation of Articles 492 and 504 of the CCP. It is unclear whether this action would be a criminal confiscation or a civil confiscation and legal opinion in Greece is split on this. In practice, the authorities advised the assessors that this

provision is not used as it is unclear under Greek law and its validity has been the subject of much debate in the legal community as it may breach both constitutional and human rights provisions.

157. If the suspect absconds, criminal proceedings in absentia are not possible for a felony but any property already frozen or seized would remain permanently frozen or seized. Movable property could be sold by order of the court and the proceeds would be deposited in the public account of the Government of Greece for general use. Authorities stated that real property or fixed assets cannot be confiscated but would remain permanently frozen.

158. The position regarding confiscation of assets held by companies is not clear. Article 2.6 and 2.10 refer to property of a third party, but do not clearly specify whether the proceeds of crime held in the name of a company can be confiscated. There is no other provision in law that deals with the confiscation of criminal assets owned by a company. Administrative penalties are only applicable when dealing with criminal organisations that have corporate vehicles. For terrorism, including some forms of financing of terrorism, Article 187A of the PC has been specifically amended in 2004 by Articles 40 and 41 of Law 3251/2004. Article 41 specifically provides for administrative sanctions to be applied to “legal persons” and provides for specific administrative penalties (see comments in Section 2.1).

159. *Seizure of assets and evidence.* The general law on seizing property, both for evidential and other purposes is laid down in Articles 251 to 269 of the Code of Criminal Procedure (CCP). Articles 258/259 and 262 to 269 CCP deal with the seizure and sequestration of objects and documents. Article 260 provides that investigators can seize titles and securities held by public or private banks and other institutions, and any other deposited object or document, irrespectively of whether or not these belong to the accused person or are registered in his name, provided they are related to the crime. However, there is no other general power that allows the authorities to seize property that could become subject to confiscation. Seizure may also be ordered by the Court at any stage of the proceedings. Bank secrecy is in force in Greece and can only be pierced by the showing of sufficient evidence of criminal activity before a magistrate or a competent Judicial Council. Once such evidence at a criminal standard has been shown, bank secrecy can be lifted, the bank account opened and funds frozen. The general confiscation regime (Article 76 PC) does not contain powers permitting the seizing or freezing of property that could be liable to future confiscation.

160. According to Article 5.1 of the AML Law (for the listed predicate offences), investigators may, during a formal investigation and with the approval of a prosecutor, freeze bank accounts and open the accused person’s safety deposit boxes, even if they are held jointly with another person, provided that there are well-based suspicions that the accounts or deposit boxes contain money or items which derive from the laundering of proceeds deriving from a criminal activity or that contain money or items liable to confiscation. In preliminary investigations, a Judicial Council may also order the prohibition to carry out any activity on the bank accounts and/or to open a deposit box. The investigator’s or the council’s decision is equivalent to a seizure report; it is issued without having previously heard the accused person or a third party and does not necessarily mention a specific account or deposit box. The assessors were advised by the authorities that other specific legislation, such as Law 3296/2004(which sets up YPEE), allow other authorities to pierce banking secrecy with a judicial order. The assessors were told that seizure under other provisions and the CCP (Article 260) is more cumbersome, limited and inefficient and, in practice, authorities use Article 5.1 of the AML Law in preference to Article 260 when freezing funds at credit institutions. There is no provision to seize real property under the CCP so the authorities must rely on Article 5.3 of the AML Law which applies under the same conditions as Article 5.1.

161. Article 5.5 of the AML Law permits the president of the FIU to freeze accounts or prohibit the disposal of assets in emergency situations and only when the investigation is related to money laundering. According to Greek authorities, this is only a temporary power and the FIU almost immediately submits a report to the public prosecutor who attributes the case to an investigating judge. The judge, within weeks of the freeze, reviews the investigation and determines whether to continue to enforce it. The FIU president’s decision is made *ex parte*. The SCS also has the power to freeze assets according to Article 2.2(j) of Presidential Decree No. 85 in cases of economic crime or extensive tax evasion. The Head of the competent Regional Directorate has the ability to

institute the freeze, but must notify the competent public prosecutor of this action within 24 hours. This is also done on an *ex parte* basis. But other law enforcement agencies do not have the power to freeze during the course of their investigations, and must either involve the FIU or SCS or apply to a prosecutor in order to freeze assets.

162. The only agencies that have the ability to trace property that is or may become subject to confiscation are the FIU and SCS, but the assessors are not sure how well either agency could trace assets.

163. The AML Law has provisions that protect the rights of bona fide third party owners of property that is subject to confiscation. Article 5.4 allows the accused and the third party involved in the transaction listed in 5.3 to appeal the decision to seize the property. Article 2.9 permits any third person, who is not a party to the criminal proceedings or has not been summoned thereto to appeal a court's decision to confiscate his or her property within three months of the service date.

164. Article 5.3 of the AML Law does not address voiding actions that involve the proceeds of crime that occurred during or after the commission of the predicate offence. But it appears that actions can be voided or prevented once a seizure order for the property takes effect, but only for immovable property. With regard to the management of seized property, the CCP provides that seized movable objects are placed in escrow, until the penal court decides whether they will be confiscated or returned. Furthermore, the deposits frozen under the AML Law remain blocked in the financial institution where they are discovered, until the penal court decides whether they will be confiscated or returned.

165. *Additional elements - civil forfeiture.* The Greek authorities informed the assessors that there are exceptions to the general rule that demands conviction for confiscation of property. They are listed in Article 8 of the AML Law that provides that confiscation is imposed even if the suspect dies before prosecution is exercised or the defendant dies before conviction. It is also the case when there is no prosecution due to the statute of limitations and when the prosecution is "inadmissible" for procedural reasons.

166. *Statistics on Confiscation and Freezing.* The MOJ provided some statistics on freezing, seizures and confiscations, but the data was neither comprehensive nor clear and it is impossible to determine the amounts of money that had been frozen or seized or the value of property confiscated and no longer subject to appeal. The MOJ assured the mission that they were working on a method to track these statistics in the future, in addition to the number of money laundering cases and convictions they prosecuted.

2.3.2 Recommendations and Comments

167. A general problem faced by the assessors during the evaluation process was the lack of appropriate information and data permitting an assessment of the implementation of legislation concerning identification, seizure, freezing and confiscation of criminal proceeds. The assessors believe that the availability of appropriate statistics could contribute to a more focused policy aimed at depriving offenders of any benefit of their crimes. In that respect, statistics should be collected concerning provisional measures and subsequent confiscation orders.

168. Regarding the scope of seizure and confiscation, the different provisions applicable (the Criminal Code, the CCP and the AML Law especially) are not sufficient to fully address the FATF standards. There appears to be some measures in place to permit confiscation, but it is not clear when and how they apply, and how they work together. Based on the discussions with the Greek authorities, it was abundantly clear to the assessment team that there is no constant application of the confiscation laws. Answers to questions regarding confiscation varied and the Greek authorities were unable to provide any evidence or statistics to prove how these laws are applied. There should be measures that allow: (1) the confiscation of indirect proceeds; (2) to give courts the power to void or prevent actions involving the proceeds of crime from the time the predicate offence was convicted. Furthermore, Greek authorities ought to issue guidance to prosecutors on how to apply the various confiscation laws so that they may be used as a deterrent to future criminal acts. It was not clear to the assessment team, nor to the Greek authorities for that matter, just how close a criminal must be to using an instrumentality before they may consider it

“intended for use.” Powers of seizure should also extend to all property that could be the proceeds of crime, not just accounts, safe deposit boxes and immovable property. Finally, the general confiscation legislation should provide for freezing on an *ex parte* basis, with the right to appeal.

169. The assessors believe that the powers to trace, seize, freeze and confiscate are not readily accessible to investigators, particularly those involved at an early stage of the investigations (before the proceeds can be dispatched) because the powers required are regulated in different pieces of legislation. No information was presented that demonstrated that investigators have sufficient resources and training to deal with complex financial investigations which require action to seize/freeze and confiscate criminal proceeds. Nor does it appear that amongst the government authorities there are multidisciplinary bodies that are focussed on depriving criminals of their proceeds of crime. The assessors were told that the prosecutors and judges receive training on seizure and confiscation at the School for Judges and Prosecutors and during on-going professional training. However, there is specialisation in and no specific training available on the identification, tracing, seizure and confiscation of criminal proceeds (see also comments in relation to Recommendations 28 & 30).

170. The assessors recommend that Greece should review its laws and administrative structures so as to have an effective system to trace, seize and confiscate criminal proceeds.

2.3.3 Compliance with Recommendation 3

Rec.	Rating	Summary of factors underlying ratings
R.3	PC	<ul style="list-style-type: none"> • indirect proceeds cannot be confiscated; • seizure does not extend to all property that is the proceeds of crime; • courts cannot void or prevent transactions from the time the crime has been committed; • there is insufficient evidence to indicate the current provisions have been effectively implemented and used; • generally, there is a lack of uniformity when applying the confiscation provisions which raises issues of effective implementation.

2.4 Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

171. The obligation under Special Recommendation III consists of several elements. Most importantly it requires the implementation of mechanisms that will allow a jurisdiction to freeze or seize terrorist related funds in accordance with relevant United Nations Security Council Resolutions 1267 (1999) and 1373 (2001), and successor resolutions. Another element is the obligation to have measures that will allow a jurisdiction to seize or confiscate terrorist funds on the basis of a judicial order or through some other similar mechanism. In Greece, the Security Council obligations have been implemented through the framework of the European Union, and this mechanism will be described in more detail below. As regards the ability to seize or confiscate terrorist funds using judicial mechanisms, Greece relies on the processes described in the previous chapter relating to Recommendation 3. In the interest of avoiding duplication, the descriptions and analyses appearing in the chapter 2.3 will not be repeated here, although they have been taken into account in assessing compliance with SR III.

EU freezing system

172. As a member of the European Union, Greece is bound by the EU freezing mechanism. The EU has adopted two Regulations and a Common Position to implement S/RES/1267(1999), its successor resolutions and

S/RES/1373(2001). These two Regulations and the Common Position lay down the basic framework for freezing of terrorist assets, but do not fully cover the two UN Security Council resolutions. The description below first focuses on the EU framework for the two UNSCRs, the second part describes the national framework.

173. Freezing of terrorist assets is part of the EU Common Foreign and Security Policy (CFSP), also sometimes referred to as the second pillar. The main features are: exclusive focus on foreign policy (article 11 EU Treaty) and a unanimous decision making process. The Council of the European Union (“the Council” or “the Council of Ministers”) is the highest decision making authority for the CFSP. The Council is the meeting of the competent ministers of all member states. For the CFSP, the competent ministers are the ministers of Foreign Affairs.

174. The main two legal instruments used in the CFSP are the Common Position (CP) and the Regulations. The Common Position is unique to the CFSP. The Member States are required to comply with and uphold such Common Positions which have been adopted unanimously at the Council. The second legal instrument is the Regulation, used also in other policy areas. A Regulation is binding in its entirety, and is directly applicable in all European Union (EU) member states. Regulations do not need to be implemented. This is different from EU Directives that bind the Member States as to the results to be achieved and have to be transposed into the national legal framework.

175. Regulations need to be published in the Official Journal of the European Communities to be in force. Should there be a conflict between national law and a Regulation, the Regulation would have priority over national law and render it invalid. But, since the national law and the Regulation form one set of law, the national law in a specific member state can be a source of law for the interpretation of a Regulation in that member state.

176. Natural and legal persons have to the right of direct access to the EU Court of First Instance to appeal against acts of Community institutions (addressed to them or directly concerning them as individuals) or against a failure to act on the part of those institutions. This applies to the two EU freezing Regulations. Additionally, Greek courts can ask the EU Court of Justice for preliminary rulings to seek clarification of the Community rules and even though these requests are made by a national court, parties concerned may take part in the proceedings before the Court of Justice. Entities have (unsuccessfully) challenged their designations before the EU Court of First Instance.

Implementation of S/RES/1267(1999) within the EU

177. Regulation 881/2002 (27 May 2002) imposes specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban and orders the freezing of all funds and economic resources belonging to, owned or held by, a natural or legal person, group or entity designated by the United Nations 1267 Sanctions Committee (i.e. persons and entities linked to Usama bin Laden, the Al-Qaida network and the Taliban) in all member states of the EU. Regulation 881/2002 does not, however, require the freezing of funds that are controlled by designated persons or persons acting on their behalf or at their direction, as required by the FATF Recommendations.

178. Any designation by the UN is immediately followed by an amendment of the list annexed to Regulation 881/2002 and is directly applicable within all EU member states. Regulation 881/2002 requires that freezing action must occur without delay and without giving prior notice to the persons concerned.

179. Regulation 881/2002 states that all funds and economic resources belonging to, or owned or held by, a natural or legal person, group or entity designated by the Sanctions Committee must be frozen. The term "funds" is broadly defined to include *"financial assets and economic benefits of every kind, including but not limited to cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; public and privately traded securities and debt instruments, including stocks and shares, certificates presenting securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading,*

bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing". The term "economic resources" covers "assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services".

180. Regulation 881/2002 also states that no funds may be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity designated by the Sanctions Committee. Thirdly, no economic resources may be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity designated by the Sanctions Committee, so as to enable that person, group or entity to obtain funds, goods or services. It is also prohibited to grant, sell, supply or transfer, directly or indirectly, technical advice, assistance or training related to military activities, such as assistance related to the manufacture, maintenance and use of arms (Article 3). Under S/RES/1267(1999), taken up in the Interpretative Note to Special Recommendation III, the freezing of funds should apply not only to the funds held by the designated natural or legal persons but also to the funds *controlled* by them or *by persons acting on their behalf or at their direction*: the two elements in italics are not included in Regulation 881/2002. There is no Greek provision to solve this gap¹⁸.

181. Regulation 881/2002 was amended by Regulation 561/2003 of 27 March 2003, as regards exceptions to the freezing of funds and economic resources. As a result, Regulation 881/2002 allows for an exception, upon a request made by an interested natural or legal person, to the national competent authority, for certain types of funds and economic resources with the approval of the Sanctions Committee. These provisions are consistent with the Security Council resolutions (S/RES/1452(2002)).

182. Regulation 881/2002 obliges member states to lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions must be effective, proportionate and dissuasive (article 10 of the Preamble).

Implementation of S/RES/1373(2001) within the EU

183. With regard to the freezing of the assets of terrorists and terrorist entities resulting from S/RES/1373(2001), Regulation 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, creates a mechanism similar to that of Regulation 881/2002 by instituting an obligation to freeze the assets of the natural or legal persons, groups or entities, as defined in resolution S/RES/1373(2001).

184. Since S/RES/1373(2001) does not create a list of persons or entities to be frozen (in contrast to S/RES/1267(1999)), a list of persons and entities concerned is drawn up by the Council. Any EU member state can submit to the Council a request to list an entity, as can any other non-EU jurisdiction through the President of the Council. Article 2 of Regulation 2580/2001 states that the Council, acting by unanimity, shall establish, review and amend the list of persons, groups and entities to which the Regulation applies, in accordance with the provisions of the Common Position 2001/931/CFSP.

185. Article 1(4) of the Common Position states that a list should be drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds. The actual list of entities is an annex to Common Position 2001/931/CFSP.

¹⁸ The EU guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy, adopted by the Council of the EU on 12 December 2005 and the EU Best Practices for the effective implementation of restrictive measures, the word « controlled » has been added to the standard text that will be inserted in future regulations. However, these guidelines are not binding.

186. The list is divided into two parts. Since listing is undertaken under the CFSP, a listing of an entity needs to have an external link (outside the territory of the EU) Entities with an external link are designated and have to be frozen. Entities without external link (the internal list i.e. persons, groups and entities having their roots, main activities and objective within the EU) bear an asterisk (*) with their name on the list. Internal entities are only subject to intensified police- and judicial co-operation and not to freezing. The exact criteria to designate as internal or external are confidential. In order to freeze funds, located in the EU, of a suspected terrorist or terrorist financier being a citizen of any one of the 27 EU Member States or a terrorist organisation having its main activities within the EU, Greece has to rely on (additional) domestic measures. Greece has not taken any specific measure to enable the freezing of assets of suspected EU terrorists.

187. Any designation (internal or external) by the Council is immediately followed by an amendment of the list annexed to Common Position 2001/931/CFSP and is directly applicable in the entire EU. Regulation 2580/2001 requires that freezing action must occur without delay and without giving prior notice to the persons concerned.

188. The list drawn up by the Council mentions (1) natural persons who commit or attempt to commit terrorist acts or who participate in or facilitate the commission of terrorist acts; (2) legal persons, groups or entities that commit or attempt to commit terrorist acts or that participate in or facilitate the commission of such acts; (3) legal persons, groups and entities owned or controlled directly or indirectly by one or more natural or legal persons referred to at points (1) and (2); and (4) persons, groups and entities acting on behalf of or under the direction of one or more persons, groups or entities referred to at points (1) and (2). The notion of control of a legal person, group or entity is defined at Article 1 of the Regulation.

189. Regulation 2580/2001 states that all funds belonging to, or owned or held by, a natural or legal person, group or entity included in the list drawn up by the Council must be frozen. Funds, other financial assets and economic resources¹⁹ may not be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity including in the same list. Assets are to be frozen without delay and without giving prior notice to the persons concerned.

190. Under Article 5 of Regulation 2580/2001, the countries may on occasion and under such conditions as it deems appropriate in order to prevent the financing of acts of terrorism, authorise the use of frozen funds to meet essential human needs (food, medicine, rent, etc.) and to pay taxes, compulsory insurance premiums, utility fees and charges due to a financial institution for the maintenance of accounts.

191. The Regulation obliges member states to lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions must be effective, proportionate and dissuasive (article 12 of the Preamble).

National implementation of S/RES/1267(1999), S/RES/1373(2001) and other national measures

192. By way of introduction, under the terms of Special Recommendation III (which takes up the terms of the two Security Council resolutions), measures to freeze assets must apply to funds or other assets owned or controlled *wholly* or jointly, directly or indirectly, by the persons concerned, etc. and to funds or other assets *derived or generated* from funds or other assets owned or controlled by such persons. The two EC Regulations make no mention of the elements in italics. Therefore, the definitions of terrorist funds and other assets subject to freezing and confiscation contained in the regulations do not cover the full extent of those given by the Security Council or FATF (in particular, the notion of control of the funds does not feature in Regulation 881/2002).

¹⁹ "Funds, other financial assets and economic resources" are defined as "assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit".

193. In order to make it easier for Member States to implement the Regulations and ensure their compliance with the obligations imposed by the UN resolutions, the European Commission organises meetings between the Member States' authorities with competence for the freezing of assets at which issues of mutual interest are considered. Seminars and conferences also provide forums for exchanging views on the measures to be taken and other countries' mechanisms for freezing assets.

194. More specifically, Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence lays down the rules whereby a Member State recognises and executes on its territory a decision to freeze assets issued by an authority of another Member State in the context of criminal proceedings and thus institutes the principle of mutual recognition in criminal matters of decisions that precede the judgment phase, in particular those that enable the competent judicial authorities to act rapidly to obtain evidence and seize easily transferable assets.

195. In practice, countries should have a designated authority in place that receives both UNSCR 1267 and UNSCR 1373 requests. In Greece, this authority is the D1 Directorate of the U.N., International Organisations, and Conferences at the MOFA. UNSCR 1267 (and successor resolutions such as UNSCR 1390) are implemented through EU Regulation 881/02 (as above), which is directly applicable in all EU member states. With regard to UNSCR 1267, lists distributed and updated by the relevant sanctions committee are directly forwarded by both the Permanent Mission to Greece to the UN, as well as by the D1 of the MOFA (after reviewing the list and getting the approval of the Minister of Foreign Affairs), to the MOJ, the MOPO, the MOEF, the BOG, the FIU and the MOFD. The lists are sent to the relevant departments of the competent ministries and authorities. The BOG circulates (by letter and additionally, in case of emergency, by fax) copies of EU Regulations to credit and financial institutions in order to ensure that they are immediately informed about any newly established requirements (including new names on the lists). These processes take too long to disseminate necessary information to the appropriate entities below the ministerial level, such as financial institutions, so they can freeze the assets without delay. The MOFA also publishes the list in the Gazette, but the mission does not know how much time lapses between the time the MOFA receives the list and it publishes the list in the Gazette. This may be the only means to communicate the list beyond the formal financial sector.

196. EC regulations are published in the Official Journal of the European Communities and enter into force the day of their publication. Now that a comprehensive, downloadable database has been established by the European Commission, the obliged entities have access to direct and updated information on the persons listed²⁰. The EC webpage contains all applicable legislation on terrorism financing under the headline "Terrorist groups (foreign terrorist organizations)" and a database where all persons, groups and entities, including designated terrorists that are subjected to freezing measures are listed). All obliged subjects must check immediately their client databases upon each official publication of a new list in the Official Journal of the European Communities. This conclusion, although not expressly stated, can be inferred from the obligation imposed by article 5 Regulation 881/2002 to immediately inform the competent authorities on the accounts and amounts frozen.

197. Should any names match those on the U.N. list, the accounts are blocked by the financial institution in question and the matter is reported to the regulatory body in charge, who then reports it to the Public Prosecutor's Office. The MOFA is then notified and they correspond with Greece's U.N. mission in New York who notifies the U.N. 1267 Committee. This procedure has never been utilised as Greece's financial institutions have not identified clients whose names have matched those on the 1267 list. The circulars issued by the BOG are not binding on the licensees with regard to assets held by EU persons. Greek authorities have not frozen any funds under either UNSCR 1267 or UNSCR 1373 because no funds had been located in Greece.

198. With regard to the practicalities of implementing a procedure for requests for freezing of funds received by another country under UNSCR 1373, the same procedure described above for UNSCR 1267 is employed. The

²⁰ See the list at the following address: http://europa.eu.int/comm/external_relations/cfsp/sanctions/measures.htm for information and procedures

MOFA is responsible for sending requests to the same entities as for the UNSCR 1267 lists. In practice, the procedures for UNSCR 1373 are not compliant with international standards, as the designated authority is required to designate an entity (or not) without delay by ensuring that a prompt determination is made. In Greece, the MOFA does not make this determination but this is delegated to the various ministries who receive the request; no unified single decision is being made. While a committee approach is acceptable, the committee would need to formally meet and make this unified single decision promptly. Alternatively, a single entity or person could make such a determination. If there was a positive determination by that person or entity regarding a terrorist target, it must promptly be communicated to the appropriate ministries to initiate a freezing action and the freezing of funds or other assets without delay.

199. Furthermore, regarding UNSCR 1373, freezing and seizing must take place without prior notice and after a prompt determination. Under the Greek system, however, this is not possible in law as the procedure requires the involvement of the courts once a designation or determination has been made. As there is no procedure in place to designate terrorist targets under 1373, a request from foreign governments for seizure or confiscation is not “without delay” under UNSCR 1373 because of the necessity to involve the courts.

200. Under the standard, there must also be procedures in place for Greece to notify all entities, financial institutions and other persons who might hold terrorist funds or assets of its decision to designate a terrorist target from a 1373 request. “Assets” are defined widely to include property of any kind. Physical goods would be included in this definition; therefore traders in physical goods are caught by the provision and need to be notified of terrorist targets. Any such assets would need to be frozen without delay. It is possible to use the seizure provisions in the AML Law but this would require a fast track procedure in a case where no Greek investigation has commenced. Under Article 5.1 the AML Law, if the seizure process could be characterised as a “*preliminary investigation*,” the competent Court Council could issue a seizure report. It is unclear to the assessors if this could be done “without delay” and without the Public Prosecutor’s office opening a criminal case regarding the terrorist nature of the individual or entity in question.

201. The FIU receives the UN lists, according to the procedure described above, i.e. the relevant lists are directly forwarded both by the Permanent Mission of Greece to the UN as well as the D1 Directorate of the MOFA. Under Article 7 of the AML Law, the FIU can “*evaluate and investigate information and reports that are forwarded to it by Greek or foreign agencies and bodies or by the international bodies responsible for combating the financing of terrorism in accordance with [UNSCR] 1373/2002 ...*” No further details have been provided. It appears that the FIU, before it could freeze the assets of someone on the “1373 list”, would first need to conduct an investigation, delaying any freezing actions.

202. Procedures should be in place to consider UNSCR 1373 requests to de-list a person and to unfreeze funds and other assets of de-listed persons or entities, as well as to unfreeze funds or assets of persons or entities that are inadvertently affected by a freezing order. The European Commission amends the list of persons and entities referred to in Regulation (EC) No 881/2002 on the basis of Communications from the Sanctions Committee established by S/RES/1267(1999). The guidelines adopted on 7 November 2002 and amended on 10 April 2003 provide for a procedure for removal from the lists (see http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf). A person, group or entity may seek removal from the list from its national government or the government of its country of residence. If the government supports the request, it must hold discussions with the government(s) at the origin of the listing. Depending on the outcome of these discussions, a request for removal may be submitted to the 1267 Sanctions Committee, which takes its decisions by consensus. If the Committee members are not able to agree and subsequent discussions are inconclusive, the request may be submitted to the Security Council. When a name is withdrawn from the list, the UN issues a Communication which is taken up at European level in a Commission Regulation. As such regulations apply directly; the financial institution can unfreeze the assets with no further formalities.

203. The Greek authorities could not provide any material showing that the Government of Greece has provided clear guidance on freezing terrorist assets to financial institutions or any other entities that could be holding the

assets of a terrorist or a terrorist financier. Nor was material provided to show that Greece has effective and publicly known procedures for considering de-listing requests or unfreezing the assets of persons whose assets were mistakenly frozen. The assessment team was told that all relevant information issued by the UN and the EU regarding de-listing requests or unfreezing of assets is forwarded by the MOFA to the competent ministries and authorities.

204. Under Regulation 2580/2001, there is nothing to prevent a person, group or entity (provided that it has legal personality) from taking legal action if it considers that the assets have been unjustly frozen. Article 6 of Regulation 2580/2001 states that the competent authorities of a Member State may grant specific authorisations: (1) to unfreeze funds, other financial assets or other economic resources, (2) to make funds, other financial assets or other economic resources available to a person, entity or body referred to in Annex I of the regulation or (3) to render financial services to such person, entity or body, after consultation with the other Member States, the Council and the Commission.

205. *Freezing, seizure and confiscation in other circumstances.* The seizure provisions in the CCP could be utilised but the same question arises with regard to a criminal case being opened. Again, it is possible that provisions regarding seizure as set out in the CCP could be used (see discussion under seizure above) but the MOJ has advised the mission that such provisions have been interpreted in a restrictive manner by the Greek courts. It is unclear how effective these provisions would be in the circumstances of SR III, especially in light of the way Article 187A of the PC is drafted, in which it appears to only be a crime to finance joining or forming a terrorist group, and not a terrorist organization or terrorist attacks (see the discussion under SR II above).

206. *General provisions.* Regulation 881/2002 and Regulation 2580/2001 make no mention of the protection of the rights of third parties acting in good faith. According to article 6 of the Treaty of the European Union “*the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.*” More specifically, article 288 of the Treaty Establishing the European Community states that “*in the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties*”.

207. Under the AML Law, it is possible that an innocent third party owner could challenge a freezing or confiscation, but if money laundering is not associated with terrorist financing, it is not clear that Greece has any measures to protect the rights of bona fide third parties’ interests in the property. There should be procedures in place for allowing payment of basic living expenses and fees in line with UNSCR 1452 and for court review of designation decisions made by the committee as well as judicial remedies for a person or entity whose funds or assets have been frozen to challenge such actions before a court. Greece will need to implement an effective system for monitoring compliance with such a system, including sanctions for failure to follow freezing requests.

2.4.2 Recommendations and Comments

208. With regard to S/RES/1267 (1999) and S/RES/1373 (2001), Greece satisfies the requirement in part through the EU Regulations but Greece has adopted very limited measures to implement the resolutions for the provisions that are not covered by the EU legal instruments.

209. The two European regulations, 881/2002 and 2580/2001 definitions of terrorist funds and other assets subject to freezing and confiscation do not cover the full extent of those given by the UN Security Council or FATF, especially the notion of control of the funds does not feature in 881/2002.

210. Greek authorities have not frozen any funds under either UNSCR 1267 or UNSCR 1373. However, the current process for notifying ministries and the financial sector of entities on UN lists would take too long and therefore these entities would not be able to comply with freezing terrorist assets without delay. 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. Some guidance specifically on the practical application of freezing measures under the two EC Regulations should be adopted. Greece should also establish and make clear and publicly known the necessary procedures for de-listing and unfreezing in appropriate cases.

211. In line with the AML Law, it appears that the FIU, before it could freeze the assets of someone on the 1373 list, would first need to conduct an investigation, delaying any freezing actions. The current provisions should be amended to allow Greek authorities to freeze terrorist assets without first having to open a criminal investigation. It is not clear if Greece has any measures in place to protect the rights of bona fide third party owners of property that may be involved in terrorist financing. Greece should also consider implementing the Best Practices Paper of SR III.

2.4.3 Compliance with Special Recommendation III

Rec.	Rating	Summary of factors underlying ratings
SR.III	PC	<ul style="list-style-type: none"> • 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; • Greece has a limited ability to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system; • 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; • 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; • there are no sanctions for failure to follow freezing requests; • processes for de-listing and unfreezing funds are not publicly known and it is impossible to determine their effectiveness, if they exist at all; • Greece has no procedure in place for allowing payment of basic living expenses and fees in line with UNSCR 1452; • Greece does not have appropriate procedures through which a person or entity whose funds have been frozen can challenge that measure before a court; • Greek authorities should be able to freeze terrorist assets without first having to open a criminal investigation; • 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.

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26, 30 & 32)

2.5.1 Description and Analysis

Recommendation 26

212. *Functions and responsibilities of the FIU.* The Greek FIU was originally set up by Article 7 of the AML Law (dated 1995) as the “Committee of article 7” and became operational in July 1997. After the amendment of the AML Law in 2005, the Greek FIU was upgraded into an independent administrative authority, officially designated as the “National Authority for the Combating of Money-Laundering”. It is composed of the President (a full-time appointment) and eleven part-time Members (with 11 alternates) proposed by ministries, supervisory authorities and the private sector (two representatives from the MOEF, one representative from the Ministry of National Defence, the MOJ, the MOPO, the MOMM, the BOG, the HCMC, the Committee for the Supervision of Private Insurance, the Accountant Standards and Audit Committee and the Hellenic Bank Association). The President and the members are all senior staff in the relevant bodies. The FIU will be supported by scientific, administrative and clerical personnel to be seconded from ministries, supervising authorities and certain other public authorities. A Decision of the Minister of Economy and Finance of 12 September 2006 defines its organisational and operational framework.

213. The FIU is responsible for collecting, analysing and disseminating any information related to money laundering, including suspicious transactions reports, which could be an indication of criminal activity as defined under article 1 A of the AML Law (including terrorist financing). No STRs relating to FT have been transmitted to the FIU to date. The FIU receives information from the FIs and DNFBPs that are obligated by law to report STRs, as well as from supervising authorities and law enforcement agencies.

214. The AML Law allocates additional powers and responsibilities to the FIU. Under Article 7.9 of the AML Law, the FIU is given certain powers that are traditionally held by law enforcement authorities, such as the power to conduct a preliminary investigation in respect of offences punishable under the AML Law. Article 7.6 of the AML Law also gives the FIU the power to investigate any information that it receives in relation to S/RES/1373 (2002), and EU Council Regulations 467 (2001), 2580 (2001) and 308 (2002) (see Section 2.4 of the report). The FIU can then investigate the case and refer it to the public prosecutor as appropriate. The FIU also has wide powers to request information from agencies, authorities and organisations of any type, and has the power to carry out audits in situations that it considers to be serious, in any public administration or enterprise (Article 7.6 d. AML Law). At the time of the on-site visit, it seems that this power had not been used yet and it is unclear to how this power ties in with the other functions of the FIU.

215. *Guidance to reporting parties.* The FIU has not provided guidance to reporting parties regarding the manner of reporting and the procedures that should be followed when reporting (the FIU has participated in the elaboration of the reporting form issued by the BOG). Competent authorities (as defined in the AML Law, i.e. the BOG, the HCMC, the HPISC, the Accountant Standards and Audit Commission, the MOEF, the MOJ and the Gambling Control Committee) have been given the responsibility to elaborate such guidance. So far, only the BOG (see Chapter 5 of Annex 4 of BOG 2577/2006) has done so. No specific guidance has been provided to DNFBPs. As of 1st January 2007, the FIs supervised by the BOG (including money or value transfer services) have to submit STR’s in a specific reporting form. The HCMC and the MOD/ID have drafted similar reporting forms that will be used in the future by securities and insurance companies²¹.

216. *STR processing.* In practice the only method available to transmit STRs to the FIU is by physically handing them over at the premises of the FIU in Athens. The FIU encourages reporting parties to do this. This is a matter of concern with regard to the reporting entities not located in Athens and more broadly with regard to the effectiveness, speed and reliability of the communication system. Representatives of banks indicated they would

²¹ The assessment team was advised that since the on-site visit, an STR reporting form has been finalised for the guidance of the financial institutions supervised by the HCMC.

like to have the possibility to transmit their STRs through modern communication means. As there is physical delivery, acknowledgement of receipt is provided immediately²².

217. The information from the STRs is input manually into a computerised system. During the visit to the FIU, the assessors noticed some major weaknesses regarding the system for inputting and processing the STRs. The current computer system is old and very limited in capacity. The assessors were shown the database that is used, which appeared to be very basic (Access program type) and limited (3,285 STRs were entered into the database from 1997-2003 and the database has been full since 2003). The assessors were told that there was another database but as the relevant staff member was away on extended leave the FIU staff could not access the STRs in that database. The database is not backed up. Fields to carry out searches are also limited to very basic information such as name and case number. Bank account information received as part of the STRs is not entered into the PC system, and has to be manually cross-checked. The system does not offer the possibility to cross-match and analyse STRs and other data, and analysis is essentially paper based. The FIU had a new computerised system, which would be used once the FIU moved to new premises (planned for soon after the on-site visit), but this system was not operational at the time of the on-site²³.

218. The system for processing STRs is as follows. When an STR is received, relevant information is manually recorded in a book. The President then meets with members every 4 or 5 days (or more regularly if necessary) to discuss the STRs that have been received in that time, and the President then assigns each STR to a Committee member and to one of the three FIU staff, according to what appears to be the most relevant area of experience. The evaluation team was told that between 15 and 20 STRs are discussed at each meeting. As most of the STRs are sent by banks and bureaux de change, the members representing the BOG and the Hellenic Bank Association are consequently involved in many cases. After a first round of investigations by the FIU staff and the relevant Committee member, the President and the Committee members collectively decide, if further inquiries are to be performed or if the STR is to be filed away. After a second round of investigation, during which the powers of preliminary investigation may be used, the members decide whether or not to disseminate information to the competent public prosecutor.

219. The normal preliminary checks conducted upon receiving an STR are to search tax records (the FIU has direct access), and any related name and address information. Subsequently checks can be made, using indirect requests to various Ministries and agencies to obtain criminal and other records. To get additional financial data, the members of the FIU regularly send confidential requests to the compliance officers of all banks and securities companies to check whether a given person may have additional accounts or assets. Paper files are then kept and examined by the FIU officer to whom the case has been assigned. Since 2001, the number of cases being filed or sent to the public prosecutor for further investigations are as follows:

	2001		2002		2003		2004		2005		2006*	
Number of STR received	840		879		753		796		1,057		1,005	
Number of cases sent to public prosecutor	21	2.5%	30	3.5%	20	3%	12	1.5%	33	3%	31	3%
Number of cases temporary filed	629	75%	452	51.5%	346	46%	132	16.5%	444	42%	639	63.5%
Number of cases placed in the record registry	190	22.5%	397	45%	387	51%	463	58%	461	44%	335	33.5%
Number of cases under further FIU	-	-	-	-	-	-	189	24%	119	11%	-	-

²²As a consequence of the on-site visit, the evaluation team has been informed that discussions were taking place between the FIU and the private sector to set up procedures that will allow reporting parties to submit STRs (and related information) electronically.

²³ The assessment team was told that this new system is operational since March 2007, including the running of a new database. The team was given a screen copy of the new database that is still in an ACCESS format and contains all STRs transferred from the old database (3,271 STRs registered from April 1997 to September 2003) plus 146 STRs registered in the course of 2005 i.e. 3,417 STRs in total. However, the team was told that such database (very similar to the previous one since the only improvement seems to have been in capacity) is temporary since the FIU plans to adopt a more sophisticated model.

investigation																			
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* up to 30 October 2006

220. In 2004, the FIU temporally filed or placed in the record registry 595 STRs out of 796 STR received i.e. 75% of the total of STRs received. In 2005, the FIU temporary filed or placed in the record of registry 905 STRs out of 1,057 STRs received i.e. 85.5% % of the total of STR received. With regard to the cases sent to the public prosecutor for investigation, the FIU receives very little feedback or follow-up on the outcome of the cases (sometimes it receives information relating to the amount of seized funds).

221. *Access to information.* The Greek FIU has direct access to tax records. Otherwise, it only has indirect access to the financial, administrative and law enforcement information that it requires to properly undertake its functions (e.g., criminal records, company registers, etc.). Information exchange between the FIU and other investigative authorities is facilitated through the FIU members; however, this does not enable the FIU to systematically cross reference the financial information it has with other law enforcement information. The Greek FIU can request assistance and information from agencies, authorities and organisations of any type, even judicial authorities, as provided for by the AML Law. The FIU advised that it takes on average between 1 to 4 days to get information from other public authorities, however given the lack of comprehensive single databases for company and land records it seems likely that such records would take much longer to obtain. The FIU also has access to an electronic inter-bank system “*Teiresias S.A*”²⁴ which maintains an electronic database with information on bank customers.

222. Examination of databases and cross referencing information from different agencies is done only upon the intuitive decision of the FIU members. At the time of the on-site visit, the FIU had at its disposal very limited technical resources such as computers and analysis software to perform its enquiries in a timely manner (see above). The incomplete and dispersed information held in company and land registers in Greece is also a subject of concern. Based on the system and processes in place and the information received during the on-site visit, the assessors believe there are significant weaknesses in the effectiveness of the information systems available to the FIU and its capacity to access financial, administrative and law enforcement information in a timely manner.

223. The FIU has the power to request additional information and documentation from reporting parties, based on article 4.13 of the AML Law. The relevant correspondence shall be kept confidential. The FIU may also require the reporting entities to monitor further the transactions of the customer and report to the FIU any relevant information.

224. *Dissemination of information.* The FIU is authorised by law to disseminate financial information from STRs to the public prosecutor. According to Article 7.6 of the AML Law, the FIU's task is to collect, investigate and evaluate any information on money laundering and STRs as forwarded by the reporting entities. When the FIU considers that a transaction raises a suspicion of money laundering, it disseminates the information to the public prosecutor with explanatory notes on the findings of the committee.

225. With regard to any offences referred to in the AML Law, the staff of the FIU can, under the supervision of the President and members of the FIU, conduct special preliminary investigations and interrogation. The case shall then be forwarded to the competent public prosecutor.

226. During the course of its investigations, the FIU exchanges information with the other law enforcement agencies such as the Hellenic Police or the SCS through its relevant Members. Specific instructions are also given to the law enforcement personnel of the Greek Customs Authority to submit criminal cases at the FIU through the Customs General Directorate. The Police, when investigating predicate offences, examine whether the suspects have also committed ML and provide the reports they send to the public prosecutor also to the FIU.

²⁴ *Teiresias SA* specialises in the collection and supply of credit profile data about corporate entities and private individuals and the operation of a risk consolidation system regarding consumer credit. Additionally, the company develops and provides inter-bank information systems and communication services to the parties directly concerned.

227. *Operational independence and autonomy.* The FIU is made up of the President and eleven members. The President is selected and appointed by the Council of Ministers following a proposal from the MOEF and the MOJ, and is currently a retired senior judge. The new AML Law has maintained the structure of the Committee as the decision making organ of the FIU, and there is continued representation of the private sector within the Committee through the member from the Hellenic Bank Association. The evaluation team has some concerns as to the potential for possible conflicts of interest in this respect. All Committee members are provided with confidential law enforcement and financial information as part of their functions. This is especially important in light of the sensitive issues and confidential matters regarding the banking sector that an FIU typically deals with in its operation. Although the Committee members are subject to secrecy requirements as well as provisions in relation to impartiality and there are provisions that allow for a member to be suspended from decision making processes in appropriate cases, it is not clear in the circumstances of the Committee that this is a practical solution given that the majority of the STRs are assigned to the members from the BOG and from the Hellenic Bank Association.

228. In addition, there is a serious question about the ability of the FIU to exercise full operational independence and autonomy given that the Committee which makes the decisions is composed of senior officials from other Ministries.

229. *Secure protection of information.* Under Article 7.7 AML Law, the President and the members of the FIU shall, for 5 years after ending their term of office, be bound by secrecy in respect of any information obtained during the performance of their duties. There is no equivalent provision for the staff of the FIU. The current practice is that the FIU staff are all civil servants and as such are subject to the Civil Servants Code. The Ministerial Decision of 12 September 2006 provides for the drafting and issuing of a Protocol of Secure procedures in order to guarantee the confidentiality of the information and data kept by the FIU. At the time of the on-site visit, no specific measures were in place to ensure that the information held by the FIU was securely protected. Partly due to successive moves during 2006, the physical security of the premises of the FIU, as well as the electronic backing up and security of data (see comments below) were not in place. The risk of inadvertent disclosure of information was readily apparent at the time of the on-site visit.

230. *Periodic reports.* In its annual report the FIU includes basic statistics regarding the number of STRs reported, and some very general and basic observations and description of international trends as well as information regarding its activities (the annual reports are only 1.5 pages long). The annual reports are not publicly available. The FIU does not provide feedback to the reporting entities or to law enforcement agencies, such as sanitised cases or ML typologies. Only very limited comments on the quality of STRs (from the banking sector) were made in the 2005 Annual Report. Additionally, it has not yet taken upon itself the duty to inform the public and the private sector of the new developments in ML and FT enforcement or to provide training in this area. Reporting entities were not aware of any statistics or general feedback from the FIU. The FIU expects to address this issue when it gets additional staff.

231. *Egmont Group.* The FIU joined the Egmont Group in 1999. The FIU has adopted the Egmont Group Statement of Purpose and its Principle for Information Exchange between Financial Intelligence Units. However, at the time of the on-site visit, the Greek FIU was still not connected to the Egmont Secure Web and had not completed its membership of the European initiative of FIU.net. It is expected that the secure and confidential handling of information and data provided by foreign FIUs will be covered by the Protocol of secure procedures, which is to be issued in the future²⁵.

232. The FIU does not consider that it needs an MOU to exchange information with foreign FIUs, though in practice it has signed MOUs with Italy, France, Belgium, Romania and Singapore. Six other MOUs are in the process of being finalised. Specific provisions in the Ministerial Decision of 12 September 2006 provide for the

²⁵ The evaluation team has been advised that the connection to the Egmont Secure Web was completed in April 2007. Regarding the connection to the FIU.net, the Greek FIU is still liaising with its European counterparts to finalise its membership to the network.

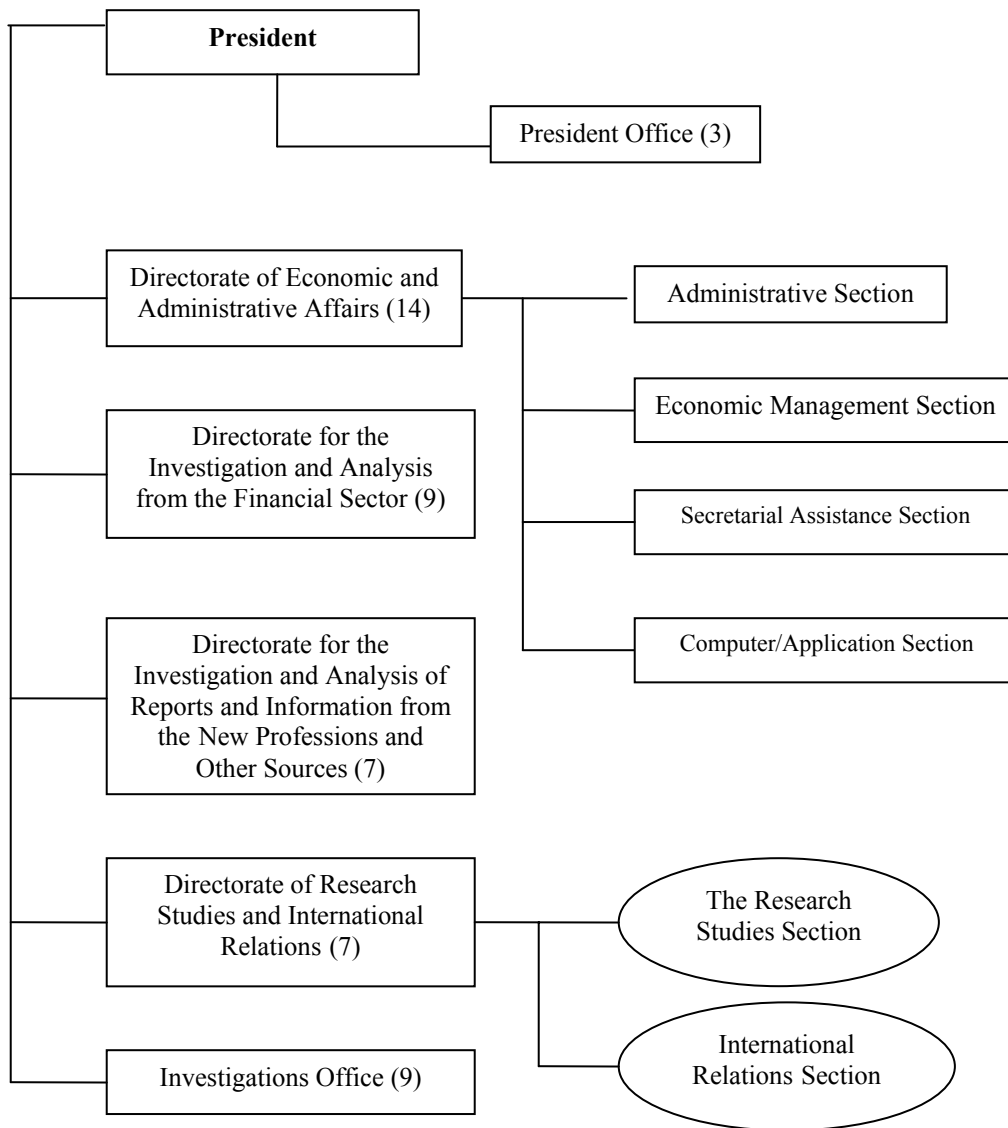
existing MOUs to be amended. It was not possible to assess the level or quality of information exchange with foreign FIUs as no statistics or other information was provided by the authorities. With the structural problems that the FIU faces, the assessors have doubts about its capacity to exchange information with its foreign counterparts in a proper and timely manner.

Recommendation 30

233. *Structure and resources of the FIU.* The FIU's budget and logistical support comes from the MOEF. At the time of the on-site visit, the evaluation team was informed that a decision of the Minister of Economy and Finance to establish the exact amount of the budget for the year 2007 was still pending (the budget was estimated around 700,000 EUR²⁶). The 2006 budget was not finalised either and no details were provided to the assessors. Due to the enactment of the new AML Law in 2005, which provides for the hiring of up to 50 employees, it is expected that the budget will enable the FIU to implement the law, in terms of both human and technical resources; otherwise additional concerns could arise regarding the ability of the FIU to properly fulfil its mandate. However at the time of the onsite visit there were only three (3) permanent FIU staff.

234. The Ministerial Decision of 12 September 2006 (in particular Article 8) provides for very detailed (Article 9 sets out the exact number of staff per Directorate and Section) and binding information and procedures in relation to the organisational structure of the FIU. This structure is designed to be as follows (the number of staff is indicated in brackets):

²⁶ The assessment team was told that the budget for 2007 was agreed after the on-site visit and is EUR 720,000.



235. Responsibilities among the different directorates and sections are as follows:

- Directorate of Economic and Administrative Affairs:
 - Staff management, implementation of disciplinary laws and human resources in general;
 - Budget management;
 - Support to the president (correspondence, circulation of documents, etc.).
- Directorate for the Investigation and Analysis of Information from the Financial Sector:
 - Analysis of STRs submitted by the financial sector and all related tasks.
- Directorate for the Investigation and Analysis of Reports and Information from the New Professions and Other Sources
 - Analysis of STRs submitted by the DNFbps and all related tasks.
- Directorate of Research Studies and International Relations
 - Study/compilation of ML and FT methods and trends and power to submit draft regulations addressing the issues raised in typologies;
 - Exchange of information with foreign counterparts;
 - Contribute to the FATF and other international organisations work on typologies.

- Investigations Office
 - Collect criminal, tax, financial, etc. type information;
 - Perform and supervise investigations within the FIU;
 - Carry out special audit as described in Article 7.6 d) of the AML Law;
 - Ensure access to international databases (Europol, Interpol, etc.);
 - Assist the president and the members in the pre-investigatory activity of the FIU.

236. The AML Law (as well as the Ministerial Decision of 12 September 2006) provides for up to 50 employees to be seconded and to assist the members. However, at the time of the on-site-visit, apart from the president and the 11 members (each of whom has alternates) who were appointed in June 2006, only three administrative staff were working. The Committee members are not appointed full-time to the FIU and, whilst they are experienced and skilled in their respective fields, they do not necessarily have experience in investigating and analysing suspicions of ML or TF. The team was told that 12 persons had been selected and were in the process of being officially hired. In November 2006, no permanent financial analysts or skilled personnel trained in combating ML and FT were at the disposal of the FIU. This raises major concerns. The authorities explained that the FIU in its new form of a National Authority was still in the launching process²⁷.

237. The assessors were advised that FIU staff must maintain high professional standards, including standards concerning confidentiality, and is of high integrity and appropriately skilled. The Ministerial Decision of 12 September 2006 provides details on qualifications and skills required by the personnel to be seconded but is silent on the type of background investigation that is carried out before hiring new personnel. When hiring permanent staff who are civil servants, the FIU relies on the checks made against criminal records according to the provisions in the Civil Servants Code.

238. In terms of training, some Committee members indicated that seconded personnel have generally been trained in previous positions and have a long experience in fighting criminal activities. However, to detect and investigate ML and FT cases there is a need for the FIU staff to be able to update its knowledge of ML and FT trends and techniques and a more ambitious training policy should be adopted.

Recommendation 32 (statistics collected by the FIU)

239. The FIU maintain the following statistics:

- The number of STRs received and registered by the FIU;
- A breakdown (only in 2005) of the type of FIs or DNFbPs making the STR (the FIU also counts reports from supervisory authorities or other government or law enforcement bodies as an STR);
- The number of STRs sent to the public prosecutor for further investigations, the number of STRs filed or still under analysis;
- Number of cases subject to freezing measures and the amount involved.

240. However, during the on-site visit, certain statistics were not fully consistent and the assessors were not provided with fully reliable data e.g. the FIU and some other competent authorities came up with different data on the number of STRs. The assessors were told that these differences were due to different methods of counting.

241. The FIU stated that it remains very difficult to follow up on the outcome of prosecutions that are directly connected to information forwarded from the FIU. The evaluation team was told that the most effective suspicious reports were those received from the police because the predicate offence had already been ascertained.

²⁷In April 2007, the evaluation team was advised that 20 additional employees have been officially appointed to the different directorates and sections of the FIU since the on-site visit. Of this total, only 4 staff have been posted to the two directorates primarily dealing with STRs analysis.

2.5.2 Recommendations and Comments

242. The Greek FIU and its President have been assigned extensive powers and responsibilities, and there is a clear desire on the part of the authorities to create an effective FIU that can lead the fight against money laundering and terrorist financing. However, the evaluation team has serious doubts about the current capacity of the unit to properly perform its tasks and functions, in particular the traditional core functions of an FIU – receiving, analysing and disseminating STRs transmitted by FIs and DNFBPs. This is due to a series of significant shortcomings.

243. *Structural issues.* The Greek authorities have decided to maintain the structure of a committee of 11 representatives (and alternates) from different ministries, supervisory/regulatory, law enforcement agencies or other bodies. The assessors consider that, since the setting up of the FIU is still in a transitional phase, the Greek authorities should consider restructuring the latter. Until now, the Committee members, a majority of which are senior public servants, have been carrying out the analysis of the STRs received in the same manner as a traditional financial analyst. It would seem appropriate that less senior, but more specialised personnel should be hired to carry out that task in order for the Committee members to dedicate themselves to higher level responsibilities. Greece should give consideration to tasking the Committee members with a broad oversight and/or coordination role at national level where their experience could be best used. Likewise, the experience of the members could make a valuable contribution to the elaboration of the strategic policy of the FIU and more broadly to a national AML/CFT strategy. In addition, the current process of assigning STRs for initial analysis in a meeting of the President and the Committee every 4 or 5 days is inadequate and leads to unnecessary delays in handling the STRs received.

244. The concerns about the present structure, the potential conflicts of interest with members dealing with particular STRs, and the inefficiencies in the system would be solved if the Committee took on the broader oversight and leadership role envisaged above. The FIU would then remain clearly independent, autonomous and accountable. The incoming STRs could be initially handled and investigated by specialist staff with appropriate experience, who could analyse the initial information, gather further information and data as necessary and then at an appropriate point could consult with senior staff within the FIU as to the appropriate next step.

245. *Resources issues.* At the time of the on-site visit, the FIU was severely understaffed and critically lacked organisational and technical resources to fully and effectively perform its functions. In the first trimester 2007, the FIU has started a process of hiring permanent staff, which is to be encouraged. The FIU still should employ more experienced financial analysts and should be provided with a comprehensive IT system to collect and process the STRs and any type of information it receives, including link analysis software (the so-called new database in place since March 2007 does not appear to answer the need to build a solid and reliable system to process the STRs). In the same spirit, the FIU should consider adopt a secure electronic reporting system. Such a technological advance would allow the FIU to build up a new database with an improved ability to receive, process and analyse STRs, which could be used in both operational and strategic work (especially to draw connections between STRs). The FIU should as soon as possible ensure its connection to the FIU.net. This will be an important step in enhancing international cooperation. An emphasis should be put on adequate ongoing training in AML and CFT matters for the entire FIU staff. The FIU should also ensure that high professional standards are maintained when hiring new personnel.

246. *Access to, diffusion and protection of information.* The FIU should have a more direct and timely access to all financial, administrative and law enforcement information it requires to properly undertake its functions. Information exchange between the FIU and other investigative authorities should not rely on members of the committee but be institutionalised and have specific procedures to ensure efficient systematic cross reference of the financial information with other law enforcement information and the protection of the data as required by the law.

247. The FIU should as a matter of priority take all necessary measures to ensure that the information held is securely protected. The physical security of the facilities should be appropriately ensured and the current STR data system should be properly protected and backed up.

248. Reporting forms are helpful but further guidance or practical assistance concerning the manner of reporting and the procedures to follow when reporting are very useful and should be further developed. The FIU should actively cooperate with all competent authorities (especially in the DNFBPs sectors) to elaborate such guidance.

249. *Statistics.* The Greek FIU should publish more comprehensive periodic reports on its activity including detailed statistics, typologies and trends as well as sanitised cases; this would contribute to raising awareness among reporting entities. The Greek FIU should maintain more comprehensive and detailed statistics on STRs and other reports received. Such statistics could relate for instance to: a breakdown of the number of natural and legal persons represented in the STRs; a breakdown of the amount of domestic and foreign currency involved in the STRs; the type of transactions involved in the STRs, including the number of transactions related to travellers cheque or foreign currency cheques, and international money transfers, etc. The FIU should also maintain statistics on the requests made or received by/from foreign FIUs, including whether the request was granted or refused, and on spontaneous referral made to foreign authorities.

250. *Effectiveness.* The FIU currently receives very little information on any results that are obtained and connected to information sent by the unit. A mechanism for exchange of information with the judiciary would be very helpful to provide the FIU with some useful indicators of effectiveness. More broadly, the assessment team supports the intention expressed during the on-site visit to ease the mechanisms for exchange of information between the FIU and other competent authorities (this is one of the responsibilities given to the drafting committee that has been set up in the MOEF to transpose into Greek legislation the provisions of the third AML/CFT Directive)²⁸. At the same time, 75% of the STRs received in 2004 and 85.5% of STRs received in 2005 were filed or placed in the record registry. Since 2001 and 2006, only 1.5 to 3.5% of STRs received have been sent to the public prosecutor. The Greek authorities should examine the effectiveness of the current reporting process, and look to see how improvements could be achieved. This would require not only an examination of the role of the FIU and its capacity to carry out its duties, but also and more broadly a review of the adequacy and effectiveness of the reporting obligation (whether FIs and DNFBPs meet the reporting requirement, their understanding and knowledge of the reporting obligation and the quality of the STRs sent to the FIU, the internal measures in place within financial institutions and DBFBPs, whether the implementation of the reporting obligation is appropriately supervised and where relevant, correctly sanctioned, etc.). Such a review may help identify how the effectiveness of the system as a whole can be improved.

2.5.3 Compliance with Recommendation 26

Rec.	Rating	Summary of factors underlying ratings
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²⁸ On 22 February 2007, the MOEF adopted a Decision on the *Exchange of information between the MOEF, the FIU and the competent authorities as defined in the AML Law*. This Decision introduces more formal mechanisms for exchanging information and improving co-operation between the MOEF, the FIU and the supervisors.

R.26	NC	<ul style="list-style-type: none"> • the FIU is inappropriately structured to properly and effectively undertake its functions; • the current composition and functions of the Committee raise potential conflicts of interest when dealing with STRs that adversely affect the FIU's operational independence and autonomy and potentially could lead to undue influence or interference; • reporting forms and procedures have not yet been provided to all reporting entities; • the FIU does not have adequate and timely access to all the financial, administrative and law enforcement information it requires to properly perform its functions; • there are insufficient physical and electronic security systems to securely protect the information held by the FIU; • the reports published by the FIU do not provide adequate information on statistics, typologies and trends; • in practice, there are real issues as to whether the Egmont principles are applied in relation to security of information and the FIU is not connected to the Egmont Secure Web thus impacting effective co-operation; • the lack of human resources, the paper based STR system, the lack of appropriate IT infrastructure and the current system for processing STRs has resulted in a serious lack of effectiveness in the FIU, which in turn impedes the overall effectiveness of the AML/CFT system.
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2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28 & 30)

2.6.1 Description and Analysis

General information on the organisation of the investigation and criminal procedure

251. The Greek criminal justice system is based on the Continental tradition. The criminal procedure is often characterised as following a «mixed» model of inquisitorial and accusatorial system. It would be more accurate to say that, although the procedure is basically inquisitorial, it also has strong adversarial elements. The offences are prosecuted exclusively by the public prosecutor at the court of misdemeanours. The public prosecutor is obliged to prosecute the case, provided that it is soundly based in the law. Sometimes the public prosecutor may conduct the investigation, or it could be done with the assistance of an investigative officer. The Greek criminal procedure is governed by the principle of mandatory prosecution (or legality principle). If the necessary suspicion exists, the public prosecutor has no discretionary power to prosecute or not to prosecute taking into consideration other factors.

252. A prosecution results from several possible actions:

- by initiating a «summary» investigation, to be conducted either by a magistrate or by a police officer. This kind of investigation is applied, as a rule, in misdemeanour cases;
- another possibility is the initiation of an «ordinary» investigation that is conducted by an ordinary judge. This procedure is mandatory in felony cases and optional in misdemeanours, if the public prosecutor is of the opinion that the summary investigation, which has already taken place, must be completed by an ordinary investigation;
- a third way of prosecuting is the direct reference of the case to trial before the competent court. This procedure is applied in cases: (a) of petty violations, (b) of misdemeanours of minor importance, (c)

where the facts are clearly proven, and (d) of misdemeanours, when the offender is apprehended in the act.

253. After the completion of the investigation the public prosecutor may make a motion to the judicial council (i.e. a court deciding in camera, without publicity) either to acquit (dismiss the case) without trial; or to refer the case to trial (indict). The public prosecutor may also, after a summary investigation, refer the case directly to trial, without requesting a decision of the judicial council. The last possibility is limited to misdemeanour cases only. At trial the public prosecutor summons all the parties: the accused, the civil claimant and any civilly liable third party, if such parties are participating in the proceedings. He also summons all the important witnesses, both for the prosecution and (some of the witnesses) of the defence, while the parties may bring to the trial also any other witnesses and other evidence.

254. The pre-trial phase has a mixed character: it is inquisitorial, since the investigating judge or the investigating magistrate or police officer takes most of the initiatives in order to gather the evidence and proceed with all the necessary measures. But it has also some accusatorial features, since the parties – i.e. the accused and often also the civil claimant - have certain rights and may influence the proceedings by submitting applications, bringing in evidence, lodging appeals to the judicial council against the decisions of the investigating judge or the public prosecutor etc. The pre-trial phase is deemed to end when the intermediate stage (the proceedings before the judicial councils) ends. It is considered that the trial stage begins when the summons to trial is served upon the accused. The trial also has a similar mixed character.

255. The Greek CCP makes provision for examining or investigating judges (*juge d' instruction, Untersuchungsrichter*) who are competent to conduct the «ordinary» investigation, which is mandatory in all felony cases and optional in misdemeanour cases, if the public prosecutor considers that the preceding «summary» investigation by a magistrate or a police officer needs to be completed. According to art. 239 CCP, the purpose of any form of investigation is to collect all necessary pieces of evidence in order to prove the commission of an offence and to decide whether somebody should be referred to trial for it. During the investigation all efforts are made to detect the truth. The inquiry should aim at finding ex officio not only incriminating evidence, but also material proving the innocence of the accused. Furthermore, the investigation should collect any data concerning the personality of the accused that could influence the sentencing process. In particular, the investigating judge is competent to conduct all acts of inquiry, which he/she deems necessary in order to detect the crime and the perpetrators. He/she considers the requests of the public prosecutor only if he/she believes that it would be expedient (art. 248 CCP). He/she is also competent to order the provisional detention of the accused or to impose restricting conditions to him/her with the agreement of the public prosecutor (art. 283 CCP).

256. The appeals against a decision of a court of first instance are: (a) the appeal de novo to a court of second instance and (b) the appeal for legal error to *Areios Paghos*. The appeal de novo is granted as of right to the accused and the public prosecutor. This appeal authorises the court of second instance to try the case again as to all offences and points that are mentioned in the appeal. All aspects of the case are re-tried and the procedure is basically the same as at first instance. The court may examine more evidence, even new witnesses, if the public prosecutor or one of the parties requests it. If the appeal has been lodged by the accused or by the public prosecutor in favour of the accused, the decision of the court of second instance cannot worsen the position of the accused. It can only either sustain the appeal and improve his/her position or reject it and keep the conviction as it has been pronounced by the first instance court. But if the public prosecutor has lodged an appeal requesting the reform of the decision to the detriment of the accused, then the court of second instance is free to decide either way.

Recommendation 27 – investigation of ML and TF cases – general

257. Over the last decade, ML has been perceived by the Greek authorities mostly as self laundering committed by the predicate offender, though the assessors were told that in several cases third parties have been investigated and brought to trial. Therefore, for years, AML has been seen as an additional element to the investigation of the predicate offender and it seems that Greece is only now starting to develop a more proactive approach to detect ML

cases (and TF cases to some extent) as distinct offences. In the new AML Law, the new approach chosen was to give significant investigation powers to the FIU in relation to all offences covered by the AML Law and to require more systematic inter-agency exchanges of information.

258. Within the new legal framework, investigations of ML cases can still be conducted by regular investigative units, authorised to conduct pre-judicial investigations of predicate offences. Some specialised services (SCS, SVCD) have kept their power to investigate ML and FT cases and their responsibility for ML and FT intelligence gathering, including in relation to predicate offences such as smuggling, tax evasion and other offences against tax or customs legislation. However, the new AML Law provides for the FIU to be the central point of the Greek AML system, both in terms of intelligence gathering and of pre-judicial investigation e.g. the FIU is responsible for investigating both ML and predicate offence cases and has the power to request assistance and any information from all authorities to carry out its tasks.

Recommendation 27 - law enforcement authorities

General remarks

259. Previous assessments of the Greek AML/CFT system in relation to law enforcement authorities and their investigation powers have underlined the lack of coordination between the authorities and the problem of overlaps in authority with undefined division of labour and responsibility between investigation units. The most recent amended AML Law has addressed this issue, at least in part. The Greek FIU has been given very significant investigation powers in relation to all offences covered by the AML Law (ML and FT in particular) and the power to obtain any information held by a public authority. This exchange of information is supposed to be facilitated by the presence within the FIU Committee of representatives of other law enforcement authorities (the Hellenic Police and the SCS).

260. The Hellenic Police and the Customs use the FIU channel when they need to have access to financial data and rely a lot on the FIU to gather financial information for them in relation to ML and FT cases. The SCS appears to be more independent in carrying out investigations of ML cases relating to specific predicate offences (tax evasion, smuggling, and other offences against tax or customs legislation). The AML Law also establishes some mechanisms to facilitate the exchange of information among law enforcement authorities and has raised awareness.

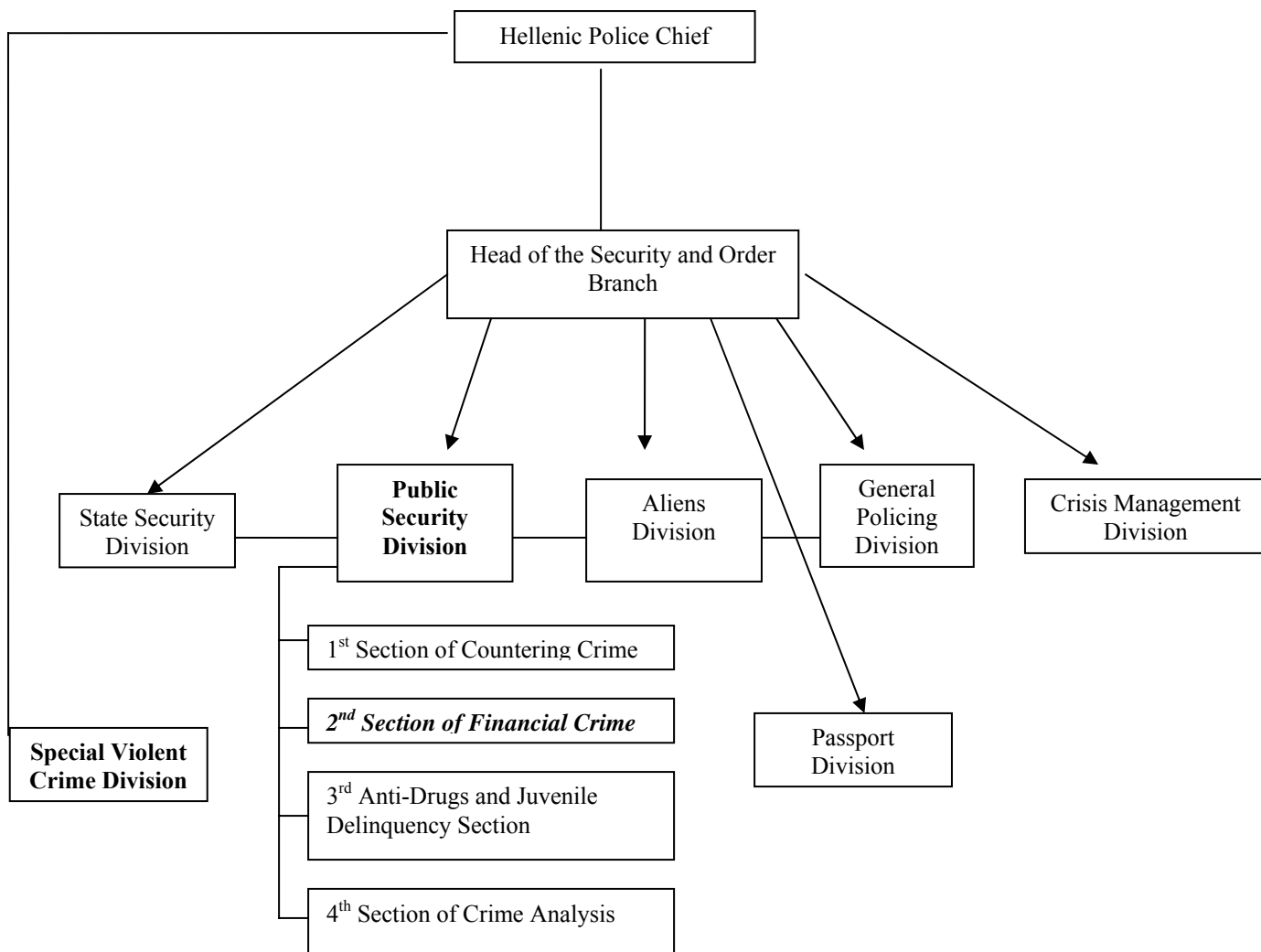
261. However, the system in place does not prevent parallel investigations (and duplication of effort) since it seems that the police have difficulties in obtaining financial information and go through the FIU to get such information. It is also not entirely clear how the public prosecutor and the FIU coordinate their action when both receive cases from different law enforcement authorities.

FIU

262. The FIU is allocated preliminary investigation powers in respect to offences punishable under the AML Law including the right to hear witnesses or suspects (Article 7.9 of the AML Law).

Hellenic Police

263. *MOPO – Hellenic Police.* The Hellenic Police is part of the Ministry of Public Order, and is the national agency responsible for the detection and investigation all types of crime, including drug law violations, smuggling, illegal commerce of antiquities, gambling, all acts of violence and terrorism. Its organisational structure is as follows:



264. *The Public Security Division.* The Division for Public Security is authorised by Presidential decree 14/2001 to conduct ML and FT investigations, as well as combating crimes in general, such as organised crime, drugs and financial crimes. The Committee member representing the MOPO at the FIU is a serving officer at the Public Security Division. The division is a central staff service at Police HQ of a strategic nature, which gives directions to operational Police Services. It coordinates ML/FT investigations, organises and conducts AML/FT training and liaises with other AML or FT governmental components. The Financial Crimes Section investigates organised crime and ML in particular, and is actively involved in cases forwarded by the FIU. In reverse, the Hellenic Police forward information to the FIU for the FIU to investigate the assets of suspects, if ML is suspected as part of a preliminary investigation. The Hellenic Police is also empowered to closely co-operate with the SCS.

265. *The State Security Division* is a central unit, which: (i) supervises, guides, and coordinates regional services, and exchanges and collates relevant information; and (ii) cooperates closely with the National Intelligence Service, the ministries of Foreign Affairs, Interior, National Defence, Justice, and the Merchant Marine, and with other competent governmental services and organisations. The Division, particularly its 2nd Section, has competence for the protection of the State and in particular the fight against terrorism (domestic and international) and extremism, threat assessments and the protection of dignitaries and other exposed persons. For the combating of terrorism and terrorist financing, it works closely with the Special Violent Crime Division and the FIU.

266. *The Special Violent Crime Division (SVCD)*. The SVCD is in charge of CFT investigations at the MOPO, and is an independent service of the Hellenic Police, under the direct command of the Chief of the Hellenic Police. It is responsible for all terrorist issues throughout the country, and conducts investigations of all terrorism cases under the supervision of the special prosecutor for terrorism, located in Athens. Under Law 3251/04, the SVCD is responsible for monitoring all possible cases of potential terrorist financing networks (e.g. involving arms trafficking, drugs trafficking, illegal immigration, buying and selling of false documents), as well as investigations of suspicious transactions in banks etc.). The SVCD exchanges information with foreign counterparts as well as Interpol, Europol, etc. All the terrorist financing cases the SVCD investigates (especially domestic terrorist organisations such as “November 17th” and “Revolutionary People’s Struggle”) are normally done with the assistance of the FIU and the competent judicial authorities.

267. The *National Information Service* also has an anti terrorism unit which collects financial intelligence regarding financing of terrorism.

Ministry of Finance

268. *The Special Control Service SCS (Y.P.E.E.)*. The SCS is a unit for combating tax-related offences, customs offences and other types of economic crime²⁹. It deals with important cases of smuggling, tax evasion, and important tax related crimes which constitute predicate offences for ML. The AML Law provides in Article 2a.7 that the SCS is authorised to investigate any cases of ML relating to these types of predicate offences. It informs other relevant authorities by a report sent to the judicial authorities through the Public Prosecutor at the SCS, and the Directorate of Special Economic Affairs, MOEF and to the FIU.

269. The SCS has conducted full pre judicial investigations of ML and predicate offences and has brought several cases in recent years: 1 (2005), 7 (2004), 1 (2003), 3 (2002), and 2 (2001). No precise data was available as to the amount of money or value of assets seized or confiscated, but several cases involved seizure of substantial amounts. Where no predicate offence is found after an investigation, the case is referred to the FIU for further inquiries. In 2006, 8 cases were referred to the FIU, and during the previous years 4 cases (2005) 26 cases (2004) 24 cases (2003) and 25 cases (2002). The SCS has cooperation agreements with Interpol, Europol, SECI (Romania) and a bilateral agreement with Russia.

270. *The Customs Service*. The Hellenic Customs service is authorised by Article 3 of the National Customs Code (Law 2960/2001) to investigate predicate offences related to smuggling tax fraud and other customs offences. Under article 6.4 of the AML Law, customs officials are deemed special preliminary investigation officials in respect of the offences provided for, though it is not clear whether this extends to the ML offence as well as predicate offences within Custom’s normal competence. Customs offices also submit reports on cases of tax evasion, smuggling and other tax/customs offences through the Customs General Directorate to the FIU. If offences are discovered relating to drugs, weapons, cultural items or other smuggling, and which further investigation on ML, Customs may forward them to the FIU. One such case, involving smuggling of large quantities of cigarettes was sent to the FIU in 2006.

Recommendation 27 - prosecution

271. The national prosecution agency consists of the public prosecutors’ office which is a separate body of judicial officials. It is composed of persons who have the same qualifications, are recruited by the same procedure and enjoy the same constitutional guarantees as the judges (art. 88 - 91 of the Constitution). The office is organised in three levels, corresponding to the first instance courts, the court of appeals and the Areios Paghos. At each level there are two grades of public prosecutors, called “public prosecutors” and “deputy public prosecutors”.

272. The main duties of the public prosecutor’s office in criminal cases are the following.

²⁹ See Article 2 of Presidential Decree N°85 of 25 May 2005.

- To prosecute all cases based on the law and are not manifestly unfounded as to the facts.
- To supervise the preliminary and summary investigations, to cooperate with any investigating judge, and to take all necessary initiatives needed in the pre-trial stage.
- At the end of the investigation, to make motions to the judicial council either to refer the case to trial or to dismiss it (acquit) without trial.
- To lodge appeals against the decisions of the judicial councils or the courts.
- To prepare the trial and the accusation at the trial, to conduct the trial, to make motions for conviction or acquittal, and in general to make motions to the court before any decision.
- To organise the carrying out of any punishment or security measure.

273. The public prosecutor is an authority independent of the courts and of the executive power. It acts in a unified and indivisible way and its task is to protect the citizen and to keep the norms of public order. The only power of the Minister of Justice to give instructions to the public prosecutors is the right to order the competent public prosecutor to prosecute any criminal offence (see Art. 30.1 CCP). However, this power is of little practical value, since the Minister and any other public authority must report any criminal act to the public prosecutor, and the latter is obliged to prosecute it according to the legality principle.

274. All ML and FT cases are prosecuted by the Greek prosecution office, which refers the cases to the investigative magistrate. This magistrate is in charge of collecting all the necessary information, and issuing all the temporary orders when necessary (arrest warrants, freezing of assets, etc.) After receiving the mandate to investigate from the public prosecutor, the investigating judge and investigating officer may as a rule proceed with individual acts of investigation, without it being necessary to obtain prior approval by the public prosecutor. However, a warrant of arrest or a pre-trial detention order can be issued by the investigating judge only with the agreement of the public prosecutor, or by the judicial council. When finished, the magistrate refers the case back to the prosecution office which brings it before the court of appeal. No data is available to assess the effectiveness of this process. Greek prosecutors appear to have very heavy workloads. For example, in the Athens prosecution office, 120 prosecutors handle some 250,000 cases per year, and when one considers the full automatic right of appeal and rehearing, these figures raise concerns about the effectiveness of the Greek prosecution system.

Recommendation 27 - authority to postpone or waive arrest

275. The law enforcement authorities may postpone or waive the arrest of suspected persons and/or seize money for the purpose of identifying persons who are involved in illegal activities or for evidence gathering. This applies in practice when special investigative techniques, in particular controlled deliveries, are conducted while investigating predicate offences. The presence of the SCS public prosecutor, competent for the whole Greek territory, speeds up the procedures during the preliminary investigations.

Recommendation 27 - additional elements

276. Special investigation techniques, such as controlled delivery, undercover operations, wire tapping, use of audiovisual methods (but not inside the suspect's domicile), and combination and connection of personal data may be used for the following offences:

- Articles 187 & 187A PC (criminal organisation, the commission of terrorist acts and FT);
- certain drug offences;
- certain offences regarding "Protection of antiquities and cultural heritage in general"; and
- ML relating to these predicate offences.

277. These techniques are used only when there is strong evidence of the offence, and then only for limited periods. In certain cases an order of the Judicial Council is required, and for others the investigating authority must first inform the competent Public Prosecutor. In a number of cases, a multi-agency task force has been used, and consideration should be given to greater use of such a model for ML and FT cases.

278. Greece has not yet implemented the Council framework Decision of 13 June 2002 on joint investigations teams, by which the competent authorities of two or more EU Member States may set up a joint investigation team to carry out criminal investigations in one or more of the Member States. A draft law prepared by the Ministry of Justice is in the process of being examined by the Greek Parliament. The evaluation team was told that ad hoc joint investigations may be set up under article 39 of the Convention implementing the Schengen Agreement of 14 June 1985. This provision seems to be regularly used.

Recommendation 28

279. According to Articles 251-260 of the CCP, all investigation authorities have to collect, without delay, information about the offence and the offender. In order to fulfil this purpose they can search persons and premises and can seize documents and some types of property such as securities, monies in a current account or any other item, though not real estate. Searches of property are conducted in presence of a public prosecutor. The summary investigation of offences is conducted by order of the public prosecutor and by magistrates or more senior police officers under his/her supervision. In urgent cases the investigating officer can perform the investigation first then notify the public prosecutor.

280. The SCS have power to search the premises of suspects (other than the house) if there are well-founded suspicions of economic crimes, if the suspect consents or the public prosecutor or judiciary agree. When a house search is required, the presence of a representative of the judicial authority is always necessary. SCS can arrest and interrogate persons, search transport, goods, persons, warehouses, houses and other areas, and seize documents, goods, vehicles etc. In special cases of economic crime and extensive tax evasion and smuggling, they can temporarily freeze bank accounts and property assets provided the competent public prosecutor then takes action. They also conduct checks to prevent and prosecute special economic crime relating to lotteries, illegal stock exchange activity, banking and financial transactions, etc.

281. All investigation authorities (police officers, FIU staff, SCS) can take witness statements that can be used in investigations and prosecutions of ML, FT and underlying predicate offences (Articles 251 of the CCP, 2a.7a, 7.9 of the AML Law).

Resources (Recommendation 30)

282. *FIU*. In its role as a law enforcement authority, the FIU seriously lacks resources (see Section 2.5). The 2006 Ministerial Decision set up an “Investigations Office” responsible for performing and supervising investigations, and this allocated 9 staff including 3 police officers. It is not operational yet.

283. *Hellenic Police*. Hellenic Police’s staff consists of police officers and civilians, Border Guards and Special Police Guards. At the operational level, specialised sections on financial crime have been established within the Police Directorate of Attica (56 investigators) and the general police division of Thessalonica (30 investigators). For financial crimes perpetrated in the rest of Greece, Sub-police Divisions or Security Branches of the regional services have primary competence, and the specialised officers in Attica and Thessalonica may assist them in the investigation of important cases.

284. The Attica Police Directorate and the General Police Division of Thessalonica have set up Subsections of organised crime to collect, analyse, investigate and evaluate intelligence regarding organised crime. To assist these investigations, a specialist public prosecutor has been appointed to supervise these services. Other units which have some capacity to conduct financial investigations are the drug division units in Attica (180 investigators) and in Thessalonica (180 investigators). In addition, in July 2006 a directive was issued to the regional police services providing for the appointment of two police officers in each regional service who would act as the contact points to process all information requested by or to be transmitted to the FIU. The National Information Service in the MOPO (secret service) also has an organised crime department with five investigators.

285. A Code of Police Ethics was adopted by Presidential Decree 254/2004, requiring MOPO staff to maintain high professional standards, including standards concerning confidentiality, and to have high integrity. As regards training, several seminars on ML were organised within the Hellenic police by the BOG and the Hellenic Banking Association following the enactment of the AML Law. Since then, ML and FT constitute two of the main subjects of lectures in the Police Schools. In particular, in 2005 and 2006, increasing numbers of police officers have been trained in ML and FT matters, some of whom will be seconded to the FIU.

286. *The Special Control Service.* The SCS operates according to an annual plan, focusing on different areas of fiscal and financial crime. It has a staff of 1,400 persons and conducts 100,000 inspections per year for all different forms of financial and fiscal crime. It employs 25 financial investigators, who are focused exclusively on ML investigations (including freezing the proceeds of crime). Regional Directorates of SCS also have drug trafficking investigators who are also responsible for money laundering investigations. The staff of the SCS are required to maintain high professional standards, including standards concerning confidentiality, and are required to have high integrity. No further information has been made available to the assessors.

287. The Ministry of Finance Training School delivers yearly seminars covering the full range of SCS responsibilities, including money laundering. All the financial investigators have undergone some professional ML training in sessions conducted twice a year, including international training (provided by Interpol, Europol, etc.). The SCS has not yet issued papers on ML trends or typologies for use by regulators, the FIU or other law enforcement bodies.

288. *The Customs Service.* 3,800 Customs officers serve in 397 customs offices and are authorised to conduct pre-judicial investigations. Special enforcement units (4–5 officers) are stationed in each border crossing office. Customs officers are required to maintain high professional standards, including standards concerning confidentiality, and are of high integrity. However they are generally insufficiently skilled in ML investigations. They are only provided with basic training on ML. No further information has been made available to the assessors.

289. *Prosecution authorities.* Under the Greek Constitution, judges and prosecutors are appointed “for life”, meaning that they continue to serve even if their courts or offices are abolished. There are 1,559 judges and 524 prosecutors in Greece. Judges and prosecutors are subject to the Organisation of the Courts Code, which provides for their conditions of service, duties and promotion, and contains clauses governing their responsibilities, conduct and performance. The Code also contains provisions on disciplinary councils and disciplinary penalties. Pursuant to Article 87.2 of the Constitution, Public Prosecutors are totally independent when they fulfil their duties. Prosecutors thus appear to have operational independence and autonomy, which ensures freedom from undue influence or interference.

290. Apart from the specialist FT public prosecutor, there is no specialisation for ML cases, rather, such cases are just added to their regular workload. The prosecution service seems to be inadequately funded and staffed and lacks sufficient technical resources to fully and effectively perform its functions. The judicial system as a whole seems to be overworked. In the largest court of first instance (Athens), serving a population of more than 5 million, 250,000 cases are handled per annum by 120 prosecutors. These magistrates are in charge not only of conducting investigations regarding felonies but also international mutual legal assistance cases as well. Other big city district courts will normally have 2–3 magistrates, and normal district courts have one.

291. The National School of Judges has organised two seminars on money laundering for senior and junior judges and public prosecutors.

Statistics

292. During 2004, 178 investigations were conducted in Greece by the Hellenic Police (Public Security Division) in organised crime related cases³⁰.

293. The SCS provided the following statistics:

Year	Athens		Thessalonica		Other Greece	
	ML investigations and prosecutions	ML Suspicious Cases	ML investigations and prosecutions	ML Suspicious Cases	ML investigations and prosecutions	ML Suspicious Cases
2001	2	-	-			
2002	1	-	2			
2003	1	-				
2004	6	-	-		1	
2005	6	35	-	10		
2006	7	30				2

294. The Greek authorities have indicated they will review the effectiveness of their AML/CFT system, but the lack of systematic data will undermine this effort. Hardly any statistics are available regarding ML and FT investigations, prosecutions and convictions, nor on the cases and value of property frozen, seized and confiscated for ML or predicate offences. The evaluation team was informed that the Ministry of Justice is developing an electronic system for statistics, which will comprehensively record all data on investigations and prosecutions for ML/FT and related predicate offences; and will record court decisions of the first and second instance and of the Supreme Court, including on convictions and assets frozen, seized and confiscated.

2.6.2 Recommendations and Comments

295. The investigations of financial crimes in Greece have focused for a long time on the predicate offence and not on the ML offence or proceeds of crime as such. The Hellenic Police has started to more systematically inform and provide training to police officers in ML and FT matters, with some of the trained police officers soon to be seconded to the FIU. More generally, all law enforcement authorities, particularly the Hellenic Police and the Customs Service should continue to strengthen the educational programs in relation to the ML and FT offences in order to have specialised financial investigators and experts at their disposal. Training should particularly include typologies with sanitised cases as well as trends and techniques specific to the Greek environment. For all authorities, emphasis should also be on recruiting professional personnel with a solid financial education and expertise. This should contribute to develop a more proactive approach to detect and expose third party ML cases as opposed to self-laundering.

296. The FIU is an administrative authority that has been given the competence to act as an investigator, and even as a prosecutor since it is able to initiate preliminary investigations. This is quite unusual for an administrative body and it would be desirable that some safeguards should be introduced to preserve some fundamental principles. For instance, the power of the FIU to override secrecy and personal data protection provisions, should be subject to similar protections as the rights of access given to police authorities under the supervision of a judge or public prosecutor.

297. More resources should be dedicated to investigations in relation to CFT in a context of a re-emerging domestic terrorism.

³⁰ See “Annual report on Organised Crime in Greece for the year 2004”, Hellenic Police at the following address : <http://www.mopo.gr/main/Section.jsp?SectionID=13442>

298. The data and other information available is not sufficient to positively conclude that there is an effective system for the investigation and prosecution of ML and FT cases in Greece. Greece should establish a reliable and comprehensive system to collect statistics on ML/FT investigations, prosecutions and convictions, and on property frozen, seized and confiscated, which would allow an assessment of the overall effectiveness of the AML/CFT system.

299. Consideration should be given to making use of special investigative techniques in relation to ML and FT as they have proved successful in relation to drug trafficking. There seems to be no legal impediment to carrying out controlled deliveries of cash.

300. Particular attention should be paid to establish effective coordination and information sharing between Customs and other law enforcement authorities in relation to the implementation of the controls on cash and bearer negotiable instruments leaving and entering the Greek territory, so as to enable the use of special investigative techniques in relation to cash.

301. Consistent with a more proactive approach to the detection and exposure of the various forms of ML, consideration should be given to a greater specialisation of prosecutors and judges in financial crime and ML cases. AML/CFT and financial crime training programs should be continued and developed, including typologies/methods and trends, to improve prosecutorial AML/CFT expertise. Additional resources should be allocated to the over-worked public prosecutor service so that it can fully and effectively performs its functions.

2.6.3 Compliance with Recommendations 27 & 28

Rec.	Rating	Summary of factors underlying ratings
R.27	LC	<ul style="list-style-type: none"> • the system put in place by the AML Law does not prevent parallel investigations (and then duplication of efforts) on ML or FT cases; • the resources of the prosecution service are insufficient for it to effectively perform its functions, taking into account the structure of the criminal justice system and the appeal procedures. • the data and other information available is insufficient to demonstrate that the ML/FT investigation and prosecution process is effective.
R.28	C	Recommendation 28 is fully met.

2.7 Cross Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

302. Greece has not implemented comprehensive measures to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to ML or FT. The authorities in charge of monitoring the entry and exit of goods and persons are the police (or port authority regarding water ports) and the Hellenic customs authority, but there is no obligation to declare currency or bearer negotiable instruments that are being imported or exported. However, the implementation of the EC Regulation on Cash Control will result in changes to Greek requirements³¹. During the on-site visit, very limited information was provided to the evaluation team regarding the preparatory works necessary for the implementation of the Regulation. The Customs Service has prepared a report which was awaiting the approval of the Minister of Economy and Finance before the adoption of a new law. Greece will have to implement a declaration system.

³¹ EU regulation 1889/2005 of 26 October 2005 on controls of cash entering or leaving the Community will apply as of 15 June 2007.

303. At the time of the assessment visit, only the following mechanisms were in place. Upon discovery of a false disclosure of currency or bearer negotiable instruments, when asked by the authorities, or upon suspicion of ML or FT, authorities may request and obtain further information but they do not have the authority to stop or restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or FT may be found. No legal system is in place to pass on information regarding suspicious cross-border transportation incidents, obtained by the border authorities to the FIU, nor is there a database from which this information can be retrieved and is available to the FIU.

304. On the domestic level, there is inadequate coordination among customs, the port authority, the police and the Ministry of Economy and Finance in relation to the implementation of Special Recommendation IX.

305. On the international level, the assessors were told that good cooperation exists between the Hellenic customs and its counterparts which allows customs-to-customs information exchange. These channels have been used in cases of under and over invoicing and information was passed to the foreign counterpart, but these channels have not been used regarding cash seizures, and no recorded information of such incidents is available for the use of foreign authorities.

306. When the Hellenic customs discovers an unusual cross-border movement of gold, precious metals or precious stones, it notifies the Customs Service or other competent authorities of the countries from which these items originated and/or to which they are destined, cooperates on a regular basis with a view to establishing the source, destination, and purpose of the movement of such items and taking appropriate action

2.7.2 Recommendations and Comments

307. Greece will rely on the implementation of the EU Regulation No. 1889/2005 on cash controls to meet the requirements of SR IX that will apply as of 15 June 2007. The Greek authorities should ensure that they have any ancillary legislation in place by that time so that they can implement measures fully in line with the FATF standards and ensure that all aspects of the FATF requirements are covered through European and complementary domestic mechanisms.

2.7.3 Compliance with Special Recommendation IX

Rec.	Rating	Summary of factors underlying ratings
SR.IX	NC	<ul style="list-style-type: none"> • there is no system for declaring or disclosing cash or bearer negotiable instruments in line with SR IX.

3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

3.1 Risk of money laundering or terrorist financing

Risk-based approach in Greece

308. As described in the FATF Recommendations, a country may decide not to apply certain AML/CFT requirements, or to reduce or simplify the measures being taken, on the basis that there is a low or little risk of ML or TF in a given business sector. The country may decide the extent to which certain measures need to be applied on a systemic basis by each general category of financial institution, as well as by various subsets within each industry. Such an approach has not been fully developed in Greece in the manner contemplated by the FATF

Recommendations, although there is a general perception that the insurance industry in Greece poses little or no threat of money laundering/terrorist financing. This perception does not appear to be based on much empirical evidence or on a full risk assessment. Individual laws or regulations may also decide the extent to which individual institutions must apply measures to mitigate risk in their individual businesses. In this case, the Greek AML/CFT system applies a selective and partial approach to risk for certain provisions although any proper risk assessments have not been carried out.

309. The financial sector and their regulators have only very recently developed an approach that contemplates different categories of risk, after the amendment of the AML Law and the adoption of Annex 4 of Governor's Act 2577/2006. Nonetheless, the AML Law and related Circulars and guidelines already contained some risk-based elements that require enhanced due diligence and monitoring of certain transactions, and reduced procedures for others. Chapter 14 of Bank of Greece Governor's Act 2577/2006 and Annex 4 of the same Act introduce a general risk-based policy and specific procedures for customers and/or transactions. This policy includes classifying customers into at least three risk levels: (1) low risk; (2) normal risk; and (3) high risk, on the basis of reflecting the possible causes of risk and taking certain suggested factors into account when assessing risk. In practice, the BOG has been at the forefront of developing the risk-based approach in Greece, and their model is likely to be followed by the other competent authorities. This approach is, in effect, a mixture of prescriptive measures (such as the criteria for enhanced due diligence) and areas where SIs themselves (*supervised institutions* i.e. both credit and financial institutions, see below) are encouraged to set their own parameters according to risk (such as the new requirements to monitor transactions). The BOG regards these changes as providing significant protection for the financial sector against it being misused for ML and/or FT. At the same time the BOG acknowledges that the move to the risk-based approach is not going to happen immediately. The evaluation team formed the impression that there was some unease amongst SIs about the move towards a risk-based approach due to the newness of the concept and uncertainty as to how the BOG will supervise it. In its new guidance (Rule 23/404, which came into force on 1 March 2007), the Hellenic Capital Market Commission has introduced elements of a risk-based approach and specific procedures for customers and/or transactions in the securities sector.

310. The implementation of the 3rd EU Directive on Money Laundering will provide an opportunity to introduce a broader risk-based approach in Greece in line with the concept adopted within the FATF Recommendations.

Scope of the AML Law

311. In Greece, the preventive side of the AML/CFT system is rooted in the AML Law. The law seeks to prevent money laundering and terrorist financing by imposing administrative obligations for reporting and co-operation on financial institutions and on other non-financial businesses, institutions and professions. The Greek authorities have instituted some legal and institutional measures to combat ML/TF in the financial sector. Except for those activities mentioned below (e.g. insurance brokers and agents), the AML Law covers all of the financial institutions defined by FATF. In particular, Article 1.D of the AML Law applies AML requirements to the following institutions:

- *credit institutions*³²: banks and other credit institutions including the Deposits and Loans Fund, Postal Savings Bank, the Industrial Development Bank and the BOG;
- *financial institutions/organisations* (other than credit institutions above) that include the following companies and services: life insurance companies, portfolio investment companies, mutual fund management companies, real estate investment companies, management companies of mutual funds investing in real estate, investment intermediation companies, investment services firms including

³² Article 1.D of the AML/CFT Law sets out: « "Credit institution" shall denote an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution as defined in paragraph 16 of article 2 of Law 2076/1992 (Government Gazette A 130), including any non-incorporated branch or representative office of non-resident credit institutions. Any number of branches in Greece of the same foreign credit institution shall be deemed a single credit institution. The Postal Savings Bank, the Deposits and Loans Fund and the Bank of Greece are included in the above definition".

members of the Stock Exchange, consumer credit companies (leasing and factoring), bureaux de change, and money remittance firms. These also include the Greek operations of foreign financial organisations.

312. Insurance brokers and agents are not covered by the AML Law (FATF Recommendations define financial institutions to be covered as including insurance intermediaries, i.e. agents and brokers). In addition, insurance agents (tied insurance intermediaries) are not licensed or supervised. Agents are estimated to generate, on average, between 85–95 percent of the insurance business in Greece. Life insurance and investment-linked insurance policies, the business sectors considered more vulnerable to ML/FT, account for just over half of the total insurance market. Insurance companies are ultimately responsible for compliance with customer due diligence and other AML/CFT requirements imposed by the AML Law.

313. In summary, Article 4 of the AML Law establishes the basic requirements for banks and financial institutions for customer identification, record keeping, monitoring and reporting of suspicious transactions, and implementation of certain AML/CFT internal controls and procedures. Articles 4.1–4.7 set out the general requirements for customer identification and record keeping. Articles 4.9–4.16 set out the basic requirements for monitoring and reporting of suspicious transactions, including appointment of an anti-money laundering officer, implementation of certain internal controls for the prevention of money laundering, including in overseas branches, the obligation to provide the authorities with information, and prohibition of tipping-off. Article 4.16 imposes a penalty for the breach of the tipping-off prohibition which is punishable with imprisonment of up to 2 years and a fine. Article 14a of the AML Law gives competent authorities the right to impose sanctions on credit institutions or financial organisations for non-compliance with any of the obligations in the AML Law or regulatory provisions issued by a competent authority.

AML provisions issued by competent authorities

314. For credit institutions authorised and supervised by the BOG, the BOG adopted the Governor's Act 2577/2006 Annex 4 (on 13 October 2006) on prevention of the use of the financial system for the purpose of ML and TF. This is in addition to the existing requirements in the main text of BOG 2577/2006. According to Article 1 of Law 1266/1982, as amended by Article 12, paragraph 1 of Law 2548/1997, the powers of the Bank of Greece are exercised through Governor's Acts or Decisions of other Bank of Greece Bodies which are duly authorised by the Governor. In this context, the Greek authorities consider that the Bank of Greece Governor's Acts and the Decisions of the Banking and Credit Committee have the same binding force as the Parliament's Laws. These Acts and Decisions are published in the Government Gazette (Law 301/1976 and 3469/2006), and are directly enforceable after publication therein. The Governor's Act 2577/2006 Annex 4 has been enforceable since its publication in the Government Gazette (issue No B1626/3-11-2006).

315. As guidance for the securities industry, the Hellenic Capital Market Commission (HCMC) has issued Rule 108/1997 under the AML Law as a decision of the Governing Board of the Capital Market Commission. In 2000, it further issued Circular 8, which provides basic guidelines to investment firms for compliance with Rule 108 and the provisions of the AML Law. Rule 108 was issued under Article 29 of Law 1558/85 "Government and governmental offices" added by Article 27 of Law 2081/92. The HCMC indicates that its authority to issue Rules is covered under Article 78 of the HCMC Law and that it is a legally binding instrument for purposes of the AML Law. On 11 December 2006, HCMC Rule 23/404 (*Prevention of the use of the financial system for the purpose of ML and TF*) and Circular 31 (*Suspicious Transactions Typologies*) were published in the Government Gazette. These provisions came into force on 1 March 2007. At the same time Rule 108/97 and circular 8 were repealed. However, for the purposes of this evaluation, the provisions of the revised guidance are not taken into account³³. A description of the key provisions introduced by Rule 23/404 is available in Annex 5 of the Report.

³³ The « Handbook for Countries and Assessors » issued by the FATF stands that « where bills or other firm proposals to amend the system are made available prior to or at the time of the on-site visit, these may be referred to in the report (description, analysis and recommendations), but should not be taken into account for ratings purposes unless they are in

316. In the insurance sector, MOD/ID has issued some guidance in Circular letters (mainly Circular K3-9563/1997 and 6955/2000). Supervision of insurance companies is being transferred to the Hellenic Private Insurance Supervisory Committee (HPISC), and they are planning to issue revised guidance. The timetable for this transfer has been subject to delay, but the HPISC is expecting to assume its responsibilities in 2007.

317. Three regulatory agencies have been designated as “Competent Authorities” under Article 1.F of the AML Law and are responsible for the AML/CFT supervision of Greek financial and credit institutions. These are: (1) BOG for banks and other credit institutions, leasing and factoring, bureaux de change, and money remitters; (2) HPISC for insurance companies; and (3) HCMC for securities firms. Therefore, under the AML Law, the MOD/ID does not strictly have any status as a competent authority since the AML Law reserves this to the HPISC. Greece, therefore, currently has no operational competent authority for the insurance sector, and has not had since Law 3425/2005 was passed in December 2005. This is an important omission in the AML/CFT system, and one which Greece should take urgent steps to remedy. For the purposes of this report, the MOD/ID's requirements in relation to AML/CFT are mentioned, and its effectiveness as a supervisory authority is assessed. However, these comments should be read in the overall context that it technically has no legal standing (under Law 2331/1995 as amended by Law 3425/2005).

Scope of application and enforceability of AML provisions issued by competent authorities

318. The highest form of binding law in the Greek state is the Constitution. Immediately below the Constitution are the laws adopted by Parliament. The right of legislative initiative rests with Parliament and the Government. The Parliament votes for a Bill (*Nomosxedio*) to become a Law (*Nomos*) in three voting sessions: firstly in principle, then per article and then as a whole. Once the bill is passed, it is sent to the President of the Democracy to promulgate and publish it in the Gazette of the Government (*Efimerida tis Kyberniseos*). In accordance with Article 28 of the Constitution, generally acknowledged rules of international law and international conventions that have been ratified by statute and have entered into force in accordance with their respective provisions form an integral part of domestic Greek law and take precedence over any provision of law that contradicts them.

319. Delegation of legislative power is generally allowed, unless the Constitution provides for a situation where a Law (*Nomos*) is required. The most significant form of delegation is the Presidential Decree (*Proedriko Diatagma*). It is based on statutory delegation and it is issued after a ministerial initiative. It is also published in the Gazette of the Government. A draft has to be checked by the Council of State (*Symboulia tis Epikrateias*). The Parliament may also delegate power to the executive. Thus, Ministers of the Government issue Ministerial Decisions under the requirement of consequent ratification by the Parliament. In urgent cases when legislation is needed, the President of the Republic, following a Governmental proposal, issues acts of legislation (*Praxeis Nomothetikou Perioxomenou*), again under the requirement of consequent ratification by the Parliament. Finally, Article 43.2 of the Constitution sets out that “delegation for the purpose of issuing regulatory acts by other administrative organs (such as the BOG and the HCMC) shall be permitted in cases concerning the regulation of more specific matters or matters of local interest or of a technical and detailed nature” (see Annex 6 of the Report for further details on the hierarchy of norms in Greece).

320. Article 4.9 (b) of the AML Law states that: “Decisions of the supervisory authorities of credit institutions and financial organisations may specify details, including, but not limited to, the following: i) the criteria to be applied for determining whether a transaction is likely to be related to money laundering and terrorist financing; ii) more specific information and data to be required from customers for the purpose of identification or transaction verification; iii) additional responsibilities of such institutions or organisations for ensuring more

force and effect in the period immediately following the on-site mission. While this period is not precisely fixed, it would not normally extend beyond a date two months after the on-site visit. Information relating to significant new AML/CFT initiatives after this period should only be referenced by footnote ». A draft copy of Rule 23/404 was made available to the assessment team at the end of the on-site visit which took place the second half of November 2006. It was officially published in the Government Gazette on 11 December 2006 and by virtue of Article 18.2 entered into force on 1 March 2007. The entering into force took place after the two month rule as described above.

effective compliance with the provisions of this law; and iv) who and how shall perform the relevant checks and controls". This applies in particular to the BOG, the HCMC and the HPISC. Article 4.9 (b) of the AML Law gives the "Competent Authorities" the power to issue regulations and/or comprehensive guidelines. However, it should be noted that only the BOG (and after the on-site visit, the HCMC) has issued further requirements under the new legislation.

321. With regard to the enforceability of the provisions adopted by these competent authorities, Article 4.14 (a) of the AML Law provides that "*without prejudice to any specific provisions of the legislation in force, in the event of non-compliance by a SI with the requirements arising from this Law or from regulatory provisions issued by competent authorities, sanctions should be imposed on SIs by a decision of the respective supervisory authority*". The circulars and other provisions issued by the competent authorities (except for those of MOD/ID) are treated as enforceable with sanctions for non-compliance.

322. As set out in the Methodology for Assessing Compliance with the FATF 40 + 9 Recommendations, certain essential criteria applicable to financial institutions (and/or DNFBP) are basic obligations and need to be set out in law or regulation, while the remainder should be required (at a minimum) by other enforceable means³⁴. The BOG has recently issued new AML/CFT requirements under Annex 4 to the Governor's Act 2577/2006. The Governor's Act also deals with the requirement to establish internal systems and controls for AML/CFT, and a number of other non-AML/CFT issues. Although Annex 4 is not specifically referred to in the Governor's Act, it was made under the general provisions of the Act, by the Department for the Supervision of Credit and Financial Institutions of the BOG, which may also adjust the requirements of the Annex from time to time, as it sees fit. Annex 4 imposes mandatory requirements with sanctions for non-compliance, and for the purposes of this report, the requirements of Annex 4 are treated as "other enforceable means".

323. The Rules and Circulars issued by the HCMC (prior to those coming into force on 1 March 2007) were not issued under the new AML Law, but under the general powers given to the HCMC, such as Article 78 of the HCMC Law. The 1995 AML legislation itself is fairly vague on the exact scope of rule-making powers given to authorities such as the HCMC. Circulars such as 108/97 impose mandatory requirements with sanctions for non-compliance and are considered as "other enforceable means" for the purposes of this report. Although the MOD/ID has issued two Circulars, these were not issued pursuant to the AML legislation, they do not contain specific sanctions, and since 1997, the MOD has not conducted AML/CFT inspections of insurance companies, has not applied any sanctions, and does not appear to have been acting as the supervisory body for AML/CFT purposes. Accordingly, this report treats the Circulars issued by the MOD/ID as not enforceable and as amounting to non-binding guidance which is neither *law*, *regulation* nor *other enforceable means* as defined by the FATF.

Customer Due Diligence & Record Keeping

324. The BOG adopted the Governor's Act 2577/2006 Annex 4 on 13 October 2006 on prevention of the use of the financial system for the purpose of ML and TF. As there was little time between when the revised provisions came into force and the November 2006 date of the on-site visit for Greece's mutual evaluation, it was difficult to ascertain that there had been effective implementation of those provisions pertinent to many of the essential criteria of Recommendations 5, 6, 7 and 8.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

Description and Analysis

³⁴ See C.5.2 of the Methodology on when CDD is required; C.5.3 on required CDD measures; C.5.5 and C.5.5.1 on the identification of beneficial ownership and C.5.7 on ongoing due diligence. See as well some requirements under Rec. 10 and 13.

325. Articles 4.1 to 4.7 of the AML Law set out the general requirements for customer identification and record keeping. Not all of the requirements of Recommendation 5 are covered.

326. For the sake of completeness, the following sections set out the requirements of the AML Law and any additional regulation issued by the relevant competent authorities.

Recommendation 5

Anonymous accounts and fictitious names - numbered accounts

General

327. The AML Law contains no explicit prohibition on keeping anonymous accounts or accounts in fictitious names. More generally, the legal requirements and regulatory guidance require that SIs covered by the AML Law (Article 4) and related supervisory Circulars identify customers and beneficiaries and keep records of such documentation for at least five years.

BOG

328. BOG 2577/2006 Annex 4 Chapter 1.1 sets out that credit and financial institutions (supervised by the Bank of Greece) should not open and keep secret, anonymous and numbered accounts or accounts in fictitious names or accounts without the owner's full name. The Bank of Greece informed the evaluation team that the existence of anonymous or numbered accounts had not been discovered during on-site supervision visits. Representatives of the banking industry told the evaluation team that anonymous and numbered accounts have not, in practice, been used for many years.

When CDD is required

329. Article 4 of AML Law requires "SIs" to conduct CDD, mainly customer identification, in the following circumstances:

- a) "when entering into contracts in the context of any business relation" particularly when opening deposit accounts, providing safe custody services, rental of safe deposit boxes, and granting mortgage loans (Article 4.1).

BOG/HCMC & MoD/ID

Similar provisions exist in the guidance issued by each competent authority, but for insurance companies, Circular K3-9563 only requires customer identification when annual premium payments exceed EUR 1,000 per annum, or EUR 2,500 if paid in one lump sum (this is treated as guidance).

- b) for transactions that equal or exceed EUR 15,000 conducted in a single operation or in several operations which seem to be linked.

BOG/HCMC

BOG 2577/2006 Annex 4 Chapter 1.2 appears to limit this requirement to those "carried out in a single transaction or in several operations which are performed on the same day or refer to the same legal relationship". A similar provision is contained in Article 2 of HCMC 108. It is not clear what "the same legal relationship" means, although the BOG explained to the evaluation team that it considers this to include deposits into the same account or involving the same person or legal entity, and that the text is considered to be guidance that complements the provisions of the AML Law. This provision and the

inclusion of a reference to same day transactions could be interpreted as limiting the requirements of the AML Law, and clarification would be beneficial. Chapter 1.2 contains a general provision that SIs should be able to detect whether a transaction has been carried out in several operations.

In practice, remittance firms (especially those who are part of a larger group) have set company limits (usually around EUR 1,000) above which identification should be carried out, and automated systems which preclude transactions over a certain limit per customer per day. BOG 2577/2006 Annex 4 would, therefore, appear to not reflect current industry practice. Moreover, adherence to it by an SI might limit the effectiveness of the provision in the AML Law.

The BOG informed the evaluation team that, in practice SIs subject to its supervision ask customers for ID for transactions under EUR 15,000 and record details of the customer's name on the bank receipt. This enables SIs to trace connected transactions. It is not clear how SIs co-ordinate this information centrally to ensure that receipts are reconciled if, for example, a customer makes several transactions in different branches.

- c) the combination of Articles 4.1 and 4.7 require general identification of customers for wire transfers above EUR 15,000 or lower than EUR 15,000 if competent authorities decide that a lower threshold is appropriate. No lower threshold has been specified. The account number is required to be included for transfers from a deposit-based account. BOG 2577/2006 Annex 4 Chapter 8 repeats this requirement. There is no specific requirement to include a unique identifier in the absence of an account number.

In effect, until 1 January 2007 when the EU Regulation covering wire transfers entered into force (see Section 3.5 and analysis in relation to SR.VII), identification was not explicitly required for one-off wire transfers unless they were over the EUR 15,000 threshold. This was an important gap in the AML Law which was of particular significance to firms undertaking remittances. As discussed above, some remittance firms had set company limits above which identity must be verified, but this was a matter of parent company policy, as opposed to a direct interpretation of the AML Law.

- d) Article 4.6 of the AML Law requires client identification where there is "serious suspicion of money laundering" (according to the translation given to the evaluation team). "Serious suspicion" is not defined, but implies a higher standard of proof than mere suspicion. The Bank of Greece has suggested that the correct translation is "serious indication", and that any indication of suspicion triggers the identification requirement. The evaluation team considers that neither translation suggests that **any** suspicion should trigger the identification requirement, only "serious" suspicions or indications. In any event, clarification in the AML Law would be beneficial. This part of the AML Law does not appear to extend to terrorist financing.

HCMC

HCMC Rule 108 paragraph 6 requires proof of identity "in every case there is a certain doubt that we have legalisation of revenues obtained from illicit activities". This appears to extend the requirement to take evidence of identity in cases where illegal proceeds are used for terrorist financing (though not if legitimate funds are used), and imposes an extremely high threshold of "certain doubt".

The combination of a high threshold and the apparent absence of terrorist financing from the provisions would appear to be an unnecessary restriction on this part of the AML Law, and could result in inconsistent application of the provisions by the regulated community.

- e) There is no direct requirement in the AML Law for financial institutions to conduct CDD when they have doubts about the adequacy or veracity of previously obtained information. A limited indirect requirement is imposed by Articles 4.2 and 4.3 of the AML Law which states that when a prospective client acts on account of a third party or when there are doubts that they act on their own account, or if the SI knows that they are acting on account of another person, reasonable efforts have to be made to collect information on the identity of that other person. Doubts remain as to how far in practice these provisions are interpreted as requiring CDD to be undertaken, and thus clarification in the AML Law would provide certainty.

BOG

BOG 2577/2006 Annex 4 Chapter 1.9 contains a specific provision to review customer identity information “when there are doubts about their veracity”.

330. The evaluation team was informed by representatives from different sectors of the financial services industry that requesting identity information was often viewed as intrusive by customers in Greece. Some representatives felt that a cultural change in attitude was needed before the requirement to take evidence of identity was more widely accepted. The Hellenic Bank Association has produced a useful leaflet aimed at informing consumers about why banks are obliged to request identity information, and HCMC reports that it has included similar information on its redesigned website. Measures such as this should be encouraged.

Exemptions from CDD requirements

331. The AML Law removes the requirement to perform customer identification or makes it optional for the following customers (Article 4.4 and 4.5 of the AML Law):

- Insurance contracts where the annual periodic premium payments do not exceed EUR 1,000 or in the case of a single lump sum payment of EUR 2,500 or less;
- Pension insurance contracts established under employment contracts or professional activity of the insured on condition that such pension contracts cannot be surrendered or used as collateral for loans.
- When the contracting party is a credit or financial organisation as defined under the AML Law (covered institutions), a legal person where the government owns 51 percent or more, or a legal person governed by public law.

Required CDD measures - natural persons

General

332. Article 4.1 of the AML Law requires SIs to obtain evidence of identity of customers, based on “identity card, passport or any another official document, evidencing current home address, occupation, and business address of the counterparty.” There is no current guidance indicating which identification documents should not be used due to the risk of forgery, e.g. driver’s licence, but in practice SIs appear to obtain a range of information to identify natural persons.

BOG

333. Annex 4 of Governor’s Act 2577/2006 has developed further guidance on customer identification especially with regard to the identification of natural persons (Chapter 1.3). Supervised institutions should require the customer to provide identification documents that are difficult to be forged or obtained illegally, regardless of the bank account or services concerned. Without prejudice to the specific information required for high-risk categories (Chapter 2), the minimum particulars required and the documents verifying them are as follows:

Natural Persons

<i>IDENTIFICATION PARTICULARS</i>	<i>IDENTIFICATION DOCUMENTS</i>
<ul style="list-style-type: none"> • Full name and father's name • ID number or passport number • Issuing authority • Customer's signature specimen 	<ul style="list-style-type: none"> • Identity card issued by a police authority • Valid passport • Identity card of persons serving in law enforcement agencies and the armed forces
Current address	<ul style="list-style-type: none"> • Recent utility bill • Lease agreement certified by an internal revenue office • Tax clearance certificate issued by the internal revenue service • Valid stay permit
Occupation and current occupational address	<ul style="list-style-type: none"> • Employer's certificate • Tax clearance certificate issued by the internal revenue service • Copy of the last payroll slip • Self-employment start-up declaration • Occupational identity card • Certificate issued by a social security fund
Taxpayer's identification number	<ul style="list-style-type: none"> • Tax clearance certificate issued by the internal revenue service

334. BOG 2577/2006 Annex 4 Chapter 2.4.1 provides specific guidance for the identification of non-residents' accounts (Chapter 2.4.1), since these accounts are identified as higher risk. Customers having their usual residence abroad are subject to the same information requirements and identity verification procedures as those who live permanently in Greece, and enhanced measures (such as checking with an embassy or consulate) are required if doubts about identity arise.

HCMC & /MoD/ID

335. HCMC Rule 108 additionally requires SIs to obtain details of address, profession and business address and MoD/ID Circular K3-9563 provides guidance to the same effect.

Required CDD measures - legal persons

General

336. The AML Law does not specifically require identification and due diligence for legal persons, whether companies, foundations etc. Article 4 of the AML Law only provides a general requirement that, when a customer is acting for another, the client must also "prove the identity of the third person as well, either natural or legal". This does not strictly impose a requirement to verify that the person is authorised to act on behalf of the customer.

BOG

337. BOG 2577/2006 Annex 4 requires that the following information be collected concerning the identification of legal entities:

S/N	Legal entities
1.	<p>Sociétés anonymes and limited liability companies: The Sociétés Anonymes & Limited Liability Companies Issue of the Government Gazette where a summary of the charter of the société anonyme or limited liability company was published, including:</p> <ul style="list-style-type: none"> • the name, registered office, object, number of directors (for Sociétés anonymes) and names of administrators (for limited liability companies); • the names and identity particulars of the company's representatives and their powers; • the number and date of the decision of the authority that approved the formation of the société anonyme or the registration number referred to in Article 8(1) of Law 3190/1955 "Limited Liability Companies"; • Government Gazette issues in which any amendments to the charter in connection with the above particulars were published; and

	<ul style="list-style-type: none"> • the identity particulars of the legal representatives and all persons authorised to operate the company's account.
2.	Partnerships: <ul style="list-style-type: none"> • certified copy of the original partnership agreement that has been filed with the court of first instance, including any amendments thereto; and • the identity particulars of the legal representatives and all persons authorised to operate the company's account.
3.	Other legal entities: <ul style="list-style-type: none"> • their establishing documents, certified by a public authority; and • the identity particulars of the legal representatives and all persons authorised to operate the company's account.

338. Supervised institutions must take any reasonable measure to obtain information as to the real identity of the persons on behalf of which customers act, even if they have not stated that they are acting on behalf of another person, but there is reasonable doubt as to whether they are acting on their own behalf or it is certain that they are acting on behalf of someone else. In the case of joint accounts, before conducting any transaction through the account concerned, the supervised institutions must identify every co-owner according to the above procedures. Likewise, if someone wishes to open an account for a third person, the third person must be identified before conducting any transaction through the account.

339. BOG 2577/2006 Annex 4 contains additional CDD requirements for opening accounts for companies with bearer shares and for offshore companies. For offshore companies identification of the natural persons controlling them is required as well as the verification of the identity of the natural persons who are the beneficial owners of and/or control the other company. To identify the beneficial owner, SIs require the legal representative of the company to submit a declaration and certified copies of confirmation of the beneficial owners' identities. Chapter 2.4.4 provides a definition of "beneficial owner" and ultimate control. If the data collected are not enough to certify and verify the identity of the natural persons that control the company (paragraphs 2.4.3 and 2.4.4), no accounts must be opened and no transactions carried out. However, by way of derogation, supervised institutions may allow the verification of their identity to be completed during the establishment of the business relationship if this is necessary in order not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing.

HCMC

340. For securities firms, HCMC Rule 108 does not provide specific customer identification guidelines to the securities sector with respect to legal persons and arrangements. HCMC Circular 8/2002 only requires securities firms to take reasonable measures to identify third parties, including for offshore companies. It does not say what specific information should be obtained.

MoD/ID

341. MOD/ID Circular K3-9563 for insurance companies contains some guidelines for SIs to establish the identity of natural persons representing the legal entity, as well as the underlying legal entity itself. As far as the MOD/ID Circular is concerned, these include: for *Sociétés Anonymes* (SA companies) and limited liability companies: (i) copy of the Government Gazette with summary of articles of association, company name, registered office, objects of company, number of directors (for *Sociétés Anonymes*); (ii) name of administrators (for limited liability companies); (iii) name of persons with power to legally bind the company; and (iv) the number and date of the decision authorising incorporation or registration of the company. In addition, a copy of the published Government Gazette is required showing any changes to this information. There is no specific requirement to obtain original or certified copies of the memorandum and articles of association, incorporation certificate, place of business (where different from registered office), telephone and fax numbers, a copy of the resolution authorising the opening of the account or business relationship, power or authority for the person(s) to bind the company or operate the account.

342. The AML Law and the guidance issued by the competent authorities do not contain express provisions requiring proof of authorisation to bind the legal person concerned.

343. In practice, banks report that verification of the identity of legal representatives is carried out by their legal departments, and that satisfactory completion of this verification is a pre-requisite to open and operate an account. The legal department starts by consulting the relevant issue of the Government Gazette which contains details of incorporation of certain types of company. However, doubts remain as to how far a supervised institution is able to verify information relating to legal persons such as companies with bearer shares, and where the practice in Greece is to record shareholder details (if any are maintained) in registers retained by the companies themselves. Banks spoken to by the evaluation team acknowledged that this was a difficult area and would benefit from further guidance.

Required CDD measures – Partnerships

General

344. The AML Law contains no specific provision for identification and due diligence for partnerships.

BOG/HCMC & MOD/ID

345. BOG guidance contain requirements for customer identification for partnerships which include the submission of a certified copy of the original partnership agreement filed with the competent court (Court of First Instance), as well as any subsequent amendments. The MOD/ID Circular, which also mentions partnerships, is silent on the requirement to identify each of the individual partners under procedures for natural persons. Annex 4 of Governor's Act 2577/2006 additionally requires identification of the legal representatives and the natural persons authorised to operate the company's account. In practice, the banking industry requires one or more of the partners to attend at a branch and to produce the relevant documentation, which is verified by the bank's legal department.

Required CDD measures - legal arrangements

General

346. There are no specific CDD requirements or guidelines in the AML Law, HCMC or MoD/ID Circulars/guidelines in relation to trusts, professional intermediaries, and other arrangements. While some of these (e.g. trusts) may not generally be a feature of Greek law or practice, they would be relevant to business relationships with non-Greek clients, particularly from common law jurisdictions.

BOG

347. For other legal entities, Annex 4 of Governor's Act 2577/2006 requires financial institutions to obtain the establishing documents, certified by a public authority, and the identity of the legal representatives and the natural persons authorised to operate the company's account.

Identification of beneficial owners

General

348. Article 4.2 of the AML Law requires financial institutions to identify (in addition to the contracting or transacting person) third parties on whose account they are acting, whether the third party is a natural or legal person. Identification and verification of information should also take place even when the contracting or transacting party does not declare, but it is known or suspected that they are acting on behalf of another person. In

such cases the financial institutions should take reasonable measures to obtain information about the real identity of the persons for whose account the contracting parties act. Similar provisions are contained in BOG 2577/2006 Annex 4, the MOD/ID Circulars and HCMC Rule 108/Circular 8 and MOD/ID K3-9563/6955.

349. While in practice supervised institutions are aware of the requirement to ascertain whether a prospective client is acting on behalf of another, account opening documentation generally does not require a specific declaration or statement by prospective customers on whether they are acting for another.

BOG

350. BOG 2577/2006 Annex 4 specifically requires beneficial ownership to be established only when an account is opened for a company with bearer shares or for accounts with offshore companies. Chapter 2.4.4 provides a definition of beneficial owner and requires financial institutions not to carry out the transaction where identification cannot be carried out. Beneficial owner is defined as:

- the natural person(s) who ultimately control(s) a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25% plus one share shall be deemed sufficient to meet this criterion;
- the natural person(s) who otherwise exercise(s) control over the management of a legal entity.

The BOG additionally considers that Annex 4 Chapter 2.7, which requires SIs to adopt a customer acceptance policy means, in practice, that SIs will not establish business relationships where the structure of a legal entity is so complex that CDD cannot be performed adequately.

351. In practice, banks reported that verification of the identity of the shareholders owning more than 20% of bearer shares of a company is carried out by their legal departments and that satisfactory completion of this verification is a pre-requisite for authorisation to operate and open an account. It is, however, difficult to see how the above provision will be met in practice, given the practical difficulties of establishing ownership of a company with bearer shares. The banks spoken to by the evaluation team would welcome any initiative that could provide the ability to rely on third parties (e.g. tax authorities, lawyers, official representatives of the company, chartered accountants, external auditors) in order to meet the requirements of establishing the identity of shareholders of a company with bearer shares. More recently, the Bank of Greece reports that SIs have identified specific cases of concern, where they have established beneficial ownership for existing customers.

HCMC

352. HCMC provided an advisory letter to its supervised institutions on 18 July 2006, reminding them of the obligation to collect documentation related to the identification of the ultimate beneficial owner, in case the contracted or dealing person acts on account of another person or legal entity and especially on account of an offshore company or a trust.

MOD/ID

353. MOD/ID circular K3-6955 contains guidance for SIs to identify the natural persons which directly or indirectly control companies on whose behalf a contracting party acts. No further guidance is given as to how this should be carried out. The MOD/ID circulars contain no express provision to identify the beneficiary of an insurance contract.

354. Other than the above criteria, there is no comprehensive requirement to identify a beneficial owner within the meaning of the FATF Recommendations (i.e. the natural person(s) who ultimately owns or controls a customer

and/or the person on whose behalf a transaction is being conducted, and incorporating those persons who exercise ultimate effective control over a legal person or arrangement). As defined in the FATF Recommendations, the term beneficial owner captures both the notion of equitable ownership, as well as the notion of a person exercising ultimate ownership and control over a legal person or arrangement. It is not clear how, in practice, SIs can be satisfied that they have a full understanding of the ownership structure of a company, and SIs spoken to by the evaluation team acknowledged that this was a difficult area, especially where companies with bearer shares are involved.

Purpose and intended nature of the business relationship

General

355. There is no specific requirement in the AML Law for obtaining information on the purpose and nature of the account or business relationship.

BOG

356. Financial institutions supervised by the BOG are required to develop and apply a customer acceptance policy and procedures that must take into account such factors as the customer's profile, country of origin, expected amount and nature of transactions, as well as the expected source of funds (Chapter 2.7 of Annex 4 of Governor's Act 2577/2006). In addition, "the reason of the transaction" and "the expected source of funds" are listed as parameters for determining the risk profile of customers (Chapter 2.2).

357. In practice, adherence with these relatively new requirements is varied, with one bank confirming that this information is really only collected at present for marketing purposes. One representative from the securities industry felt that, culturally, it was difficult to persuade clients to reveal why they are carrying out transactions, as clients considered this to be intrusive.

Ongoing due diligence

General

358. AML Law Article 4.9.a.(iii) imposes a requirement on SIs to verify the consistency of transactions carried out with the customer's overall profile, but no further guidance is given as to how this should be done, and there is no mention of the need to consider source of funds, or for keeping CDD information up to date.

BOG

359. BOG 2577/2006 Annex 4 Chapter 1.9 sets out requirements for ongoing monitoring of accounts and transactions. Supervised institutions must ensure that their customer's identity remains fully updated throughout the existence of the business relationship. In this connection, they must review on a regular basis, or when there are doubts about their veracity, the data in their possession, especially those that concern high-risk customers (Chapter 2). If any difficulties arise during the updating process, they should consider terminating the business relationship and/or reporting the case to the FIU. Where a "steady and lasting business relationship" has been established, transactions shall be compared and assessed in order to identify any divergence from the customer's profile and his expected transactions. Any transactions that cannot be explained by the existing information relating to the customer should be further scrutinised so as to determine whether there are any suspicions of money laundering or terrorist financing.

Risk

General

360. There is no explicit requirement in the AML Law to perform CDD based on the risk profile of customers. The authorities, with the exception of the BOG, have provided only limited guidance to assist SIs in conducting CDD on a risk sensitive basis. In practice, SIs seem to have a very limited view of the types of high-risk customers, products, and business sectors in Greece for ML/TF. The insurance sector considers itself as very low risk in terms of money laundering. Several sectors of the industry expressed a desire to obtain greater feedback and guidance from the competent authorities and FIU to enable them to gain a greater understanding of where the major risks lie.

BOG

361. Annex 4 of Governor's Act 2577/2006 introduces a risk-based approach for customers and/or transactions, albeit with certain elements of prescription. Three levels of risk are considered: low, normal and high. The classification must be accompanied by the corresponding CDD measures, ongoing monitoring and audits, which are diversified by customer and/or transaction category, so that financial institutions may decide whether or not to terminate the business relationship. The assessment and classification system should indicatively take into account the following parameters: the ultimate owner or beneficial owner; the kind of shares; the customer category; the reason for the transaction; the country of origin and destination of the funds; divergences from the customer's transaction behaviour; the nature of business transactions; and the expected source of funds.

362. By 31 May 2007, supervised institutions are required to adopt adequate IT systems and effective procedures for the ongoing monitoring of accounts and transactions, in order to detect, monitor and assess high-risk transactions and customers. The BOG Governor's Act Annex 4 sets out further indicative measures for implementing a risk management system:

- Assessment of the risk facing the financial institution (transactions structure, review of basic clientele, regions of activity, procedures, products, distribution networks and organisation);
- Recording and identification of customer, product and transaction-specific risks, using the expertise and techniques applied in the banking sector. The expertise required is obtained and updated on the basis, inter alia, of the international typology of suspicious events (including the relevant typology which the Bank of Greece Department for the Supervision of Credit and Financial Institutions requires on a minimum basis and periodically communicates to financial institutions), assessment of press articles, analysis of suspicious events that the institution becomes aware of and exchange of experience with the AML/CFT Compliance Officers;
- Development, through electronic data processing, of adequate parameters based on the results of the financial institution's risk analysis;
- Review and further development of preventive measures, taking into account the results of risk analysis.

363. Risk analysis should be made comprehensibly in writing. Procedures shall determine the degree of CDD according to the respective risk grade.

364. The evaluation team formed the impression that there is unease amongst SIs about how the BOG will supervise firms' implementation of the risk-based approach, although it is acknowledged that the new provisions had just come into effect. It is hoped that the BOG will take steps to publicise the general principles of its supervisory approach, as failure to do so could lead to a cautious approach, which would not necessarily concentrate SIs' efforts on the areas of greatest ML/TF risk.

Risk - enhanced CDD

General

365. The AML Law does not contain any specific provision relating to enhanced customer due diligence for higher risk categories of customer, business relationship or transaction.

BOG

366. BOG 2577/2006 Annex 4 Chapter 2 contains guidelines that require enhanced due diligence/monitoring for certain types of transactions and customers. These include:

- Non-residents' accounts;
- Accounts of politically exposed persons from third countries (i.e. non-EU);
- Accounts of companies with bearer shares;
- Accounts of offshore etc. companies;
- Accounts of non-profit organisations;
- Portfolio Management Accounts of important clients;
- Non-face to face transactions;
- Cross-border correspondent banking relationships with respondent institutions from third countries (i.e. non-EU);
- Countries which do not comply adequately with the FATF recommendations.

367. Specific additional customer identification and record-keeping requirements apply to each of these categories, except PEPs for which the general requirements for higher risk customers apply.

368. Firms are required to scrutinise high-risk accounts, according to the inherent risk, in order to decide whether or not to maintain them. The employee in charge of monitoring the account is required to prepare a brief report stating the results of the review and send it to the AML/CFT Compliance Officer. The AML/CFT Compliance Officer is, in turn, required to submit a report to the financial institution's management for approval (Chapter IV A3 of Bank of Greece Governor's Act 2577/2006).

369. In practice, the industry has already developed its own categories of client/account where higher levels of due diligence are performed, often for reasons wider than AML/TF (e.g. fraud, credit risk etc.) At the time of the on-site visit the banks were revising their customer acceptance policies to take into account the new provisions.

MOD/ID

370. MOD/ID Circular K3-6955 sets out information on enhanced monitoring of transactions with counterparts on the FATF NCCT list. It is, therefore of little current use.

HCMC

371. HCMC Circular 8 also requires securities firms to pay special attention to transactions with counterparts from countries listed by the FATF as NCCTs and additionally provides a short list of 11 examples of potentially suspicious transactions.

372. The MOD/ID & HCMC guidance is silent on the type of additional identification and "know-your-customer" measures to be taken by financial institutions for a higher risk operation or customer.

373. BOG 2577/2006, HCMC Circular 8 and MODID Circular K3-6955 allow SIs to exempt (List of Exceptions) certain clients and transactions from enhanced monitoring where such customers are known to routinely engage in transactions that would otherwise attract special attention, as defined in the guidance. For such exempted customers only normal due diligence is required. For insurance and securities companies, this exemption applies to transactions with counterparts in the FATF NCCT list, and is thus of little current value.

Risk - reduced or simplified CDD

General

374. Article 4.4 of the AML Law provides a derogation from the requirements to conduct customer identification for insurance contracts where periodic payments do not exceed EUR 1,000 per annum or in the case of a single lump sum payment of EUR 2,500 or less, and for insurance policies linked to occupational pension schemes or to the insured's occupation, provided that such policies cannot be surrendered or used as collateral for a loan. This provision does not distinguish between domestic and overseas clients and the wording suggests that the identification requirement "shall not apply" i.e. that evidence of identity is not required, rather than it being optional.

375. Article 4.5 of the AML Law sets out that when the contracting party is a credit institution or financial organisation as defined under the AML Law (covered institutions), an entity where the government owns 51 percent or more, or a government entity (public law entity), customer identification requirements are optional. However, it does not distinguish between domestic or foreign institutions. It is unclear whether this exemption applies to credit or financial institutions situated in a third country which imposes, in the opinion of the relevant Member State, equivalent requirements to those laid down by the EU Anti-Money Laundering Directive.

376. The current exemptions mean that, rather than reduced or simplified CDD measures, customer identification measures are at best optional for these cases. Although the provision in Article 4.5 is permissive, there is currently no guidance as to how to use it on a risk-based basis. This is an overly broad exemption from the CDD requirements.

377. Article 4.6 of the AML Law states that an identity check must always be performed when there is "serious suspicion" that a transaction may constitute money laundering, and therefore simplified CDD would not be acceptable. No equivalent measure exists for transactions potentially linked to TF.

BOG

378. BOG 2577/2006 Article 2.5 contains a provision that supervised institutions "shall" perform simplified due diligence when the company requesting the opening of an account or its parent company (if any), has bearer shares provided that one of the following conditions is met (unless there are suspicions of ML/TF):

- the customer is a listed company whose shares are traded into a regulated market; or
- the company operates as a collective investment undertaking established in a country with an adequate regulatory and supervisory framework for such undertakings; or
- the customer is a CI situated in the EU or a third country which imposes requirements equivalent to those imposed in the EU and supervised for compliance with these requirements; or
- the shares or the company itself are controlled by the government or a government organisation.

379. The Bank of Greece suggests that the interpretation of "shall" is permissive, rather than obligatory, and that SIs are free to apply more stringent measures. As it stands, the paragraph could create confusion, and clarification that SIs "may" (as opposed to "shall") apply simplified due diligence in the circumstances set out would be beneficial, as the current drafting could be interpreted as contradicting the other requirements in Annex 4, and would be out of line with Recommendation 5. In addition, the circumstances where simplified CDD is allowed include those where "the company operates as a collective investment undertaking established in a country with an adequate regulatory and supervisory framework for such undertakings." No further guidance is given as to what circumstances a SI should take into account when considering whether such a system is adequate. In any event, it is unclear how this relatively new provision will be applied in practice.

Timing of verification

General

380. Article 4.1 of the AML Law requires identification of counterparties/customers “when entering into contracts in the context of any business relationship”. This also applies to single (one-off) transactions when they equal or exceed EUR 15,000.

381. There is no general provision permitting delayed verification and the use of business facilities before verification of identity is completed.

BOG

382. BOG 2577/2006 Annex 4 Article 1.2 requires SIs to conduct CDD when a customer enters into any contract or carries out any transaction equal to or above EUR 15,000 (in a single operation or several that are effected on the same day). Article 2.4.4 allows a variation in the general rule for accounts of companies with bearer shares and accounts of offshore etc. companies. This allows verification to be completed during the establishment of the business relationship “if this is necessary in order not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist finance occurring”. In these situations CDD is to be completed as soon as practicable and, in any case, within 30 days. The BOG has chosen to apply looser requirements for what they admit are otherwise deemed to be high-risk accounts as there are companies which may have difficulties in providing all the documentation before the account is opened. The BOG considers this deadline to be stricter than the FATF requirement, as it limits the use of the derogation. However, it is unclear how this provision will be applied in practice, as there is no guidance for SIs as to when they can conclude that there is “little risk of money laundering or terrorist financing occurring”. This is contrary to the intention of the recommendation.

HCMC

383. HCMC Rule 108 Article 2 requires SIs to carry out CDD “at the time of the establishment of their contractual relationships with clients” or for every transaction of EUR 15,000 regardless of whether the transaction “is concluded with one or more actions executed in one day or actions executed as a result of the same contractual relationship”. If the value of the transaction is not known at the outset, the SI is obliged to verify identity as soon as the value of the transaction reaches EUR 15,000.

MOD/ID

384. MOD/ID Circular K3-9563 states that CDD is to be carried out for “each contracting party” during the establishment of the insurance contract or for transactions over EUR 15,000. This provision does not expressly include a requirement to identify the beneficiary of the insurance contract.

385. In practice, it appears that no supervised entity permits an account/facility to be used until completion of the CDD process. In particular, banking practice suggests that accounts are not opened until the bank’s legal department has verified identity and has given permission to the branch to open the account.

Failure to satisfactorily complete CDD

General

386. The AML Law contains no specific requirement in relation to steps to take if an institution fails to complete CDD. Article 9.a.(i) specifically reserves the right to make such rules to the relevant competent authority.

BOG

387. BOG 2577/2006 Annex 4 Chapter 1.9 requires SIs to monitor accounts and transactions and to consider terminating customer relationships and report suspicious activity if, when updating CDD information, “difficulties arise”. In addition, if firms are unable to complete the CDD requirements for companies with bearer shares or

offshore companies (including circumstances where delayed verification is permitted), Article 2.4.4 (by reference to General Provision 1(f)) requires SIs to take any other appropriate measure “including not carrying out the business transaction or terminating the business relationship with the customer”, but does not specifically suggest consideration of making a suspicious transaction report. The BOG suggests that “any appropriate measure” includes the submission of an STR. Clarification of this in Annex 4 would remove any uncertainty. Again, it is not clear why the BOG has chosen to apply these provisions to these specific categories of customer. Annex 4 Chapter 2.7 requires SIs to adopt a customer acceptance policy which indicates that “there shall be cases where a business relationship is either not established or terminated, as well as all cases of inadequate data where the structure of the undertaking is so complex that identification is not possible etc.” This again does not impose a specific requirement that an SI should consider making a suspicious transaction report. Discussions with the industry revealed that, in practice, SIs do not permit the use of financial facilities until verification of identity is carried out.

Existing customers

General

388. The AML Law contains no specific provision on identification or CDD for existing customers. In the securities and the insurance sectors, there are no requirements or guidelines on identification or CDD for existing customers.

BOG

389. Annex 4 of Governor’s Act 2577/2006 Chapter 1.9 requires SIs to ensure that their customers’ identity particulars remain fully updated throughout the existence of the business relationship. In this connection, they should review on a regular basis, or when there are doubts about their veracity, the data in their possession, especially those that concern high-risk customers. If any difficulties arise during the updating process, they should consider terminating the business relationship and/or reporting the case to the FIU. BOG Annex 4 Chapter 2.3 requires SIs to put in place “adequate IT systems and effective systems and controls for the monitoring of accounts and transactions, in order to monitor and assess high-risk transactions and customers”. However, this only has to be in place by 31 May 2007.

Recommendation 6

General

390. The AML Law contains no specific provision relating to politically exposed persons (PEPs). In the securities and the insurance sectors, there is no requirement in the regulatory guidance for enhanced due diligence and monitoring for PEPs and other individuals holding prominent public positions.

BOG

391. Annex 4 of Governor’s Act 2577/2006 (Chapter 2.4.2) sets out that the establishment of business relationships with natural persons characterised as “politically exposed persons” may expose financial institutions to risk. Enhanced CDD procedures should apply to politically exposed persons residing in “third countries”. The Bank of Greece has clarified that this refers to non-EU countries only, which they interpret as being consistent with the Third EU Money Laundering Directive. This creates a potential gap in the provisions for dealing with customers who are PEPs.

392. Specifically, Annex 4 suggests that risk arises when the potential customer asking for an account to be opened comes from a country that is widely known as a high-corruption country having AML/CFT laws and regulations that do not meet internationally acceptable standards. This would appear to impose an additional filter on the general requirement to identify PEPs, as it requires some assessment of the level of corruption in individual

countries. It is unclear how Greek institutions will interpret this provision (but the BOG informed the evaluation team that their supervisory experience shows that SIs use for instance the website of the Transparency International Corruption Perceptions Index to assess AML risk).

393. Annex 4 gives the following definition of PEPs: “Politically exposed persons are natural persons that are or have been entrusted with a prominent public function, as well as their immediate family members or the persons known to be their close associates and notably:

- heads of state, heads of government, ministers and assistant ministers;
- members of parliaments;
- members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
- members of courts of auditors or of the boards of central banks;
- ambassadors, *chargés d'affaires* and high-ranking officers in the armed forces; and
- members of the administrative, management or supervisory bodies of state-owned enterprises.

394. None of the categories set out above cover middle-ranking or junior officials. Immediate family members of the persons referred to above include the following: spouse; any partner considered by national law as equivalent to the spouse; children and their spouses or partners; and parents. Persons known to be close associates of the persons referred to above include the following: any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to as a PEP; and any person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set for the benefit de facto of a person referred to as a PEP.

395. SIs are allowed to consider a person not to be a PEP a year after they have ceased to be entrusted with a public function (BOG Annex 4 Article 2.4.2.4). This provision does not override the requirement to consider Enhanced Due Diligence (EDD) measures on a risk-based approach.

396. The EDD requirements for dealing with PEPs appear to extend to an assessment of the risk of corruption in the country concerned. In addition, there is no specific guidance as to what additional CDD measures should be taken once a PEP has been identified.

397. There is no express provision to obtain senior management approval for establishing or continuing with a business relationship with a PEP. Banking industry practice would suggest that such approval is often obtained in line with business risk procedures.

398. The evaluation team was informed that Greece has signed, but not yet ratified, the UN Convention on corruption.

Recommendation 7

General

399. Article 4.5 of the AML Law leaves it to the discretion of banks to require identification of prospective clients that are credit or financial institutions. It does not distinguish between domestic or cross-border institutions. There are also no specific requirements in the AML Law to perform additional CDD measures with respect to cross-border correspondent banking and similar relationships, including for payable through accounts.

BOG

400. BOG Annex 4 2577/2006 Article 2.4.8 requires supervised institutions to treat cross-border correspondent banking relationships as high risk. Specifically, SIs are required to:

- gather sufficient information about the respondent to fully understand the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including information about its ownership, address and regions of activity;
- assess the respondent institution's AML/CFT controls;
- obtain approval from senior management before establishing new corresponding banking relationships;
- document the respective responsibilities of each institution in relation to CDD measures; and
- with respect to payable-through accounts, be satisfied that the respondent credit institution has verified the identity and performed ongoing monitoring of the customers having direct access to accounts of the correspondent that is able to provide relevant CDD data to the correspondent institution, upon request.

401. In order to assess the respondent institution's AML/CFT controls, the Bank of Greece expects supervised institutions to obtain details of the following, in the form of a completed questionnaire, from the respondent before the relationship commences: i) internal control procedures and findings; ii) policy and procedures for independent audit or testing of AML compliance (including frequency of audits, date of most recent audit, names of auditors etc.); and iii) audits by the supervised authority, breaches of regulations and sanctions imposed.

402. In particular, SIs may open correspondent accounts and act as correspondents for SIs operating in non-EU countries under the following condition: the bank that requests the opening of a correspondent account is physically present with a fully staffed office in the country of incorporation, from which it provides real banking services, i.e. the applying bank is not a shell bank. The existence and operation of the applying bank, as well as the regulatory framework to which it is subject, may be verified as follows:

- on the basis of data from the central bank or other competent supervisory authority of the country of incorporation; or
- by a correspondent SI operating in the country of incorporation; or
- by evidence of the applying bank's authorisation to carry out financial and/or banking operations, submitted by the applying bank itself.

403. Although detailed, these provisions apply to correspondent banking arrangements with non-EU countries only. Greece contends that this approach is in line with the requirements of the Third EU Money Laundering Directive. However, for the present purposes this approach is regarded as too narrow and not consistent with the requirements of Recommendation 7.

404. In practice it appears that banks are conducting a degree of due diligence in this area in accordance with international practice. The evaluation team was informed that the due diligence routinely involves review of the national law of the country of the correspondent institution, collection of information such as copies of banking licences, collection of Anti-Money Laundering and Combating Terrorist Financing Questionnaires and research using tools such as the "Bankers' Almanac".

Recommendation 8

General

405. The AML Law contains no provision regarding the need for internal policies within financial institutions to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

BOG

406. BOG Annex 4 2577/2006 paragraph 2.4.7 introduces new requirements for non face-to-face transactions. SIs that provide their customers the possibility to carry out non-face to face transactions, notably when opening accounts (telephone banking, e-banking etc.) must adopt procedures that ensure their compliance with the requirements of the AML Law in relation to the identification procedures, where required. The above requirements on natural persons also apply to companies or organisations that request the opening of an account by mail or through the internet. In order to minimise the risks arising out of the establishment of such a business relationship, SIs shall indicatively apply the following additional identification measures:

- obtain confirmation by a credit or financial institution operating in an EU Member State;
- demand that the first payment within the context of the business relationship be made through an account in the name of the customer kept with a credit institution operating in an EU Member State; and
- take appropriate measures to avoid establishing business relations with companies which the SI has reasonable grounds to suspect of being involved in illegal activities according to the AML/CFT legislation in force.

407. The above measures, although robust, appear, in practice, to limit the ability to open new accounts to applicants with accounts/business relationships with EU institutions, which is a very limited way in which to deal with non-face to face business. In addition, the requirement to adopt procedures in line with the basic customer identification requirements in the AML Law (which, as stated above, imposes less stringent requirements than the CDD requirements in Annex 4) appears to create an inconsistency with the other provisions in Annex 4. However, the BOG informed the evaluation team that SIs are required to comply with the relevant CDD requirements in Annex 4 as well.

408. In practice, the use of the new technology to open accounts is currently limited in Greece, although instructions for share sales and purchases might be sent by e-mail. In the banking sector, customers might be able to view their account history on-line, but not open accounts.

3.2.2 Recommendations and Comments

409. *General.* Not all of the FATF basic obligations are currently set out in law or regulation. Greece should make sure that all such basic obligations are set out in the AML Law.

410. Insurance brokers and agents are not currently included in the scope of the AML Law, and are thus not covered by the CDD requirements. This is an important omission, and Greece should take steps for them to be brought within the scope of the AML law, and thus the CDD requirements.

411. *Recommendation 5.* The current indirect requirements for SIs not to open or maintain anonymous or numbered accounts appear to be working at least partially. However, Greece should consider the effectiveness of the provisions of the general AML Law, and consider an express requirement precluding the opening and maintenance of such accounts.

412. The AML Law does not fully impose a requirement for SIs to conduct CDD in each of the categories in Criterion 5.2 of the Methodology. The Law should be clarified to fully comply with the required elements, where there is a suspicion of money laundering/terrorist financing and where doubts arise as to previously obtained CDD information.

413. The AML Law contains a partial requirement to identify customers acting on behalf of a third party. However, the need to verify whether a customer is authorised to act on behalf of another should be made explicit in the AML Law.

414. The AML Law and guidance issued by the competent authorities on the identification of legal persons, partnerships and other legal arrangements is fragmented, and contains inconsistencies. Greece should ensure that the steps required to be taken by SIs are consistent.

415. The AML Law and guidance in relation to ascertaining beneficial ownership is currently weak. Greece should issue further law/regulations and, where appropriate, industry guidance to clarify SIs' responsibilities, particularly in relation to companies with bearer shares, where the banking industry itself has expressed some doubt as to the effectiveness of current practice. In particular, the BOG guidance appears to require specific measures only when dealing with offshore companies and companies with bearer shares.

416. The requirement to ascertain the purpose and nature of the business relationship, which currently only applies to BOG SIs, should be extended to the securities and insurance sector.

417. The AML Law in relation to the requirement to conduct ongoing due diligence is not clear. A specific requirement should be imposed requiring ongoing due diligence. In addition, clarification of what constitutes a "steady and lasting business relationship" is needed for firms supervised by the BOG.

418. The current Law and guidance in relation to simplified and enhanced due diligence is fragmented. Greece should consider expanding and updating the guidance issued by competent authorities, and consider including more guidance on how to apply the provisions on a risk-based basis.

419. The evaluation team considered there to be a level of unease in the industry over how the BOG will supervise the new elements of the risk-based approach in Annex 4. This could lead to an unduly defensive interpretation of the requirements, and might mean that SIs are not fully engaged in identifying and countering risks. This is compounded by the lack of guidance received from the FIU. The BOG (and the other competent authorities, if and when appropriate) should take steps to communicate their supervisory approach to firms to avoid an unduly cautious adoption of the risk-based approach.

420. Competent authorities should clarify SIs' responsibilities in situations where full CDD information has not been obtained.

421. All competent authorities should clarify what steps SIs should take to apply CDD requirements to existing clients.

422. *Recommendation 6.* The requirement to identify and take relevant enhanced measures in relation to PEPs currently only extends to BOG SIs. The requirement should be extended to all SIs.

423. The BOG guidance on PEPs only partially meets the requirements of Recommendation 6, and should specifically cover PEPs from EU countries as well as non-EU countries, and impose a specific requirement to obtain senior management approval before the business relationship commences.

424. *Recommendation 7.* The BOG provisions in relation to cross-border correspondent banking should be extended to include institutions in EU member states.

425. *Recommendation 8.* The evaluation team was informed that technological developments in the Greek financial services market are not well advanced. Greece should consider the need for further provision to prevent the misuse of technological developments, as the market matures.

3.2.3 Compliance with Recommendations 5 to 8

Rec.	Rating	Summary of factors underlying ratings
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Rec.5	PC	<ul style="list-style-type: none"> • the requirement to conduct CDD does not extend to all sectors of the financial services sector (notably insurance brokers and agents); • the basic obligations, such as when to conduct CDD or measures to identify legal persons are not consistently set out in law or regulation; • there are no secondary and more detailed requirements for the insurance sector; • the duty to conduct CDD is not extended to all of the situations required by the FATF Recommendations, notably where there is a suspicion of money laundering or terrorist financing, and where doubts arise as to previously obtained CDD information; • simplified due diligence measures in the general law appear to be unduly permissive; • there is a lack of clarity in the simplified due diligence measures in the BOG Governor's Act Annex 4; • the law, guidance and industry practice in relation to identifying legal persons is not in line with FATF requirements; • the law and guidance in relation to ascertaining beneficial ownership is fragmented and inconsistent. The obligation for identifying the beneficial owners of legal persons is too limited and there is no obligation to take proactive steps to identify persons who exercise ultimate effective control of the customer; • no obligation to apply enhanced measures for high risk customers in the securities and insurance sectors; • there are only limited requirements to conduct ongoing CDD for firms supervised by the HCMC and in the insurance sector; • allowing a period of 30 days to complete verification of the identity of two categories of high risk customers is not in line with FATF requirements; • there are limited requirements to conduct CDD in respect of existing clients in the AML Law and the securities and insurance sectors; • the requirement to ascertain the nature and purpose of the business relationship is not clearly set out in the AML Law or provisions issued by the HCMC or in the insurance sector; • the BOG measures have just been adopted and there is very limited evidence that AML/CFT measures have been effectively implemented.
Rec.6	NC	<ul style="list-style-type: none"> • the requirement to identify and conduct CDD on PEPs does not extend to the securities and insurance sectors; • BOG Governor's Act applies the requirements relating only to PEPs from countries outside the EU; • the nature and extent of the enhanced CDD measures required for PEPs are not clearly stated; • the requirement to identify a PEP's source of wealth is not explicitly stated; • BOG Governor's Act does not require a SI to obtain senior management approval before setting up a business relationship with a PEP; • the BOG measures have just been adopted and there is no evidence generally that AML/CFT measures have been effectively implemented.
Rec.7	LC	<ul style="list-style-type: none"> • the definition of "cross-border" is too narrow, and excludes EU member states; • the BOG measures have just been adopted and there is no evidence generally that AML/CFT measures have been effectively implemented.

Rec.8	PC	<ul style="list-style-type: none"> • there are no requirements for the securities or insurance sectors; • there is no requirement for SIs to have measures to prevent misuse of technological developments; • the means proposed for dealing with the risks of non face to face business issued by the BOG appears to be limited to customers having an account with a financial institution based in the EU.
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3.3 Third parties and introduced business (R.9)

3.3.1 Description and Analysis

General

426. The AML Law does not contain specific provisions allowing SIs to rely on the CDD conducted by intermediaries or other third parties.

HCMC & MOD/ID

427. The HCMC and MOD/ID guidance do not contain any specific provisions relating to third party reliance.

BOG

428. Annex 4 of Governor’s Act 2577/2006 Chapter 3 introduces new requirements in this area. SIs may rely on intermediaries or other third parties to carry out the customer identification and verification procedure, applying the appropriate CDD, provided that the ultimate responsibility for customer identification and verification remains with the SI relying on such a third party.

429. The drafting reveals some inconsistencies between the prescriptive approach in paragraph 3.3 (i.e. that SIs are obliged to obtain certified copies of CDD information from third parties) and the more general requirement in paragraphs 3.1 and 3.2 that the information merely be made available (paragraph 3.1 for instance states that *the SIs shall take adequate measures to satisfy themselves that copies of identification data and other relevant documentation relating to CDD requirements will be made available by the third party upon request without delay*). In addition, there is a lack of meaning behind the requirement that third parties be subject to AML/CFT regulation and supervision. This in no way obliges the institution to verify the quality of the supervisory regime. In practice, the definition would also exclude the possibility of relying on insurance agents and brokers in Greece to conduct CDD.

430. According to Article 3.2 of Chapter 3 of Annex 4 of Governor’s Act 2577/2006, “third parties” must be situated in third countries where they meet the following requirements: (1) are subject to mandatory professional registration, recognised by law; (2) apply CDD and record-keeping requirements and their compliance is supervised. These requirements are too limitative and there is no reference to an obligation to identify third countries that adequately apply the FATF Recommendations.

431. It is unclear as to whether SIs truly rely on intermediaries to carry out CDD, or whether the situation is more akin to an outsourcing arrangement or some other formal arrangement. This lack of clarity extends to situations involving group companies. The evaluation team was told that some banks do not rely on intermediaries to carry out CDD while others use outsourcing arrangements or some other formal arrangements for the promotion of financial services (mainly consumer loans). These intermediaries collect CDD details and these are always forwarded to the bank before an account is opened. The selection criteria for outsourcing arrangements or any other

formal arrangement is reportedly in compliance with Bank of Greece Governor’s Act 2577/2006 (Annex 1) and the HBA’s Code of Banking Ethics³⁵.

432. In the insurance industry, the absence of brokers and agents from the scope of the AML Law is a potential area of concern, especially bearing in mind the fact that estimates suggest that 85-95% of insurance business in Greece is generated by agents. In practice, the Greek authorities advised the evaluation team that responsibility for CDD is taken by the company concluding the insurance contract.

3.3.2 Recommendations and Comments

433. There is currently some uncertainty within the regulated sector as to whether third parties are being relied upon to carry out CDD, or whether they are strictly being used in an outsourcing context. Greece should review the use of third parties to conduct CDD in all sectors (particularly in the insurance sector and in situations involving group companies).

434. Competent authorities should ensure that any appropriate guidance deemed necessary after considering the operation of third party reliance in the financial services sector covers all sectors where this is practised (particularly the insurance sector).

435. The provisions adopted by the BOG in Annex 4 of Governor’s Act 2577/2006 should be clarified to be fully consistent and in line with the requirements under Recommendation 9.

3.3.3 Compliance with Recommendation 9

Rec.	Rating	Summary of factors underlying ratings
Rec.9	PC	<ul style="list-style-type: none"> • the BOG has introduced specific provisions for third party reliance but they are partially inconsistent and do not address all the requirements under Recommendation 9; • there is no provision for third party reliance in the general AML Law or the HCMC/MOD provisions; • insurance brokers/agents are not covered by the AML Law, and there is lack of clarity over the role they play in the customer due diligence process.

3.4 Financial institution secrecy or confidentiality (R.4)

3.4.1 Description and Analysis

436. Bank deposit secrecy is covered in Law 1059/1971. This provides a general rule that “deposits of any nature with credit institutions shall be secret” (Article 1). However, this does not apply to the Bank of Greece when carrying out its supervisory functions, the judicial authorities or investigating parliamentary committees, and in limited circumstances upon request of the inspector of taxes.

437. Article 2 of Law 1059/1971 imposes a minimum 6 month term of imprisonment for breaches of bank deposit secrecy. This includes Bank of Greece auditors, who also face dismissal. Bank deposit secrecy applies to witnesses in civil or criminal proceedings, even if the depositor consents to the information being disclosed.

³⁵ http://www.hba.gr/English/5publ/index5_en.htm

438. Article 3 provides an exception to the general rule: information on secret cash or other deposits may be provided to a body authorised to institute criminal proceedings or carry out a preliminary, summary or main investigation through a court or judicial council, provided that this information is "absolutely necessary" for the investigation and punishment of a felony. "Absolutely necessary" is not further defined.

439. Article 8 of the AML Law provides a general exemption that disclosure of information on money laundering to the relevant authorities by an employee or director of a financial institution shall not constitute a breach of any restriction on disclosure of information, effectively lifting the bank secrecy provisions for the disclosure of suspicious transaction reports. However, as Article 8 specifically refers only to money laundering, the position in relation to terrorist financing and the other predicate offences is far from clear, leaving the possibility that submitting STRs in these categories could be in breach of Law 1059/1971. In addition, Article 4.13 provides an obligation to provide, upon request, the FIU, the public prosecutor, an investigating judge etc. with information relating to, *inter alia*, money laundering. Again, this provision relates solely to money laundering. Neither provision in the AML Law is specified as overriding Law 1059/1971.

440. The FIU has a power under Article 7.6(b) of the AML Law to provide assistance to foreign FIUs. It is not clear how far this would potentially over-ride the bank secrecy law. The Ministerial Decision of 12 September 2006 imposes restrictions (in Article 12) on sharing data with foreign authorities in circumstances that are not "in line with the basic principles of national law". It is not clear how these provisions work in practice.

441. There are doubts as to the legality of sharing data between the competent authorities and between law enforcement authorities when there does not appear to be any express provision overriding Law 1059/1971.

442. Discussions with industry revealed some concerns about the release of data in relation to wire transfers, and the exchange of information in correspondent banking relationships. It is unclear whether the release of this information constitutes a breach of bank secrecy, although industry practice would suggest that the information is being provided.

3.4.2 Recommendations and Comments

443. Although Greece has provisions imposing bank secrecy, there is uncertainty as to how wide-ranging Law 1059/1971 is, and what its interaction is with the AML Law and other legal provisions. In particular, the provisions lifting bank secrecy in the AML Law appear only to apply to money laundering. These uncertainties could lead to inconsistent application of, for example, the requirement to submit STRs in terrorist financing cases.

444. Greece should therefore consider clarifying exactly when Law 1059/1971 is over-ridden by other statutory provisions, and clarify the provisions of the AML Law on matters such as the scope of money laundering/terrorist financing.

3.4.3 Compliance with Recommendation 4

Rec.	Rating	Summary of factors underlying ratings
Rec.4	PC	<ul style="list-style-type: none"> it has not been clearly shown that bank secrecy has been fully lifted by the AML Law. The AML Law potentially only lifts bank secrecy for STRs in respect of money laundering.

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

3.5.1 Description and Analysis

Recommendation 10

General

445. Article 4.7 of the AML Law, BOG Governor's Act and HCMC Rule 108 require financial institutions to retain records of contracts (business relationships, transactions, deeds and other data) for five years. MOD/ID Circular 9563 makes a similar statement. The AML Law states that the five-year period starts when customer relationships terminate. In the case of transactions, financial institutions are required to maintain such records at least five years following completion of the transaction. Although drafted very generally, the provision in the AML Law is considered to cover most of the essential criteria in Recommendation 10. It is not entirely clear whether the requirement to maintain business correspondence is covered.

BOG

446. Annex 4 of Governor's Act 2577/2006 (Chapter 4) requires FIs to keep records of the contracts and transactions (including the establishing documents of legal entities and the documents empowering their legal representatives, photocopies of identification documents, account files etc.) for a period of at least five years after the business relationship with their customer has ended, in the case of contracts, and the last transaction has been executed, in the case of transactions, unless they are required by law to keep such records for a longer time period.

447. FIs must ensure that they can provide the following information:

- the identity of the owners of the account;
- the identity of the beneficial owners of the account;
- the identity of the persons authorised to operate the account;
- data on the transactions through the account;
- associated accounts;
- the source of funds;
- the currency and amount of each transaction;
- the manner of deposit or withdrawal of funds (cash, cheques, wire transfer etc.);
- the identity of the person who carried out the transaction;
- the destination of funds;
- the nature of the instructions and authorisation given; and
- the type and number of the account involved in the transaction.

448. Data and documentation relating to ongoing investigations must be kept until the FIU confirms that the investigation has been completed and the case has been closed. Such data may also be kept in forms other than the original (e.g. transferred into electronic form).

HCMC and MOD/ID

449. HCMC Rule 108 Article 7 contains a similar record-keeping requirement to the BOG. MOD/ID Circular 9563 states that CDD records should include transaction and customer "identification documents, account files, etc." for the five-year period. In all cases the retention period could be longer if so required by the law, by the FIU, other competent or law enforcement authority.

450. None of the existing regulations applicable to SIs (except to some extent BOG 2577/2006 Annex 4 Article 4.3 on record keeping of data related to ongoing investigations) specifies the manner in which and the place where such records should be maintained (e.g. original copies versus optical or electronic storage; local and offline database versus centralised and online one; etc.).

451. It is not clear in the AML Law (the notion of *respective supporting documents* is rather vague and general) and MOD/ID Circular whether copies of business correspondence are to be maintained, and there is no explicit requirement to ensure that such records are sufficient to create an audit trail and allow for the timely reconstruction of transactions and account activity, to facilitate criminal prosecutions.

452. From discussions with SIs met during the on-site visit, it seems that the five-year retention period is generally observed (due to previous requirements provided for in more general provisions). Nevertheless, the limited or non-existent compliance supervision (in the securities and insurance sectors) does not provide a basis for ascertaining the degree of compliance with this requirement.

Special Recommendation VII

453. As member of the European Union, Greece is bound by the EU *Regulation of the European Parliament and of the Council on information on the payer accompanying transfers of funds* adopted on 15 November 2006 and in force since 1 January 2007.

454. As an EU Regulation, this instrument is directly applicable in Greece. However further implementing measures are required. An appropriate monitoring, enforcement and penalties regime must be implemented and the ability to impose penalties shall apply from 15 December 2007 (see Articles 15 and 20 of the Regulation). In addition, certain derogations need to be clarified.

455. Greece relies on the implementation of the EU Regulation to meet the requirements of SR.VII. Before the adoption of the EU Regulation, Greece had limited provisions to address the requirements with regard to wire transfers. The AML Law and Chapter 8 of Circular 16/2004 set out basic requirements in this area, namely including name, address and account number information in the transfer. Chapter 8 of BOG 2577/2006 Annex 4 also contains some requirements in relation to wire transfers, but the BOG advised the evaluation team that the provisions of Circular 16 in relation to wire transfers remained in place until 1 January 2007. In Greece, bureaux de change and money remitters' activity is regulated in accordance with Bank of Greece Governor's Act 2536/2004 & 2541/2004. Bureaux de change and money remitters are required to conduct the settlement of their transfer activity through bank accounts.

456. The Hellenic Banking Association has notified its members of the existence of the European Payments Council's guidance notes for the implementation of the Payments Regulation. The BOG informed the evaluation team that it had written to all supervised institutions to inform them that the Regulation was in force. In addition, a working group has been established, with representatives from the BOG, HBA and the banks, in order to develop guidance for the implementation of the regulation. It is not clear when this guidance will be available.

Scope and exemptions

457. The EU Regulation shall apply to transfers of funds, in any currency, which are sent or received by a payment service provider established in the European Community. In line with the exemptions set out in SR.VII, the Regulation is not intended to apply to the following types of payment (Article 3.2):

- a. any transfer of funds carried out using a credit or debit card provided that a unique identifier³⁶, allowing the transaction to be traced back to the payer³⁷, accompanies the transfer. Where credit or debit cards are used as a payment system to effect a transfer of funds, this exemption does not apply

³⁶ In the EU Regulation, « unique identifier » means a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or messaging system used to effect the transfer of funds.”

³⁷ In the EU Regulation, “payer” means either the natural or legal person who holds an account and allows a transfer of funds from that account, or, when there is no account, a natural or legal person who places an order for a transfer of funds.

- because it is also subject to the provision that the payee³⁸ must have an agreement with the payment service provider permitting payment for the provision of goods or services.
- b. any transfers of funds where both the payer and the payee are payment service providers acting on their own behalf.

458. Chapter 8 of the BOG 2577/2006 Annex 4 sets out exemptions in line with those established by the EU Regulation.

Threshold

459. The thresholds that apply in the EU Regulation are EUR 1,000 or less. This threshold applies in relation to: (i) the derogation for transfers of funds using electronic money (Article 3.3); (ii) transfers of funds within a Member State in certain prescribed circumstances (Article 3.6); (iii) transfers not made from an account (Article 5.4, see below).

460. Before the adoption of the EU Regulation, identification was not explicitly required for one-off wire transfers unless they were over the EUR 15,000 threshold.

Obtaining originator information

461. Article 5(1) of the EU Regulation requires that payment service providers must ensure that transfers of funds are accompanied by complete information on the payer. Complete information for this purpose is defined in Article 4 as the payer's:

- i. name;
- ii. address / date and place of birth / customer identification number / national identity number; and
- iii. account number or, where this does not exist, his unique identifier which allows the transaction to be traced back to the payer.

Transfers of funds within the Community

462. By way of derogation from Article 5(1), where both the payment service provider of the payer and the payment service provider of the payee are situated in the Community, transfers of funds shall be required to be accompanied only by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer (Article 6 of the Regulation). However, if so requested by the payment service provider of the payee, the payment service provider of the payer shall make available to the payment service provider of the payee complete information on the payer, within three working days of receiving that request. There is no requirement that the information can also be made available to appropriate authorities in the same timeframe.

Maintaining originator information

463. Article 5(5) of the EU Regulation requires the payment service provider of the payer to keep records for five years of complete information on the payer which accompanies transfers of funds.

Verifying originator information

464. Article 5(2) of the EU Regulation requires the payment service provider of the payer, before transferring the funds, to verify the complete information on the payer on the basis of documents, data or information obtained from a reliable and independent source. This requirement is subject to Article 5(3) and (4). Article 5(3) provides for circumstances in which, in the case of transfers from an account, verification may be deemed to have taken place. These are where:

³⁸ In the EU Regulation, « payee » means a natural or legal person who is the intended final recipient of transferred funds.

- i. a payer's identity has been verified in connection with the opening of the account and the information gained by this verification has been stored in accordance with certain customer due diligence and storage obligations prescribed in the 3rd Money Laundering Directive (Article 8.2³⁹ and 30.a)⁴⁰; or
- ii. the payer falls within the scope of the Article in the 3rd Money Laundering Directive (Article 9.6) which provides that Member States must require institutions and persons covered by the Directive to apply customer due diligence procedures to all new customers and at appropriate times to existing customers on a risk-sensitive basis.

465. Article 5(4) provides for circumstances in which, in the case of transfers not from an account, verification of information on the payer is not required – where: (i) the amount does not exceed EUR 1,000; or (ii) the transaction is not carried out in several operations that appear to be linked and together exceed EUR 1,000.

Cross-border wire transfers

466. Article 7(1) of the EU Regulation requires that transfers of funds where the payment service provider of the payee is situated outside the Community must be accompanied by complete information on the payer.

467. Article 7(2) provides an exception to the requirement in Article 7(1) in relation to cross-border batch file transfers but only where these are from a single payer. The effect of this exception is that the cross-border transfer requirement in Article 7(1) does not apply to the individual transfers bundled together within the batch file provided that (i) the batch file contains the complete information; and (ii) the individual transfers carry the account number of the payer or a unique identifier. Therefore, where this exception applies, the requirements for domestic wire transfers must still be met (see below).

Domestic wire transfers

468. In Greece, domestic transfers are conducted through the Interbank Funds Transfer System (DIAS TRANSFER) which uses a unique reference number. Limited provisions applicable to domestic wire transfers in application of SR.VII were in place via Circular 16 until the adoption of the EU Regulation.

469. Article 6 of the EU Regulation provides a derogation for domestic wire transfers from the requirement for payment service providers to ensure that transfers of funds are accompanied by complete information on the payer. Such transfers are only required to be accompanied by the account number of the payer or where the account number does not exist, a unique identifier allowing the transaction to be traced back to the payer.

470. Article 6 also provides that if so requested by the payment service provider of the payee, the payment service provider of the payer must make available to the payment service provider of the payee complete information on the payer within three working days of receiving that request.

³⁹ Article 8.2 sets out : « *the institutions and persons covered by this Directive shall apply each of the customer due diligence requirements set out in paragraph 1, but may determine the extent of such measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction. The institutions and persons covered by this Directive shall be able to demonstrate to the competent authorities mentioned in Article 37, including self-regulatory bodies, that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing.* »

⁴⁰ Article 30.a sets out: “*Member States shall require the institutions and persons covered by this Directive to keep the following documents and information for use in any investigation into, or analysis of, possible money laundering or terrorist financing by the FIU or by other competent authorities in accordance with national law: (a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of at least five years after the business relationship with their customer has ended*”.

471. In addition, Article 14 provides that payment service providers must respond fully and without delay, in accordance with the procedural requirements established in the national law of their Member State, to enquiries from the competent authorities responsible for combating money laundering or terrorist financing concerning the information on the payer accompanying transfers of funds and corresponding records.

Transmission with the transfer of all originator information

472. Article 12 of the EU Regulation requires intermediary payment service providers to ensure that all received information is kept with the transfer.

Technical limitations

473. Article 13(5) requires the intermediary payment service provider to keep records for five years of all information received where technical limitations prevent information on the payer from accompanying the transfer of funds. However there is no further provision which defines or lays out the nature of permissible technical limitations, and this appears to create a potential loophole.

Wire transfers not accompanied by complete originator information

474. Article 8 of the EU Regulation requires the payment service provider of the payee to detect that fields within the messaging or payment and settlement system used to effect the transfer in respect of the information on the payer have been completed in accordance with the characters or inputs admissible within the conventions of that messaging system. Under this Article, the payment service provider of the payee is required to have effective procedures in place to detect a lack of presence of the required information on the payer.

475. Article 9 sets out the obligations of the payment service provider of a payee who becomes aware that the required information on the payer is missing or incomplete and provides that it must either reject the transfer or ask for complete information on the payer and comply with any applicable law, administrative provisions and national implementing measures. Where a payment service provider regularly fails to supply the required information on the payer, this Article also requires the payment service provider of a payee (i) to take steps which may include restricting or terminating the business relationship, and (ii) to report that fact to the authorities.

476. In addition, Article 10 requires the payment service provider of the payer to consider incomplete information on the payer as a factor in assessing whether the transfer of funds, or any related transaction is suspicious, and whether it must be reported, in accordance with the reporting obligations set out in Chapter 3 of the 3rd Money Laundering Directive, to authorities responsible for combating money laundering or terrorist financing.

Compliance monitoring

477. In line with the second paragraph of Article 15, Greece will need to implement measures whereby competent authorities effectively monitor and take any other necessary measures with a view to ensuring compliance with the Regulation. Before the adoption of the EU Regulation, the assessors were advised that the BOG was already monitoring the implementation of the limited requirements under BOG 2577/2006 Annex 4 on cross-border wire transfers as part of its examination exercises (see Section 9 of the BOG Questionnaire for AML/CFT Inspection).

Sanctions

478. The first paragraph of Article 15 provides that Greece must lay down the rules on penalties applicable to infringements of the provisions of the Regulation and take all measures necessary to ensure that they are implemented. It also provides that the penalties shall apply from 15 December 2007. While there are thus no sanctions for non-compliance with the EU Regulation, there are limited sanctions in relation to Annex 4 (see

discussion of Recommendation 17). During the on-site visit, the assessors were advised that Greek credit institutions include full originator information for cross-border wire transfers as a matter of normal practice.

Additional elements

479. The EU Regulation does not address these criteria.

3.5.2 Recommendations and Comments

480. *Recommendation 10.* The provisions on record keeping in the AML Law and in the regulation applicable to the insurance sector should clearly require the retention of business correspondence. Some indications should also be given to SIs on the manner in which and the place where such records should be maintained. The use of electronic records should be encouraged. Guidelines should also further provide additional examples of the types of records to be maintained by sector (e.g., for life insurance policies, mutual fund subscriptions/distribution records, etc) in order to provide more consistency of application across institutions.

481. There is currently no specific requirement to have a proper system of customer and transaction records in order to ensure that recorded information is available on a timely basis to domestic competent authorities. Such a requirement should be clearly stated in all regulations applicable to SIs. Competent authorities have not mentioned any particular difficulty to access customer and transaction records in a timely manner.

482. *SR VII.* Greece relies on the implementation of the EU Regulation on the payer accompanying transfers of funds that is in force since 1 January 2007. The Regulation meets many of the technical requirements set out in SR.VII such as: obtaining and verifying originator information; maintaining full originator information for cross-border transfers; accompanying domestic wire transfers with more limited originator information and made full originator information available within three days; adopting specific procedures for identifying and handling wire transfers not accompanied by full originator information; compliance monitoring and sanctions.

483. However, the EU Regulation classifies wire transfers within the EU as domestic and therefore subjects those transfers to the domestic regime under SR.VII. The underlying EU rationale being that the establishment of a Single Euro Payment Area and the functioning of the Single European Market means cross-border payments within the EU and euro area are considered as if they were to be made within a single domestic area. It has also been argued that European banks are already required by EU provisions to execute cross-border payments in the EU on the same terms as domestic payments⁴¹.

484. The FATF defines domestic transfers as “*any wire transfers where the originator and beneficiary institutions are located in the same jurisdiction. This term therefore refers to any chain of wire transfers that takes place entirely within the borders of a single jurisdiction, even though the system used to effect the wire transfer may be located in another jurisdiction*”. On the contrary, cross-border wire transfers are defined as “*any wire transfer where the originator and beneficiary institutions are located in different jurisdictions. This term also refers to any chain of wire transfers that has at least one cross-border element*”. The assessors believe that the derogation set out in the EU regulation is not in compliance with the FATF requirement applicable to domestic wire transfers and that Article 6.1 of the EU regulation undermines the objectives of the FATF standards in relation to SR.VII⁴². The intention in SR.VII is clearly to establish a distinct regime for the transfers operated nationally (under C.VII.3) where obtaining full originator information (either by the beneficiary institution or by law enforcement authorities) can be done on a timely basis. The cross-border element in a non-domestic wire transfer is perceived as an obstacle for an easy and speedy access to the full originator information. The Greek authorities did not provide any information to demonstrate that full originator information located in one EU country could be provided to the

⁴¹ See Directive 97/5/EC on cross-border credit transfers and EC Regulation 2560/2001 on cross-border payments.

⁴² The FATF decided at the June 2007 Plenary to further consider this subject.

beneficiary financial institution and appropriate authorities in another EU country within the three working days rule as set out in SR VII.

485. In the Greek context, certain actions need to be taken. Firstly, it is essential for the sake of a proper implementation of the EU Regulation that more effort be made vis-à-vis the financial community to raise awareness with regard to the new requirements applicable to domestic (in the FATF sense) and cross-border wire transfers. It is important that the BOG and the Hellenic Bank Association finalise the guidance for the implementation of the regulation. Financial institutions to whom the Regulation applies should adopt effective risk-based procedures for identifying and handling incoming wire transfers that are not accompanied by complete originator information. Given the weaknesses in effective AML/CFT supervision (see conclusions in relation to Recommendation 23), the assessors have doubts about the existence of proper compliance monitoring of credit institutions with the requirements set out in the EU Regulation. Finally, the Greek authorities should adopt effective, proportionate and dissuasive sanctions applicable to infringements of the provision laid down on the EU Regulation. This should be part of the review of the current sanctions regime that is called for in Section 3.10 of the report (in relation to Recommendation 17).

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

Rec.	Rating	Summary of factors underlying ratings
Rec.10	LC	<ul style="list-style-type: none"> • the provisions on record keeping in the AML Law do not clearly require keeping business correspondence; • there are no specific record-keeping requirements or guidelines to ensure that (i) transactions can be fully reconstructed, and (ii) recorded information is available on a timely basis to domestic competent authority.
SRVII	PC	<ul style="list-style-type: none"> • the derogation set out in the EU regulation for wire transfers within the EU (classified as domestic transfers) is not in compliance with the FATF requirements under SR.VII; • there are currently no sanctions for non-compliance with the EU regulation, and the sanctions regime generally is not effective or dissuasive; • in terms of effectiveness, there is insufficient evidence that the Regulation has been properly implemented, including the requirement to have in place effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information, nor is there sufficient evidence of effective compliance monitoring of credit institutions with the requirements under the EU Regulation.

Unusual, Suspicious and other Transactions

3.6 Monitoring of transactions and relationships (R.11 & 21)

3.6.1 Description and Analysis

Recommendation 11

General

486. Paragraph 9.a.(i) of Article 4 of the AML Law provides a broad requirement for SIs to examine with special attention every transaction that, because of its nature or based on evidence regarding the identity or status of the customer, could be connected with ML or TF, and to verify the consistency of the transaction with the customer's

overall profile. This appears to restrict the requirement to circumstances where there is evidence of ML or TF, as opposed to a general requirement to monitor complex, unusual large transactions.

487. The AML Law (Article 4.9.b) also states that the competent authorities (BOG, HCMC, and MOD/ID) can provide SIs with additional criteria and examples concerning those transactions that could be connected with ML and TF and that should be examined with special attention. So far only the BOG and HCMC have issued some guidelines on these issues, including examples of potentially suspicious transactions.

488. The AML Law (Article 4.9) does not specify that SIs should examine the background and purpose of the above transactions and to record their findings. Neither does it specifically require that information on the examination of such transactions be kept for five years and be made available to authorities and auditors. The record keeping requirements contained in paragraph 7 Article 4 of the AML Law do not appear to apply to information on the findings of examinations of suspicious transactions referred to under paragraph 9 of Article 4. In addition, the requirement imposed by Article 4.13 to produce information to the FIU, prosecutor, investigating judge or the court does not seem to apply to this information but only the customer identification and transaction information referred to in paragraphs 4.1–4.8 of Article 4.

BOG

489. BOG Annex 4 Governor’s Act Chapter 1.9 requires banks and other institutions under its supervision to compare and assess transactions in order to identify any divergence from the customer’s profile and his expected transactions. This only applies to a “steady and lasting business relationship”, which could be interpreted as precluding a series of one-off transactions. Chapter 2.4 of Annex 4 also contains a requirement for SIs to monitor accounts of high-risk customers on at least an annual basis, with a report being prepared for the AML/CFT compliance officer. In addition, Chapter 5.1 requires SIs to examine unusual and suspicious transactions that could be connected with ML or TF, and to consider reporting such transactions.

490. Table III of Annex 4 provides an indicative list of transactions that should be examined with special attention:

- Customers who provide insufficient or suspicious identification;
- Wire transfers;
- Activities inconsistent with the customer's business;
- Cash transactions;
- Use of safe deposit boxes;
- Loans;
- Purchases and/or sales of securities;
- Changes in bank-to-bank transactions;
- Suspicious behaviour of employees;
- Money laundering through international trade.

491. The translation of parts of Chapter 5.1 suggests that SIs should examine transactions that are “unusual” **and** “suspicious” which implies a higher standard than that required under the recommendation. However, other parts of the same chapter refer to “suspicious **or** unusual”. The BOG considers that these provisions cover any transaction with no apparent economic or lawful purpose. The provisions dealing with documenting the findings (Chapter 5.1.1) suggest, by reference to Article 4(10) of the AML Law, that this is only strictly required in circumstances where the filing of an STR is being considered. If the matter is escalated to the compliance officer, records of the investigation should be maintained. The BOG considers that the general record keeping provision in Chapter 4.1 gives SIs an obligation to maintain these records for 5 years. There is no specific requirement to make this information available to competent authorities and auditors, although the BOG informed the evaluation team that this information is examined during supervision visits.

492. Chapter 2.3 of BOG 2577/2006 Annex 4 sets out requirements for firms to adopt adequate IT procedures for monitoring transactions on a risk-based basis. However, this provision does not have to be complied with until 31 May 2007, which is the latest date by which IT systems should be in place.

HCMC & MOD/ID

493. The HCMC Rule 108 and Circular 8 (securities firms) also contain a general requirement similar to Article 4.9 of the AML Law requiring vigilance over transactions that could be connected with ML. Circular 8 contains a short list of examples that should attract special attention. The MOD/ID Circular does not contain any similar provisions for insurance companies.

Recommendation 21

General

494. The AML Law does not impose a requirement on SIs to pay special attention to business relationships and transactions with counterparts from countries that do not sufficiently comply with the FATF Recommendations. The regulatory guidelines contain the following provisions:

BOG

495. Annex 4 Chapter 2.4.9 of BOG 2577/2006 is entitled “Countries which do not apply adequately with the FATF recommendations”. The BOG told the evaluation team that they regard this as sufficient to fulfil the requirements of the recommendation, and that this is an area examined by supervisors. However, the text of chapter 2.4.9 contains various requirements, none of which are currently directly relevant to the ability to assess a country’s application of the FATF recommendations. For example, the first paragraph requires SIs under its supervision to examine with special attention business relationships and transactions with natural persons or legal entities, including credit and financial institutions, from non-cooperative countries. In the absence of any countries on the NCCT list, this provision is of little practical use.

496. In addition, Chapter 2.4.9 sets out that it is necessary to assess the AML/CFT risk of the customer’s country of origin. The FATF, European Union and European Economic Area countries are assumed to be of equivalent status to Greece though there is no reference as to how this reflects compliance with the FATF Recommendations.

497. To assess country risk for AML/CFT purposes, SIs may use the following criteria:

- inclusion in non-cooperative countries or tax havens;
- inclusion in the EU, UN and OFAC lists;
- FATF membership;
- implementation of EU directives;
- implementation of the Wolfsberg principles;
- ratification of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;
- classification according to the US Department of State, in relation to the production and trafficking of narcotics;
- quality of local laws and regulations;
- government support;
- scope of the banking industry; and
- quality of government regulation and supervision.

498. This list does not include any specific reference to a country’s implementation of the FATF Recommendations.

499. Discussions with the industry revealed that, in the absence of any countries on the NCCT list, little is being done in practice to monitor business relationships and transactions in such cases.

MOD/ID

500. Section A of Circular 6955/2002 states that insurance companies should examine with special care all transactions with counterparts from countries listed by the FATF as NCCT. In the absence of any countries on the NCCT list, this provision is of little practical use.

HCMC

501. Circular 8 (and NCCT Circulars 13, 14, 16 and 17) also requires special attention for transactions with counterparts from countries listed by the FATF as NCCTs. It is thus of limited current use.

3.6.2 Recommendations and Comments

502. The current AML Law and guidance issued by the competent authorities in respect of transaction monitoring is unclear and appears to apply a high standard of suspicion before a matter should be monitored. Accordingly, the effectiveness of these provisions is questionable.

503. Greece should extend the requirement to include an obligation to examine all complex, unusual etc. transactions, even if suspicion does not technically arise, and impose a clear requirement to document the findings of any examination undertaken. This information should be made available to competent authorities and auditors.

504. Greece should provide guidance to all sectors on how to monitor business relationships with persons from countries not or insufficiently applying the FATF standards, and the BOG guidance should more specifically deal with this point.

3.6.3 Compliance with Recommendations 11 and 21

Rec.	Rating	Summary of factors underlying ratings
Rec.11	PC	<ul style="list-style-type: none"> • there is no specific requirement in the AML Law or guidance to monitor all complex, unusual large transactions unless they raise specific suspicions of ML or TF; • BOG guidance is not sufficiently clear and appears to suggest that certain findings need only be documented when consideration is given to submission of an STR; • the provisions adopted by the HCMC limit the requirement to monitor transactions that could be connected with ML; • the MOD/ID Circular does not contain any requirement for insurance companies as set out in Recommendation 11.
Rec.21	NC	<ul style="list-style-type: none"> • absent an NCCT list, there are effectively no requirements for the securities sector; • there are no requirements for the insurance sector; • banking sector guidance does not contain any directly relevant criteria pursuant to which SIs should examine with special attention countries that are not applying the FATF Recommendations; • industry practice suggests that very limited measures are currently being taken and that there is no effective implementation.

3.7 Suspicious transaction and other reporting (R.13-14, 19, 25 & SR.IV)

3.7.1 Description and Analysis

Recommendation 13 & Special Recommendation IV

General

505. Article 4.10 of the AML Law requires SIs to appoint an AML Compliance Officer to whom employees should report: (a) suspicious transactions; or (b) any incident that comes to their knowledge in the performance of their duties and could be an indication of criminal activity.

506. As insurance brokers and agents are not included in the scope of the AML Law, they are not required to report STRs. This is an important omission in the scope of the reporting obligations.

507. In branches, internal reports are to be made to the branch manager who then should report immediately to the Anti-Money Laundering Officer (“AMLO”) if the manager concurs with the reporting employee. Where the manager is unable or unwilling or neglects to report, or does not share the employee’s suspicions, the employee is under a duty to report directly to the Compliance Officer. The evaluation team was given conflicting interpretations of this provision, with government authorities suggesting that the law imposed an option to report to the AMLO. The banking industry considered this to be an outright obligation. In the light of this uncertainty, the utility of reporting to a branch manager is questionable.

508. Once the “AMLO” receives a report, Article 4.10 requires him to inform the FIU by telephone and confidential letter if he considers that the data and information point to criminal activity.

509. The term “criminal activity” includes the predicate offences listed in Article 1.A of the AML Law. As mentioned in Section 2.1 (see comments in relation to Recommendation 1), the current list of predicate offences does not include all of the FATF designated predicate offences in full. In relation to FT, the scope of the reporting obligation is also narrowed by the limitations in the offence (see Section 2.2 of the MER). Those shortcomings limit *de facto* the scope of the reporting obligation.

510. Article 2a paragraph 7(c) of the AML Law imposes a requirement on firms within the scope of the AML Law to report suspicious transactions relating to predicate offences involving tax evasion, smuggling or other offences against tax or customs legislation to the National Authority (FIU) (or, in the case of lawyers, a special committee). Intentionally failing to report a suspicious transaction is, by virtue of AML Law Article 2.1.c a criminal offence punishable by up to 2 years imprisonment.

511. Article 4.11 also imposes reporting obligations on employees of the Competent Authorities, as well as on any person entrusted with the auditing or prudential control of a credit institution or financial institution, if during the performance of their duties they become aware of “any fact which might be an indication of money laundering”. This is an apparently different standard from that used in Article 4.10. The BOG considers that, as the obligation to report “money laundering” includes “criminal activity” it also includes the obligation to report terrorist financing. It is not clear why different language has been used in this part of the law, and clarification would be beneficial.

512. The wide drafting of Article 4.10 appears to include a duty to report attempted transactions. However, industry practice suggests that SIs are not always collecting ID information before denying an attempted transaction, and thus no useful information is collected and no report is made. This is especially true for one-off

transactions. The BOG informed the evaluation team that SIs are concerned about potential “tipping off” when gathering CDD information in these circumstances, and it considers that the guidance given in Table III to Annex 4 alerts SIs to when these circumstances might arise. Although indicative, further guidance in this area, particularly in relation to “tipping off” and when to file an STR in these circumstances would strengthen compliance with the requirement to report attempted transactions.

513. The AML Law does not specify the information that must be included in an STR reported by the financial institution, consequently there is no official template for such reports. However, the FIU requires all firms supervised by the BOG to use a standard template from 1 January 2007. The FIU has indicated that the MOD/ID and the HCMC are also developing a standard form for use by the firms they supervise. In general, reports should include all the relevant information gathered by the financial institution performing CDD. The law does not specify the time frame in which the financial institution must file an STR.

514. There is no specific provision in the AML Law that affects the ability to report suspicions relating to tax matters. However, uncertainty over the definition of “criminal activity” might mean that certain tax offences are excluded from the requirement to report. For example, information from the Special Control Service suggests that the misdemeanour of tax evasion is not considered as income derived from criminal activities.

BOG Guidance

515. BOG 2577/2006 Chapter 5 requires SIs to examine transactions which “may, by its nature be related to money laundering or terrorist financing.” Chapter 5 describes “unusual transactions” as those that have no apparent economic or visible lawful purpose, and “suspicious transactions” as usually incompatible with the customer’s profile (lawful business, personal activities, usual transactions through the account in question). A list of potentially unusual transactions is provided in Table III. If, after examination of these transactions, there are doubts concerning the legitimate use of the funds, SIs are obliged to follow the reporting obligations in AML Law Article 4.10. The BOG told the evaluation team that the reference to Article 4.10 includes the requirement to report attempted transactions, despite the reference to “transaction” in Chapter 5. Clarification of this would ensure that SIs do not interpret the provisions inconsistently.

516. Chapter 5.1.2 of BOG 2577/2006 Annex 4 sets out the reporting obligations applicable to SIs. Reports of suspicious transactions shall include at least the following data:

- full particulars of the reporting SI;
- all the available information on the customer;
- the date of establishment of the business relationship and a full account of transactions;
- possible justification of the unusual or suspicious transaction; and
- in international transactions, the origin and route of the incoming remittance.

517. In addition, the FIU requires all SIs supervised by the BOG to use a standard STR form from 1 January 2007.

HCMC & MOD/ID Guidance

518. Limited guidance on SIs’ obligations to report are set out in Rule 108 (HCMC) and F3-9563 (MOD/ID). For the present purposes it is considered that this guidance does not add anything to the requirement to report in the AML Law.

Statistics

519. The number of STRs reported to the Greek FIU have been indicated in its annual reports as follows:

Reporting parties	2001	2002	2003	2004	2005
Banks	569	680	549	685	921
Public service (Customs, Police, SCS, etc.)	67	82	84	67	78
Bureaux de change	193	102	106	39	20
HCMC and securities companies	11	10	12	3	5
Citizens	-	5	2	2	3
TOTAL	840	879	753	796	1027

520. Notably, there have been no reports from the insurance sector or from co-operative banks and very few from the securities sector. The conversion rate from STRs to cases sent to the public prosecutor (12 cases from 796 reports in 2004; 33 from 1057 in 2005; and 31 from 1005 in 2006) suggests that the quality of reports is poor. Moreover, the assessors were advised that many of the cases going forward were from reports provided by the police or other government agencies, particularly as the best STRs were said to be those received from police, customs etc. However, the FIU annual report for 2005 suggests that the quality of reports in the banking sector is improving. Reports from other sectors such as remitters appear to be low, suggesting that further industry outreach would be useful. The effectiveness (and speed) of the reporting system could be further undermined by the requirement to report STRs via branch managers and the requirement that all STRs are hand delivered to the FIU headquarters in Athens.

521. The Bank of Greece has compiled separate statistics for the firms it supervises. These suggest that 1361 STRs were submitted by banks to the FIU in 2005, 266 by bureaux de change and 67 by remitters. The BOG informed the evaluation team that its figures treat any additional information submitted to the FIU as a separate report, whereas the FIU treats this as part of the initial STR. In any event, a single method of recording this information would be beneficial so that accurate and consistent data is available⁴³.

522. Given the size and increasing sophistication of criminal activity set out in Section 1.2 of this report, the total number of reports appears low, with virtually none from outside the banking sector. Moreover, the results in terms of cases passed on are also inadequate.

Recommendation 14

523. Article 4 paragraph 15 of the AML Law provide SIs and their directors, officers and employees protection when reporting STRs, and states that the provision of information to the FIU and other law enforcement and judicial authorities does not constitute a breach of contract and cannot give rise to any liability when done in good faith. This protection seems to be available even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

524. Article 4.16 of the AML law criminalises disclosure of the fact that an STR or related information has been submitted or requested or that a money laundering investigation is being carried out. Breach of this provision can result in two years imprisonment or a fine. This provision applies to SIs and their directors and employees as well as employees of competent authorities.

525. According to Article 4.14 of the AML law, the information in the STRs may be used only in trials concerning criminal activities or money laundering. Whilst there is no Law or regulation specifically ensuring that the names and personal details of staff of SIs who make a STR are kept confidential by the FIU and the other government authorities exposed to the content of these, the members of the FIU are bound by a duty of confidentiality (Article 7.7 of the AML Law). In addition, Article 11 of MOEF Ministerial Decision 40844/B 1703

⁴³ After the on-site visit, the assessment team was told that the FIU, the BOG and the HCMC are working on elaborating a single method of counting STRs. The approach to be followed would link STRs with « cases ».

gives the FIU power to draw up an Inventory of Secure Procedures in order to guarantee the confidentiality of the information kept by the FIU. At the time of the on-site visit, such a procedure was not in place.

Recommendation 19

526. *General.* No evidence was presented to the evaluation team to suggest that Greece has considered the feasibility and utility of implementing a currency reporting system across all regulated sectors.

BOG

527. The BOG informed the evaluation team that it had considered the feasibility of imposing a currency reporting system in respect of its SIs, but did not consider it to be important. No further evidence of why this decision was taken has been made available. Annex 4 Table III provides some risk indicators for cash transactions.

Recommendation 25

Guidance related to STRs

528. Greece gives little guidance related to STRs to assist its financial institutions in implementing and complying with STR requirements. The FIU only requires the use of a standard reporting form by SIs supervised by the BOG from 1 January 2007, and the HCMC is only just developing a similar form⁴⁴.

529. BOG 2577/2006 Annex 4 Chapter 5 specifies the information that must be communicated when reporting a suspicious transaction, and Table III gives examples of suspicious activity. However, this guidance covers a diverse sector (all SIs supervised by the BOG), and specific guidance targeted at individual sectors should be provided.

530. HCMC Rule 108 and Circular 8 provide limited information⁴⁵ on areas of potential suspicious activity. The MOD/ID advised the evaluation team that discussions with the insurance industry had revealed a divergence of opinion over levels of suspicious activity in the sector though generally the industry believes the risk is low. Again, targeted guidance and typology information would assist in educating the industry.

531. Several of the supervised institutions and industry bodies spoken to by the evaluation team expressed frustration at the lack of guidance provided.

Feedback

532. Very little feedback has been provided by the Greek competent authorities to SIs regarding reporting of STRs. The BOG issued a list of examples of potentially suspicious transactions (Table III of Annex 4 to Act 2577/2006 – 107 unusual or suspicious transactions) and the HCMC included a similar but much shorter list (8) in Circular 8. No guidelines have been issued to insurance companies.

533. The Greek FIU prepares an annual report which includes general feedback, statistics on the number of disclosures (with appropriate breakdowns), and on the results of the disclosures. However, there is no information on current ML techniques, methods and trends (typologies) and no sanitised examples of actual ML cases.

534. There is no specific or case-by-case feedback other than acknowledgment of receipt when the STR is delivered to the FIU headquarters – any follow-up is on an ad hoc basis. The BOG reports that it receives very little information from the FIU, despite being represented on the Committee by a retired BOG employee.

⁴⁴ The assessment team was told that such a form has been finalised.

⁴⁵ Circular 31 provides more extensive information on areas of suspicious activities.

535. SIs and trade bodies spoken to by the evaluation team generally expressed a desire for greater feedback from the FIU, which they felt would assist their efforts in identifying areas of suspicion. In addition, some expressed a desire for the FIU to give greater publicity to AML/CTF efforts generally, as this would assist in gaining public support for measures such as CDD.

3.7.2 Recommendations and Comments

536. The requirement to report STRs in Greece contains some important omissions, most notably in respect of insurance agents and brokers, who are not included in the scope of the AML Law, and in respect of the requirement to submit STRs in respect of all predicate offences. Accordingly, the obligation to submit STRs should be extended to cover all sectors of the financial services industry, and should cover all predicate offences in full (including tax evasion) and all aspects of terrorist financing.

537. In general, whilst some positive trends are apparent (increasing number of STRs from banks), the effectiveness of the reporting system is inadequate. The evaluation team has some concerns about the low numbers of STRs outside the banking system: very few STRs have been recorded in the securities sector, none in the insurance sector and the number of STRs sent by the remittance companies is low but uncertain since the figures of the FIU and the BOG are different.

538. The obligation to report attempted transactions should be clarified, as current industry practice would suggest that not all relevant information is being gathered, let alone submitted.

539. The obligation in the AML Law for employees to report suspicion via a branch manager appears to be interpreted inconsistently, and should be clarified. If the requirement is adding an unnecessary layer of oversight, and is potentially causing delay, Greece should consider whether its continued existence is required.

540. Greece should consider the feasibility and utility of implementing a currency reporting system across all regulated sectors.

541. The competent authorities should provide more comprehensive guidance (and take steps to update existing guidance, where appropriate) to improve the effectiveness of suspicious transaction reporting, particularly in relation to types of suspicious activity, the use of standard forms and the time in which an STR should be submitted. The BOG guidance currently covers a diverse sector, ranging from banks to remittance firms, and consideration should be given to developing more targeted guidance for each type of SI.

542. The FIU should provide greater and a further range of feedback to competent authorities and reporting institutions to assist in improving the quality of STRs submitted, and to help identify new areas where suspicion might arise.

3.7.3 Compliance with Recommendations 13, 14, 19, 25 and Special Recommendation IV

Rec.	Rating	Summary of factors underlying ratings
Rec.13	PC	<ul style="list-style-type: none"> • insurance agents and brokers are not covered by the obligation to report; • not all predicate offences required in Recommendation 1 are included in scope; • not all the required aspects of terrorist financing are included in the scope of the reporting requirement; • industry practice would suggest that not all attempted transactions are reported; • the weaknesses in the STR system (especially low numbers in total and very low numbers of STRs outside the banking system) raise significant concerns in relation to the effectiveness of the reporting system.

Rec.14	C	Recommendation 14 is fully met.
Rec.19	NC	<ul style="list-style-type: none"> • there is no evidence that Greece has considered implementing a system for reporting currency transactions across all regulated sectors.
Rec.25	NC	<ul style="list-style-type: none"> • very little feedback is given by the FIU or other competent authorities; • BOG guidance on STRs is not sufficiently specific to cover the diverse sector it supervises.
SR.IV	PC	<ul style="list-style-type: none"> • insurance agents and brokers are not covered by the obligation to report; • not all the required aspects of terrorist financing are included in the scope of the reporting requirement; • industry practice would suggest that not all attempted transactions are reported; • the weaknesses in the STR system (especially low numbers in total and very low numbers of STRs outside the banking system) raise significant concerns in relation to the effectiveness of the reporting system.

Internal controls and other measures

3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

3.8.1 Description and Analysis

Recommendation 15

Internal procedures

General

543. Article 4.9a of the AML Law imposes a general requirement for FIs to introduce internal AML controls and communication procedures to prevent transactions that could be connected with ML or TF. These internal policies also include reporting procedures. Article 10 of the AML Law sets out the obligation to designate a compliance officer.

BOG

544. Article 14 of Chapter II of BOG Governor's Act 2577/2006 sets out that pursuant to the anti-money laundering and anti-terrorist financing framework, credit institutions shall establish appropriate policies and procedures, specified by documents and circulars of the Bank of Greece, which shall be consistent with their target customers, countries of activity and transaction networks, as well as IT support to evaluate their customers in terms of the risks they represent and their relevant management. Procedures shall be established to identify transactions inconsistent with credit institutions' information on their customers and their transaction behaviour, investigate and report them, where required, with proper documentation and adequacy. Preventive measures in this area shall be governed by the same principles applied to other risks and be adapted to the size and form of the credit institution.

545. Since September 2006, Chapter V c) of Act 2577/2006 requires SIs to establish a compliance unit independent from other organisational units. Conflicts of interests shall be prevented and it shall have unhindered access to all the data and information required to carry out its tasks, and to ensure that the credit institution complies with the regulatory framework regarding the prevention and suppression of ML and FT.

546. Amongst its functions, the Compliance Unit shall:

- be headed by a person experienced in banking and investment activities whose appointment and possible replacement must be notified to the Bank of Greece;
- establish and implement appropriate procedures and prepare the relevant annual plan to ensure that the credit institution fully complies on a constant basis with the regulatory framework;
- inform management and the Board of Directors of any material breach of the regulatory framework or any important deficiencies;
- coordinate the work of compliance officers in foreign branches and subsidiaries, so that all units fully comply with the provisions in force;
- ensure that the credit institution complies with the regulatory framework regarding the prevention and suppression of money laundering and financing of terrorism; and
- establish procedures for reporting suspicious transactions to the competent authorities, as well as procedures for exchanging information between branches, subsidiaries and the parent company.

547. In addition to the AML/CFT procedures and measures set out in Act 2577/2006, Chapters 5 and 6 of Annex 4 of the BOG Governor's Act introduce requirements in relation to internal procedures and controls. SIs shall inform the BOG of the identity of the persons designed as AML/CFT compliance officers. The compliance officers shall assess any information that may lead to suspicion of ML or FT. The information shall be kept in a special file and if there is such a suspicion, he shall prepare a report and submit it to the FIU as soon as possible. If, as a result of the assessment, he decides not to report the information to the FIU, he shall fully justify this decision in the relevant file.

548. Finally, SIs shall ensure that:

- all employees know the person to whom they must report;
- there is a clear and short channel of communication for reporting suspicious and/or unusual transactions to the AML/CFT Compliance Officer. The internal AML/CFT practice, procedures and controls shall be recorded in a manual, to be distributed to all employees; and
- there shall be a clear assignment of duties and responsibilities within the SI in order to ensure effective management of AML/CFT policies and procedures.

HCMC

549. Rule 108 sets out the obligation to adopt internal control procedures and communication channels in order to prevent transactions related to the legalisation of revenues obtained from illegal activities and ensure that such procedures also apply to branches abroad (Rule 108 para.9). Paragraph 10 states that every financial institution is obliged to nominate one of its directors as the responsible person to whom the other directors and staff can report every transaction they think is a suspect transaction as well as every other event which might constitute evidence of illicit activities. Financial institutions are obliged to provide to the responsible person any information relating to transactions which according to the opinion of the responsible person, the public prosecutor, or the court might relate to money laundering.

550. Some provisions related to internal policies, procedures and controls are also set out in the law for the authorisation of firms' establishment (Article 4.1a b) & c) of Law 1806/1988). Finally, the Code of Conduct of investment companies adopted in 1997 introduces very general requirements. Article 10.2 c) provides that companies shall establish adequate and efficient systems of internal audit and control of company associates.

MOD/ID

551. The Circular suggest that supervised insurance companies should establish procedures of internal control and communication, so as to prevent the carrying out of transactions related to money laundering (circular K3-9563).

Independent audit function

552. The AML Law contains no specific provisions relating to the requirement to establish an independent audit function.

BOG

553. All credit institutions shall establish an Internal Audit Unit (IAU), which shall: (1) be independent from executive units and from units executing and recording of the transactions in the accounting system; and (2) report, on its tasks, to the Board of Directors through the AC and directly to the Senior Management (see Act 2577/2006, Section V.a). Section V.a.2.13.2 contains a requirement that the IAU prepare an annual report to Senior Management on the adequacy of, *inter alia*, AML/CFT procedures.

554. The main tasks of the IAU relevant to AML/CFT include:

- the conduct of audits in order to form an objective, independent and documented opinion on the adequacy and effectiveness of the ICS (Internal Control System), at the level of credit institution and within the group headed by it and of special audits;
- the evaluation, through the audits of the degree of implementation and effectiveness of procedures, which have been established for risk management;
- the assessment of the procedures regarding compliance.

555. Section IV. 4.1 of BOG Governor's Act 2577/2006 and Annex 3 (Section II E) of the same Act set out the obligation to have an external audit every 3 years, which, *inter alia*, looks at the adequacy of the AML/CFT procedures in particular with respect to classification procedures in terms of ML risk of transactions and/or customers.

HCMC & MOD/ID

556. HCMC Rule 108 does not explicitly require an internal audit function for AML. There are no specific requirements or procedures for AML internal audit and compliance.

Training

557. The AML Law contains no specific provisions relating to the requirement to train staff in AML/CFT methods and trends.

BOG

558. Only Act 2577/2006 (Annex 4, Chapter 7) contains specific provisions for training of staff on AML/CFT issues. Financial institutions must develop employee training (including web training) programmes. In the context of these programmes:

- employees shall be informed on the legislation and the legal obligations of the staff, as well as the procedures adopted, including customer identification, record keeping and internal reporting procedures;
- the duration and subject of training programmes shall be tailored to each staff category (newly-hired, front office, compliance, customer recruitment staff); and
- training programmes shall be repeated regularly, in order to ensure that the staff know their duties and obligations and are kept abreast of developments.

HCMC & MOD/ID

559. No specific requirements are applicable.

Screening procedures

560. The AML Law contains no specific provisions relating to the requirement to screen staff prior to employment.

BOG

561. Act 2577/2006 (Chapter II.5) only contains general provisions for FIs to hire staff with the appropriate knowledge and skills.

HCMC & MOD/ID

562. Circular 8 sets out that the securities companies must adopt criteria and procedures that ensure the recruitment of suitable personnel. MOD/ID Circular K3-6955/2000 suggests insurance companies have the criteria and procedures in place that ensure the selection of proper personnel.

Recommendation 22

General

563. Article 4.9a of the AML Law requires financial institutions to apply certain AML/CFT provisions to their foreign branches or subsidiaries, except where such application is prohibited by legislation in the foreign host country. Where such legislation prohibits application of these procedures, the financial institutions shall inform the “competent Public Prosecutor’s Office” and the FIU of this fact. Under the AML Law, the scope of the AML/CFT requirements that foreign branches and subsidiaries have to apply is limited to transaction monitoring (Article 9.a i and iii) and procedures of internal control and procedures (Article 9.a ii).

Application of home country requirements by foreign branches and subsidiaries

564. Based on Governor’s Act 2577/2006, Annex 4 (General provisions (1.e), Articles 6.1 & 6.3), SIs have to apply AML/CFT requirements in relation to customer identification, monitoring of transactions, internal controls and communication procedures (including the reporting obligation under Article 4.10 of the AML Law). HCMC Rule 108 (paragraph 9) requires securities firms to ensure that certain procedures (i.e. transaction monitoring and internal control procedures and communication channel) are also applied by their branches abroad, unless this is prohibited from the relevant foreign legislation, and in that case to inform the relevant public prosecution authorities. The provision does not apply to subsidiaries. MOD/ID Circular 9563 (paragraph A 4) requires insurance companies to ensure that certain procedures (i.e. internal control and communication procedures) are also applied by their branches abroad, unless this is prohibited from the relevant foreign legislation, and in that case to inform the public prosecutor. The provision does not apply to subsidiaries.

Particular attention with regard to branches or subsidiaries in countries which do not apply or insufficiently apply the FATF Recommendations

565. Article 6.3 of Annex 4 requires SIs to pay special attention to branches established in countries that are not fully compliant with the FATF Recommendations. SIs may use the list of list of indicators as set out in Article 2.4.9 of Annex 4 of the Governor’s Act (risk-based approach to ML and FT). There is no requirement applicable to the securities and insurance sectors to pay particular attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply the FATF Recommendations.

Where the minimum AML/CFT requirements of the home and host countries differ

566. Greek provisions do not explicitly require branches and subsidiaries of Greek SIs located in host countries to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit. The only provision

in this area is in Chapter III of BOG Governor’s Act 2577/2006. This Chapter sets out that where the corporations controlled by the credit institutions are established outside Greece, any important incompatibility on a group basis arising from the application of the national provisions of the host country shall not be considered *per se* as a violation of the provisions hereof. However, the Bank of Greece shall be informed by the parent credit institution it supervises about the measures taken to address such situations and shall evaluate their appropriateness, notably with respect to the prevention and the suppression of money laundering and financing of terrorism. This does not specifically address the requirement to apply the higher standard.

Requirement to inform the home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures

567. There is no explicit provision in the AML Law that requires SIs to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures. However, Section 6.3 of Annex 4 of BOG Governor’s Act 2577/2006 sets out that SIs shall apply AML/CFT policies, procedures and controls at group level and shall inform the Bank of Greece on any divergences of the laws of the host country.

3.8.2 Recommendations and Comments

568. *Recommendation 15.* For FIs supervised by the BOG, the Governor’s Act 2577/2006 introduces new requirements (those in relation to the compliance unit entered into force in September 2006). SIs are required to have internal controls but the link to AML/CFT provisions should be strengthened (e.g. in relation to the requirement to put in place screening procedures to ensure high standards when hiring employees). There was little information on the implementation of the requirements related to internal procedures and policies though the assessors were advised of one case of failure to have an internal control system. However, the implementation of the requirements has not been evidenced as yet, given the absence of a real focus of the BOG inspections programme on the general framework of internal controls and systems in place. The BOG policy until now has been to give priority to inspections of branches to the detriment of SIs head offices and greater focus could be given to such inspections.

569. For the securities and insurance sectors, existing requirements are either very general (on internal procedures and controls and screening procedures) or non-existent (independent audit function and training). In these two sectors, the competent supervisory authorities should issue appropriate rules as a matter of priority⁴⁶.

570. *Recommendation 22.* The AML Law provisions are insufficient to address the requirements of Recommendation 22. For SIs, the current requirements are broad and incomplete. Foreign subsidiaries of all financial institutions should also be covered by the new provisions to be adopted.

3.8.3 Compliance with Recommendations 15 & 22

Rec.	Rating	Summary of factors underlying ratings
Rec.15	PC	<ul style="list-style-type: none"> • <i>for FIs supervised by BOG:</i> the requirements on internal controls (e.g. screening procedures) are not fully AML/CFT oriented and there are doubts about their proper implementation by SIs; • <i>for the FIs supervised by HCMC and in the insurance sector:</i> existing requirements are either very general (on internal procedures and controls and screening procedures) or non-existent (on independent audit function and training).

⁴⁶ The new HCMC rule (in force since 1 March 2007) provides for more detailed provisions that aim to implement the requirements set out in Recommendation 15.

Rec.22	PC	<ul style="list-style-type: none"> • the AML Law provisions are insufficient to address all the elements of Recommendation 22; • <i>for FIs supervised by BOG</i>: Greek provisions do not explicitly require branches and subsidiaries of Greek SIs located in third countries to apply the higher standard, to the extent that local laws and regulations permit; • <i>for the FIs supervised by HCMC and in the insurance sector</i>: (1) the HCMC and MOD/ID provisions do not apply to subsidiaries; (2) there is no requirement applicable to the securities and insurance sectors to pay particular attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply the FATF Recommendations; (3) there is no explicit provision to require FIs to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local laws, regulations or other measures.
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3.9 Shell banks (R.18)

3.9.1 Description and Analysis

571. Greece does not allow or approve the establishment of shell banks. Banks are required to have a physical presence in Greece and Article 5 paragraph 1 of the Banking Act (Law 2076) further states that “the head offices of credit institutions that have their registered offices and operate in Greece shall be situated in Greece.” In Article 6, the Banking Act further requires that licensees notify the BOG of at “least two persons who will be responsible for directing the credit institution’s business.” These are also conditions for their authorisation. Finally, Bank of Greece Governor’s Act 2526/8 of December 2003 establishes the terms and conditions for licensing the establishment of a credit institution in Greece.

572. Based on Governor’s Act 2577/2006, Annex 4 (Chapter 2, Article 2.4.8), SIs supervised by the BOG may open correspondent accounts and act as correspondents for SIs operating in non-EU countries where the bank that requests the opening of the correspondent account is physically present with a fully staffed office in the country of incorporation from which it provides real banking services i.e. is not a shell bank. In their examinations the BOG examiners audit the documents that SI’s should have for all banking institutions with which they have correspondent accounts (Inspections Questionnaire, Q: 3.20, 3.21). The provision only directly covers SIs operating in non-EU countries. However, Greece allows its SIs to rely on EU Directive 2000/12 as amended by Directive 2006/48 which requires that "any credit institution which is a legal person and which, under its national law, has a registered office shall have its head office in the same Member State as its registered office." Greece has taken no steps to ascertain how and to what extent other EU countries have transposed the Directive into their national law, and thus it is not clear whether reliance on this provision is effective.

573. There is no obligation on financial institutions to determine whether or not a respondent financing institution in a foreign country permits its accounts to be used by shell banks.

3.9.2 Recommendations and Comments

574. There should be an obligation on financial institutions to determine that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.

3.9.3 Compliance with Recommendation 18

Rec.	Rating	Summary of factors underlying ratings
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Rec.18	LC	<ul style="list-style-type: none"> there is no obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
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Regulation, supervision, guidance, monitoring and sanctions

3.10 Supervision and oversight

3.10.1 Description and Analysis

Authorities' roles and duties & Structures and resources (Rec. 23 & 30)

General

575. The AML Law (Article 1.F) identifies the BOG, HCMC and the Private Insurance Sector Supervisory Committee as the “Competent Authority” for financial institutions covered by the AML Law. Regulators interpret this provision as empowering them, under their various regulatory laws, to supervise compliance by FIs with the AML/CFT legal requirements and related guidelines. In practice, the BOG and the HCMC have exercised their regulatory powers and functions to review compliance with the AML requirements and with respect to the BOG, to impose sanctions.

Regulatory provisions

576. The regulatory Circulars/guidelines (the BOG Governor’s Act 2577/200, the HCMC Rule 108/Circular 8, and the MOD/ID Circular 9563 specifically designate these supervisory agencies as responsible for overseeing compliance with the AML requirements, and except for the MOD/ID, they have exercised their general supervisory powers for AML purposes.

SUPERVISION AND LICENCING OF FINANCIAL INSTITUTIONS		
Financial institution	Licensing decision made by:	Competent authority for AML/CFT supervision :
Credit institutions	BOG	BOG
Bureaux de change	BOG	BOG
Money remittance companies	BOG	BOG
Investment companies	HCMC	HCMC
Customer credit companies	BOG	BOG
Life insurance companies	MOD/ID*	MOD/ID
Insurance agents	-	-
Financial leasing companies	BOG	BOG
Factoring companies	BOG	BOG

* The Private Insurance Sector Supervisory Committee is scheduled to act as the supervisory authority for insurance companies but the timescale is unclear.

BOG

577. Article 2 (d) of the BOG Statute provides that the BOG “shall supervise credit institutions, as well as other enterprises and institutions of the financial sector, in accordance with Article 55A thereof.” Article 55 A covers banks and credit institutions, bureaux de change, money remitters (money market brokers), leasing and factoring companies, mutual guarantee companies, etc. Furthermore, Banking Law 2076 (Article 18) provides that the BOG shall supervise credit institutions in Greece, including their foreign branches in the EU. Section VI of the BOG Act 2541/2004 governing the operations of bureaux de change also authorises the BOG Supervision Department to

supervise these entities. Governors Act 2536 and Article 18 of Law 3148 provide further legal basis for the BOG to supervise money remittance firms. The statutory powers of the BOG to supervise these two sectors for AML is interpreted as being provided in the AML Law by the designation of the BOG as the “competent authority” for remittance and currency exchange firms. The BOG has conducted on-site inspections of banks and bureaux de change and very recently of remittance businesses/firms as well as factoring and leasing companies.

HCMC

578. The HCMC’s main objectives, as stated in the annual reports, are to promote sound conditions for the operation of the capital market and to enhance public confidence both in the quality of supervision and market behaviour. This supervision extends to securities broker-dealers, investment firms, mutual funds management companies, portfolio investment companies, the Athens Stock Exchange, Central Depository of Securities, and the Athens Derivatives Transactions Clearing House. The AML Law only applies to investment firms/ broker-dealers, mutual fund management companies, and portfolio investment companies. The HCMC complements its supervisory role through the issue of supervisory Rules, which for AML is Rule 108. It has also issued some AML guidelines through Circular 8.

MOD/ID

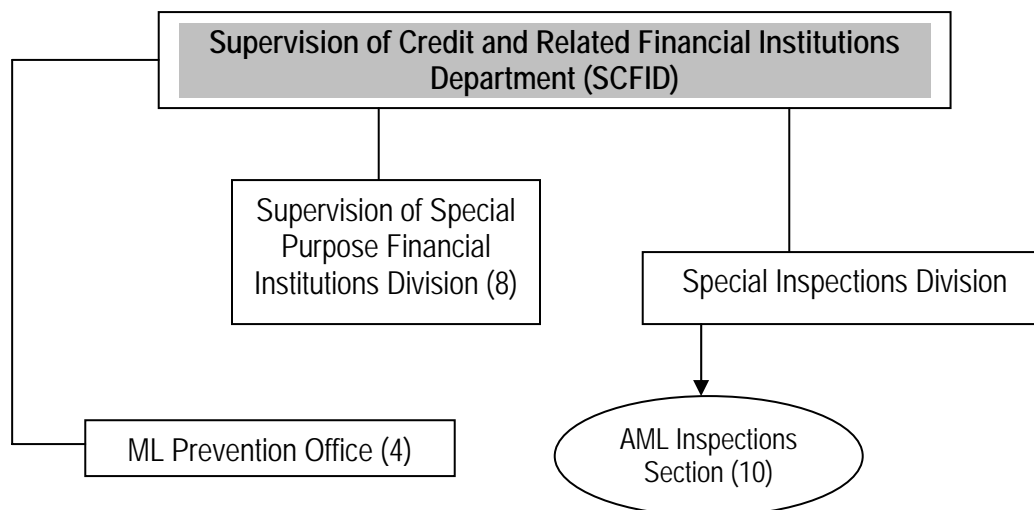
579. The MOD/ID had certain responsibilities for the supervision of insurance companies and brokers under Decree Law 400/70. This function has now been transferred to a newly created supervisory body— Hellenic Private Insurance Supervisory Committee (HPISC)—under the Ministry of Economy which at the time of the on-site visit was not yet operational. One of its roles is to supervise for AML/CFT compliance. Legislation gives the MOD/ID a general power to issue and enforce rules. Until the amendment of the AML Law in December 2005, the MOD/ID had sufficient general powers for to discharge its supervisory responsibilities under the legislation, however these powers have not been effectively exercised in practice. Enforcement instruments include Ministerial Decisions, fines and the ability to restrict or revoke licenses. Ministerial Decisions can be appealed to the Court of State. As previously stated, since December 2005 The MOD/ID has had no legal status under the AML Law as a competent authority.

580. It is important to note that both insurance agents and brokers are not covered by the AML Law and Circulars, and that the MOD/ID does not license and supervise agents who, however, generate approximately between 80–95 percent of premiums in the sector. The fact that insurance agents are neither licensed nor supervised, but are involved in the retailing and sale of both life and investment products (and in some cases banking products), creates a significant lacuna in the AML regime. The FATF Recommendations require that agents and brokers be covered by the AML/CFT regime.

Recommendation 30 (Structure and resources of the supervisory authorities)

BOG

581. Staff resources, particularly for on-site inspections, are insufficient. BOG has a specialised team for the supervision of AML/CFT compliance by banks, bureaux de change and money remitters. Its internal organisation in AML/CFT matters is as follows (the number of staff is indicated into brackets):



582. The Supervision Department (SCFID) performs on-site examinations, while the ML Prevention Office addresses institutional issues.

583. The number of staff dedicated to AML/CFT supervision is highly insufficient and there is no indication that proper communication takes place among the different divisions in charge of AML/CFT matters. The ML Prevention Office follows European and international developments and institutional issues, monitors the compliance and assesses the implementation of AML/CFT provisions by the SIs. The BOG is in charge of supervising 62 banks and more than 3,000 branches as well as more than 2,800 financial institutions (13 remittance businesses and more than 1,800 subagents and 900 branches, 14 bureaux de change, 4 factoring companies, 14 leasing companies and 2 credit companies – see the details of the figures in Section 1.3 of the report). It is noted that while the BOG acknowledges the need for additional skilled staff for the conduct of AML inspections, staff support is available from the BOG branches located in various parts of the country who participate in on-site inspections.

584. Staff of the BOG are required to maintain high professional standards. Based on Article 55C of the Bank Statute, all individuals acting or having previously acted on behalf of the BOG are forbidden to disclose to any natural person or legal entity and to any public authority the information or data reported to the BOG in the course of its activity. In case of violation of that secrecy, these persons can be subject to criminal sanctions (Article 371 of the PC). Similar provisions are set out in Article 21 of the Banking Law 2076. All the staff have a university degree and the majority have undertaken postgraduate studies. The majority have attended specialised seminars (in house and abroad).

HCMC

585. HCMC is a regulatory authority in the form of a public legal entity which operates under the supervision of the MOEF. The HCMC is a self-funded public entity enjoying operational and administrative independence. For years HCMC has not devoted sufficient attention to the supervision of ML/FT risk in the securities sector and it was still the case at the time of the on-site visit. Before 2006, no specialised staff were assigned to AML/CFT supervision and AML/CFT inspections only commenced in the last semester of 2004 as part of general regular audits. The HCMC has a total of 33 staff for licensing and general supervision of intermediaries. At the time of the on-site visit, two specialised auditors were assigned to the AML/CFT supervision within the Special Supervision Unit. Although HCMC staff have a generally good level of supervision training and skill, they lack experience in AML/CFT supervision.

MOD/ID

586. No resources have been assigned for AML/CFT compliance supervision for insurance companies and intermediaries. Staff and budget constraints also limit capacity to conduct ongoing inspections and supervision generally. Staff training and capacity on AML/CFT is limited, mainly due to budgetary constraints, and no new initiatives have been undertaken pending the commencement of operations of the new supervisory body for insurance.

Authorities' powers and sanctions (Recommendations 29 & 17)

Recommendation 29

General

587. The AML Law does not provide an explicit power or mandate to supervise for compliance with the AML Law requirements and any subsidiary or related instruments. Their supervisory powers are derived from the various regulatory laws described below.

BOG

588. The BOG Statute Article 2 (d) provides the primary statutory basis for the BOG to “supervise credit institutions, as well as other enterprises and institutions of the financial sector, in accordance with Article 55A of the Statute. Article 55A further states that the BOG shall “exercise prudential supervision over credit institutions and...” other categories of financial institutions including but not limited to bureaux de change and money brokers. It also states that other categories of institutions can be brought under the supervision of the BOG as provided by other laws. In the BOG Statute, no reference is made to the conduct of inspections to ensure compliance.

589. Pursuant to the BOG Statute Article 55C, financial institutions are required to provide to the BOG all data and information in their possession that are necessary for the performance of its supervisory responsibilities. Such institutions shall not be entitled to invoke banking or other secrecy provision. Similarly, under Article 55D of the BOG Statute, the BOG shall have the right to examine and make copies of books and records of any natural or legal person suspected of conducting unauthorised financial business. These legal provisions are also contained in the Banking Law 2076 Article 18 which provides broad powers of supervision to the BOG, including with respect to bank branches abroad.

590. BOG Governor’s Act 2577/2006 for banks, bureaux de change, money remitters and other institutions, states that “the Bank of Greece is designated as the Competent Authority to oversee compliance with the (AML) law by: credit institutions, leasing companies, factoring companies, bureaux de change and businesses intermediation in fund transfers (remitters).”

591. In performing its supervisory tasks, the BOG may impose administrative sanctions on all persons subject to its supervision, as well as their legal representatives and managers (Article 55A of the BOG Statute).

HCMC

592. The regulator has power (see Law 1969/91 Article 78), inter alia to: (i) issue rules, (ii) grant and revoke licences, and (iii) conduct inspections of securities firms including stock and derivative exchange members. In addition, the HCMC Rule 108 provides for the supervision of the AML Law and the requirements of Rule 108 by securities firms. This Rule is supplemented by Circular 8.

593. Article 76.12 of Law 1969/91 sets out that that securities firms which in any means participate in the market, are obliged to provide to the HCMC written and other information in their possession, which is necessary to help the HCMC exercise its supervisory responsibilities. No court order is required and firms are not allowed to invoke professional or other secrecy provisions.

594. Under Article 78 of Law 1969/91, the HCMC has the power to impose sanctions and disciplinary sentences provided by the law against securities firms under its supervision.

MOD/ID

595. The Insurance Act (Article 6) provides the MOD/ID with the power to conduct on-site inspections and to gather the information it deems necessary to perform its duties. The MOD/ID Circular 9563 for insurance companies does not contain explicit provisions designating the MOD/ID as the agency responsible for overseeing compliance with the AML/CFT legal requirements. While the MOD/ID has occasionally made targeted on-site inspections to investigate specific concerns (that did not relate to AML/CFT issues), it does not carry out full scale on-site inspections. The MOD/ID does not have the authority to conduct inspections of insurance agents or brokers. It has not conducted any AML/CFT compliance inspections, largely due to limited resources and training. Additionally, since December 2005 The MOD/ID has had no legal status under the AML Law as a competent authority.

Recommendation 17

General

596. Article 4.14.a of the AML Law provides that sanctions for breaches of the obligations under the Law and regulatory provisions issued by competent authorities shall be imposed by a decision of the competent authority. The decision on the nature and level of sanctions is left to the supervisory authorities to decide.

BOG

597. According to Article 4.14.a) of the AML Law and Chapter 10 of the Annex 4 of the Governor's Act 2577/2006, the Bank of Greece may impose on FIs the administrative sanctions provided for by Article 55A of its Statute and the legislation in force. The BOG relies on its supervisory powers contained in the Banking Act 2076 and the BOG Statute. Article 18 (2) of the Banking Act 2076 provides that the BOG "shall require all credit and financial institutions authorised and operating in Greece to have sound administrative and accounting procedures and a suitable internal control mechanism. The Bank may impose general criteria and rules to this end." The BOG has interpreted this provision as providing it with legal jurisdiction for sanctioning violations of duties to have internal AML/CFT controls in the AML Law. Sanctions are applied using powers under Article 55A of the BOG Statute which reads, in part: "In performing its supervisory tasks, the Bank may impose administrative sanctions on all persons subject to its supervision, as well as their legal representatives and managers, in cases of non-compliance with provisions pertaining to the responsibilities of the Bank of Greece."

598. The administrative sanctions available to the BOG under its Statute are:

- a non-interest bearing deposit with the BOG in an amount of up to 40 percent of the amount of the violation, or if the amount cannot be determined, up to 3 billion drachma (equivalent to about EUR 8.8 million).
- a fine in favour of the government equal to 40 percent of the amount involved or a lump sum of up to 300 million drachma (about EUR 882,000) or if it is a repeat offence up to 500 million drachma (about EUR 1,471,000).

599. The maximum amount of the non-interest bearing deposit may be adjusted by the BOG by way of an Act of the Governor. The BOG may also impose further administrative sanctions and specify the details of their application, as well as of the application of the other sanctions provided for in the BOG Statute or other law in force. These sanctions can be applied cumulatively and shall be exercised through acts of the governor of the BOG or of organs empowered by the governor to that effect. Article 22 of the Banking Law 2076/1992 establishes a range of sanctions applicable to credit institutions in case of breach of their obligations (withdrawal of a credit institution authorisation, prohibition from initiating certain transactions, etc.). The BOG may also impose sanctions

on institutions legal representatives and/or managers but the BOG indicated that there was no support for such approach. Details of the sanctions imposed are not publicised.

600. The assessors were advised that the level of sanctions imposed depends on the amount of the breach, the frequency and the degree of co-operation with the competent authority. In 2006, a credit institution was required to pay a EUR 266,500 non-interest bearing deposit for not recording identification data of a holder of safe deposit boxes. Another credit institution had to deposit the same amount for inadequate organisation for the compliance with AML/CFT regulations. The same credit institution was found to have committed 3 separate breaches of the AML/CFT requirements and still only had to pay a deposit. Figures from the BOG also indicate that a sanction in the form of a non-interest bearing deposit (which is the lowest sanction available) was imposed on each of the occasions that sanctions were imposed on credit institutions in the past 3 years. The assessors have doubts about the proportionality of the sanctions with the severity of failures.

601. From 2001 to 2006, the level of non-interest bearing deposits ranged between EUR 266,000 to EUR 3,150,000 per institution. The BOG has imposed a total amount of deposit of EUR 45,635,642 to 19 SIs since 2000 and of EUR 217,000 to 19 bureaux de change since 2001 (by way of non-interest bearing deposits). Since the on-site visit the BOG has revised its grading system for the sanctions it imposes, and non-interest bearing deposits of increased amounts have been imposed on SIs. The BOG believes that the imposition of non-interest bearing deposits is sufficiently persuasive and achieves good results in Greece. No further direct financial sanctions or actions have been taken so far vis-à-vis credit institutions for breaching the AML/CFT provisions, although the BOG has used other less direct measures such as refusing an application to extend the branch network of a credit institution. The BOG has suspended the licence of 2 bureaux de change and has removed the licence of one bureau de change for breaching AML/CFT requirements. The BOG believes that the imposition of sanctions to date is sufficiently persuasive and achieves good results in Greece, but the assessors have continued doubts as to the effectiveness of these measures.

HCMC

602. Under Law 1969/91 Article 78 the HCMC has, *inter alia*, the power to: (i) issue rules; (ii) grant and revoke licences; and (iii) impose administrative and disciplinary sanctions. It may also impose warnings, temporarily suspend operations and revoke professional qualifications as well as sanctioning any violation of the rules set out in the Code of Conduct of investment companies. The range of sanctions seems reasonably broad. In the framework of its new targeted AML/CFT audits, the HCMC has issued warnings to 12 out of the 14 companies under its supervision. At the time of the on-site visit, the HCMC was in the process of imposing administrative sanctions to one company. After the on-site visit, the HCMC provided the evaluation team with details of several financial penalties imposed on supervised institutions from 1999 to 2004. No further information was provided to enable the evaluation team to judge whether these measures were effective, proportionate or dissuasive.

MOD/ID

603. Apart from the enforcement powers under Article 43 of the Insurance Act relating to the provision of false information to obtain a licence, it is not clear whether the MOD/ID has the authority to impose sanctions for non-compliance with the AML Law and MOD Circulars. Other enforcement powers in that Act relate to breaches of other prudential requirements.

Market entry - Recommendation 23

604. There are relatively strict controls for market entry and participation in the ownership of financial institutions in Greece which provide an appropriate framework for preventing criminals from controlling a significant interest in such institutions. Except for Article 6 (1) (c) (iii) of the Banking Law 2076 requiring the appointment of one of the authorised “managers” to be on the board of directors, it is not clear whether the law specifically requires fit and proper tests to be conducted on all members of the Board and the chief executive officers. The BOG Governor

's Act 2526 sets requirements for the conduct of fit and proper tests for one of the directors [see paragraph 2 (d)], internal auditors, and AML compliance officers, and such procedures also apply to bureaux de change and money remitters.

Banks and other credit institutions

605. The procedure for the granting of authorisation to a bank or other credit institution is laid down in Banking Law 2076/92 (Articles 5, 6, 7, and 17) and Bank of Greece Governor's Act 2526/2003. It is a condition that the BOG must be notified of the identities of shareholders, legal or natural persons, who are to possess qualifying holdings in the credit institution, as well as of the proportions of such holdings. A "qualifying holding" means any direct or indirect holding representing at least 10 percent of the capital or of the voting rights of the credit institution (Article 2, indent 10 of Banking Law 2076/92). In the case of legal persons having a qualifying holding, the BOG may require that it be informed of the identities of the natural persons directly or indirectly controlling these legal persons. In the case where the number of shareholders with a qualifying holding (10 percent) is less than ten, the BOG must be notified of the identities of the ten shareholders with the highest holdings. The BOG must be notified of the identity of at least two Greek residents who will be responsible for directing the credit institution's business and who must have the necessary training and experience, acquired through previous service in posts with similar responsibilities, preferably in credit or financial institutions. At least one of the above-mentioned persons must be a member of the credit institution's Board of Directors. A statement must be submitted to the BOG, regarding the origin of the financial resources of shareholders with a holding of at least 5 percent of the share capital (the BOG Governor's Act 2526/2003). Under Article 7 of BOG Statute, the BOG shall refuse to grant a licence if it believes that shareholders and persons authorised to represent/direct the institutions are not considered trustworthy or fit to ensure the prudent and sound management of the institution. Governor's Act 2526 also requires the BOG to conduct certain fit and proper tests, including the requirement to file criminal records for the two persons who will be responsible for directing the affairs of the FI of which one shall be a member of the Board. There are no requirements to conduct fit and proper reviews for the other members of the Board. Fit and proper reviews are also required for the heads of internal audit and for the AML compliance officers.

606. Article 8 (1) of the Banking Law provides for the BOG to withdraw a licence when, *inter alia*, authorisation was obtained under false, insufficient or misleading statements if the institution breaches a law, regulation or decision of the BOG. Article 17 (9) of the Banking Law, the BOG can also order the removal of a person from the Board of Directors or other management position of a credit institution or the suspension of voting rights of persons deemed to be acting to the detriment of prudent and sound management of the institution.

Money remitters and bureaux de change

607. The BOG Governor's Acts 2536/2004 and 2541/2004 (and Law 3143/2003) set out the regulatory and supervisory framework for the money remittance companies and the bureaux de change, respectively. Law 2536/2004 on money remittance intermediaries and Law 2541/2004 on bureaux de change require that the application submitted to the BOG contains the following information along with the necessary supporting documents:

- a. The registered name and the location of the *société anonyme*.
- b. Identification of the natural or legal persons which hold, directly or indirectly, at least 10% of the capital or voting rights of the money transfer intermediary.
- c. Information on the main shareholders shall include: (i) complete curricula vitae; (ii) copy of type A criminal record (for shareholders that are natural persons); (iii) non-bankruptcy certificate; (iv) declaration stating the sources of the funds with which they will acquire their shares; and (v) in the event that any of the main shareholders is a legal person, identification of the natural persons who directly or indirectly control it.
- d. Identification of the person in charge of the company's operation, as well as the person responsible for the company's compliance with anti-money laundering legislation.
- e. Identification of the company's Board members.

- f. For companies under establishment, Draft Articles of Association; for existing companies, copy of the Articles of Association incorporating all amendments up to date or amendments envisaged considering the operation of these companies as money transfer intermediaries.
- g. Detailed organisational and administrative structure of the company as well as number of personnel.
- h. Description of the accounting system, the IT system and the management information system, as well as the procedures for conducting money transfer transactions.
- i. The *société anonyme*'s internal audit procedures aimed at monitoring compliance with the AML Law as currently in force, the relevant circulars of the BOG and the provisions of law governing the *société anonyme*'s specific area of activity.
- j. An estimate of the amount of funds to be transferred within the next six months.
- k. Name and postal address of the company/companies with which the applicant has contracted for the purpose of transferring money.
- l. The selection criteria for the company's associates (natural and legal persons).

608. Authorisation can be revoked by the BOG if it is determined that application information provided is false or misleading.

Securities

609. Licensing of investment services firms (ISFs include advisory services and safe custody services, investment advisors and custodians in Greece) are governed by the HCMC Rule 6161/1996. ISFs must be licensed by the HCMC including members and non-members of the Athens Stock Exchange in respect of the stock or derivatives market. The licences set out the core and ancillary services that ISFs are permitted to provide, subject to terms and conditions depending on the type of investment services to be offered. In considering a license application, the HCMC should take into account or require, inter alia:

- The suitability of shareholders with significant holdings in ISFs.
- The credibility, experience, professional expertise and ethical stance of persons to be involved in management.
- The ISFs to adopt effective internal audit mechanisms.

610. In processing applications for licences, the HCMC requires information on the applicants which include, inter alia, for directors, managers and significant shareholders (10 percent or more equity participation):

- Full name and personal details.
- Copy of criminal record.
- Non-bankruptcy certificate.
- Curriculum vitae.
- Percentage voting rights.
- Responses to a detailed questionnaire that includes provisions for establishing any past legal or regulatory action against the applicants.

611. The application form also provides for information to be obtained on:

- Company details including its proposed activities.
- Notification of at least two professional persons who will manage the company.
- For each director, manager and significant shareholder (10 percent or more of capital), inter alia: (for natural persons): full name, address, profession and equity participation. (for legal entities): name and legal status, registered office, voting rights, full names of directors. (for senior executives) full name, address, profession, position in the company.

612. The HCMC has the discretion to confer with others such as regulators or supervisors in other jurisdictions, and often does so when considering an application, but is fully responsible and accountable for its licensing decisions. It can however, (Article 6 of Rule 6161) require a certificate of licence issued by overseas regulators of foreign ISFs certifying that they are authorised to operate in accordance with the applicable laws of the foreign jurisdictions.

613. Employees holding specific positions or performing specific functions in an investment services firm must hold certificates issued by the HCMC. The HCMC has under statutory power defined the procedures and conditions for organising examinations and granting certificates. The HCMC may revoke a certificate for cause.

Insurance

614. Subject to two exceptions, the Insurance Act prohibits the conduct of insurance business in Greece without a licence. Only insurance companies and brokers are licensed and insurance agents (tied intermediaries that only work for one insurance company) are not licensed and supervised. The insurer has to apply for a license from the MOD/ID but this will change with the establishment of the HPISC, which is yet to come into operation. The MOD/ID takes action against insurers that attempt to operate in Greece without authorisation.

615. Licensing criteria are set out in the Insurance Act which establishes fit and proper requirements. When processing an application for a licence, the MOD/ID assesses, *inter alia*, the following:

- The suitability of significant owners, directors, and senior managers (this does not imply looking at criminal records);
- Whether the auditor and actuary are registered to practice;
- The organisation structure and the nature of controls; and
- Any other information the MOD/ID deems necessary.

616. The MOD/ID routinely requests input from the applicant’s home supervisory authority.

617. If the insurer will be part of a group of companies, the MOD/ID also assesses the risks arising from the group relationship. The applicant’s sources of capital are assessed and the MOD/ID requires that the group structure be transparent. Within three months after an insurer has been licensed, the MOD/ID conducts an on-site review of the insurer’s internal controls.

Ongoing supervision and monitoring - Recommendation 23

618. *Offsite monitoring.* The key instrument for offsite monitoring of AML/CFT compliance by the regulatory bodies is the submission of annual information on AML systems and controls. Accordingly, FIs are required to submit annually (every January) to the regulatory bodies the following written information:

1.	The name and post of the AML/CFT Compliance Officer and his deputy (and of the coordinator, for financial groups) appointed under Article 4(10) of Law 2331/95, as well as the particulars of the decision appointing them. If the AML/CFT Compliance Officer is replaced during the calendar year, the Bank of Greece shall be informed in writing to this effect within ten working days from such replacement.
2.	A copy of the AML/CFT internal control and communication procedures established in writing. The Bank of Greece shall be notified of any change in these procedures within ten days from their effective date.
3.	Brief information on important measures taken and/or procedures adopted during the year.
4.	a) The audits carried out to assess the adequacy of CDD procedures in customer identification, as well as the scope of such audits (procedures, transactions, employees' training etc.). b) Any important defects and weaknesses detected (especially in the internal procedures for reporting suspicious and/or unusual transactions, the quality of reports and their timely processing), as well as the actions and/or recommendations for corrective measures. This information shall not be transmitted separately if included in the Annual Report of the Internal Audit Unit, according to the provisions of Chapter Va, para. 2.13.2, and Chapter VI, para. 1.

5.	a) The number of suspicious and/or unusual transactions reported by SI's employees to the AML/CFT Compliance Officer, as well as the approximate time between the transaction and the submission of the report to the competent officer. b) The number of reports of suspicious and/or unusual transactions submitted by the AML/CFT Compliance Officer to the National Authority, as well as the approximate time between the submission of the report to him and its transmission to the Competent Authority.
6.	The training received by the AML/CFT Compliance Officer and its content.
7.	The education/training provided to the staff during the year, including the number of seminars, their duration, and the number and posts of participating employees.

619. In addition, the BOG Act 2541/2004 requires bureaux de change to report to the BOG: (i) annually detailed information on their monthly business turnover; and (ii) quarterly a detailed list of daily transactions and balances as well as a list of credit institutions where they maintain their deposit accounts (the periodicity for reporting of this list is not indicated in the law). This type of information can also be used by the BOG to monitor activity in this sector for AML/CFT purposes and would be useful for the conduct of on-site inspections. No comparable information is required to be reported to the BOG with respect to money transfer business conducted by either money remittance firms or bureaux de change.

(b) HCMC Rule 108 (para. 17 a) and b) for securities firms:

- Name, position, and details of appointment of the AML Compliance Officer. In the event of a change, notification is required within 10 days of such change.
- Copy of the internal controls and communication procedures that have been implemented and notice of any change in this information within 10 days of such change.

(c) MOD/ID Circular K3-9563 (Chapter B) for insurance companies:

- Name of the AML Compliance Officer, including particulars of appointment and notice of any replacement for this person within 10 working days of such change.

620. *On-site inspections.* Only the BOG and the HCMC conduct on-site AML inspections. The MOD/ID has not reviewed AML compliance by insurance companies and the newly created supervisory body for private insurance is not yet operational.

BOG

621. The on-site inspections for AML/CFT purposes are carried out by the Anti-Money Laundering Inspections Section (the special Banking Supervision Section performing inspections mainly to domestic credit institutions), by the Division for the Supervision of Other Regulated Entities (performing inspections to money remitters and bureaux de change) and by the On-site Examinations Division (performing a full-scope inspection).

622. The assessors were given the following data on on-site inspections carried out by the BOG since 2003:

Financial institutions	2003	2004	2005	2006*
Banks (only branches for AML review)	43	44	65	54
Cooperative banks (general examination including AML review)	N/D	6	6	6
Subsidiaries of Greek banks located in the Balkans (general examination including AML review)	N/D	2	2	2
Bureaux de change	13	5	6	5
Money remitters (only come under BOG supervision in the second half of 2004)	N/A	0	9	10
Leasing companies (general examination including AML review)	N/D	0	2	1
Factoring companies (general examination including AML review)	N/D	1	0	2

Total	56	58	90	80
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* from January to November 2006

623. Although the BOG carries out an increasing and – in absolute value – large number of specific AML/CFT on-site visits of branches of banks, the percentage of visits relative to the total number of branches subject to such visits remains low (less than 2%). It is also a concern that AML/CFT inspections are carried out only at branches and not head offices for the entire bank.

HCMC

624. In 2006, the HCMC set up a specialised unit responsible for AML compliance monitoring. At the time of the on-site visit, the HCMC had conducted 14 AML inspections (5 of brokerage firms, 7 of investment firms, 1 of a mutual funds management firm and 1 of an investment intermediation firm).

MOD/ID

625. The Insurance Directorate has not conducted AML supervision of insurance companies and the new supervisory authority was not in place yet at the time of the on-site visit.

Supervisory program and procedures - Recommendation 23

BOG

626. *Full-scope inspections.* The full-scope inspections are conducted, as scheduled in the annual plan, and include credit institutions and cooperative banks located in Greece. Regarding the subsidiaries and branches of Greek banks operating abroad (both in EU and outside EU countries) the examination is mostly focused to the assessment of the adequacy of the internal control systems as well as of the monitoring mechanism of the parent and/ or the headquarters.

627. During the pre-inspection phase the assessors were told that an overview of documents related to the regulatory framework and the findings of the host supervisors takes place in cooperation with the Anti-Money Laundering Inspections Section. During the on-site phase, the assessment is based on the findings of the internal auditors, both of the subsidiary and the parent bank, as well as on the reports of the relevant regulatory bodies. Moreover, the on-site examination team reviews the total internal AML/CFT framework. In this respect, the existence and the implementation of the following elements are considered: (1) identification procedures; (2) alert indicators of anomaly in operations (cash, security, foreign, account history, customer's behaviour); (3) record-keeping procedures; (4) storing of the documentation; (5) systematic training mainly on KYC procedures; (6) monitoring and reporting to the FIU; (7) relevant structures and responsibilities (compliance function) and (9) IT systems for the tracking and filtering of suspicious transactions.

628. *AML/CFT inspections.* The Anti-Money Laundering Inspections Section carries out on-site examinations focused only on AML/CFT provisions. The BOG has adopted a new auditing methodology that consists of 4 steps. Before the inspection, the Anti-Money Laundering Inspections Section's specialised examiners overview in cooperation with the Office for the Prevention of Money Laundering, all the available information regarding the supervised institution. This information is set out in an annual report sent to the BOG every year in March by the SIs on internal Policies and Procedures adopted (step 1). Furthermore, it is notified of any change in the AML/CFT system during the year. Based on these reports, a first risk profile of each SI is produced. During the visit of two examiners from the BOG (step 2) the AML/CFT system of the supervised institution is examined, its effectiveness is assessed and the information gathered by the Office for the Prevention of Money Laundering is verified. After the inspection the specialised examiners notify their findings to the above Office. The first risk profile is enriched with the information collected and a final risk profile is produced (step 3). In the last step, the AML Inspections Section and the Office for the Prevention of ML together launch the audit program with respect to the final risk profile. The BOG AML/CFT on-site inspections may last from 3 to 10 days.

629. The BOG's supervisory program for AML is not fully risk-based and does not take a consolidated approach to the supervision of AML/CFT policies and risk management systems. BOG inspections are largely based on a random selection of bank branches which, in the case of very limited consolidated supervision (e.g. at the headquarters level), does not provide a comprehensive assessment of ML/FT risk management and compliance. The BOG has recently reviewed this approach to AML supervision and decided to go forward by examining institutions at the headquarters level, supplemented by branch examinations to provide it with a more holistic view of risk management and compliance. However, the program for supervising compliance at the group level seems limited. The BOG informed the evaluation team that joint on-site inspections have taken place but this approach has been limited in practice. The BOG may also cooperate with the HCMC in the examination of market abuse and market manipulation cases.

630. An additional issue is the expansion of some banks overseas, particularly in the Balkan region. The assessors were told that during recent years the BOG has carried out inspections on cooperative banks (9 banks) and on subsidiaries located in the Balkan area (6 banks located in Rumania, Bulgaria, Serbia and Montenegro, Albania and FYROM), in the context of consolidated supervision.

631. It is not certain to what extent the examination program specifies the need for prior consultation with the prudential supervision section of the BOG, other domestic regulators (especially the HCMC and the MOD/ID), the FIU, auditors, and overseas home/host regulators. The BOG considers that the development of an integrated supervision strategy allows the AML/CFT supervision section to benefit from the resources (including the personnel) of other supervision sections of the Bank. This potentially raises questions about the expertise and training of such personnel in the AML/CFT area.

632. The examination procedures are generic and the supervision procedures for banks and credit institutions may not be entirely appropriate for other sectors such as money remitters and bureaux de change.

HCMC

633. As the special unit responsible for supervision of compliance with the AML/CFT requirements was only established in 2006, with the primary objective of the on-site inspections being the identification of any weaknesses in the supervisory system in place. Previously, the inspection unit has very much relied on annual reports received from securities firms as an aid to on-site inspections. The supervisory program is not risk-focused, does not emphasise the adequacy of risk management policies and systems, and does not take yet a consolidated approach to AML/CFT risk supervision. The evaluation team was informed that the targeted AML/CFT audits carried out in 2006 were selected on the basis of a sample of firms according to size. Findings from these inspections have been used to inform the drafting of Rule 23/404, and the findings of the 2006 visits are being used to select the risk areas where visits in 2007 will be conducted.

MOD/ID

634. The Insurance Directorate has not conducted AML/CFT supervision of insurance companies and does not have a procedures manual for AML/CFT.

Guidelines - Recommendation 25

General

635. Article 4.9 (c) of the AML Law states that the Competent Authorities (i.e., the BOG, the HCMC, and the HPISC) can issue more detailed criteria or examples of transactions that could constitute suspicions of ML. This provision is very limited and does not provide for the much fuller range of guidance required by FIs.

BOG

636. The Governor's Act 2577/2006 sets out additional and more detailed AML/CFT requirements applicable to SIs (in relation to CDD, record-keeping, risk-based approach, etc.). It also makes an inventory of examples of transactions that may give rise to suspicions of ML and FT (Table III). Such indicators for ML prevention are as follows: (1) customers who provide insufficient or suspicious identification; (2) wire transfers; (3) activities inconsistent with the customer's business; (4) other suspicious customer's activities or behaviours; (5) cash transactions; (6) use of safe deposit boxes; (7) loans; (8) purchases and/or sales of securities; (9) changes in bank-to-bank transactions; (10) suspicious behaviour of employees and (11) ML through international trade. The indicators in relation to FT are as follows: (1) activities inconsistent with the customer's occupation or business or activity; (2) wire transfers; (3) other suspicious transactions such as accounts opened by SIs from high-risk locations. These indicators are very broad and general and are not focused on which risks are relevant to the different sectors supervised by the BOG (they essentially target credit institutions only).

HCMC

637. The HCMC has issued Circular 8/2000 to securities firms which provides general AML guidelines for, inter alia: (i) need to scrutinise transactions with counterparts from countries listed by the FATF as NCCT; (ii) need to identify third parties particularly when they involve offshore companies and to pay special care when identification information is insufficient; (iii) need to implement procedures for the selection/recruitment of qualified staff capable of dealing with AML issues; (iv) lists 11 examples of potentially suspicious transaction in the securities sector. In the past the HCMC has also issued other periodic Circulars to securities firms updating the lists of FATF NCCT jurisdictions.

638. HCMC has also issued Rule 108, which basically reproduces the relevant provisions of the AML Law (as adopted in 1995) and outlines an annual reporting requirement for securities firms⁴⁷. Guidance is limited and Circular 8 and Rule 108 do not provide sufficient detail or specificity on the various compliance issues for identification, record keeping, monitoring, reporting/tipping off, risk-based control systems, training, etc.

MOD/ID

639. No general guidelines have been issued to the insurance sector. The MOD/ID has issued Circular 9563 in 1997 which reproduces to a large extent the applicable provisions of the AML Law as for HCMC Rule 108. While the MOD/ID has also issued Circulars providing lists of FATF NCCT jurisdictions, these are very limited.

Statistics - Recommendation 32

640. Statistics on on-site inspections by the HCMC were not readily available during the mission, including details of enforcement action and sanctions. The BOG provided limited statistics on the number of visits undertaken and sanctions imposed. The BOG indicated that a detailed report has to be submitted to the MOEF on a biannual basis on the evaluation of individual undertakings and any measures taken or sanctions imposed. In the case of credit institutions, the report of the Bank of Greece shall contain an overall evaluation of each credit institution and not its individual branches. There does not seem to be an effective system for follow up with respect to recommendations and operational coordination between the AML examination unit and the enforcement and sanctions section of the BOG could be improved. As HCMC has only conducted four AML related examinations in 2004, it had few statistics on these issues. Post mission HCMC provided some statistics on enforcement actions taken in the past few years. The MOD/ID has no such statistics for insurance companies as it has not conducted on-site inspections for AML.

3.10.2 Recommendations and Comments

⁴⁷ Circular 31 provides more extensive information on areas of suspicious activities.

641. *Resources.* The level of resources dedicated to AML/CFT supervision in Greece is very low. Some improvements are noticeable within the BOG but remain insufficient to allow the BOG to carry out its supervisory duties appropriately. For the HCMC the issue of resources should also be considered as a priority. In the insurance sector, it will be essential to ensure that the new supervisory authority is given appropriately qualified and experienced staff and appropriate resources to launch its AML/CFT supervision process. Staff training in AML/CFT matters should remain a priority of all supervisory authorities. These authorities should also define specific standards when hiring qualified personnel in their respective AML/CFT divisions.

642. The assessors believe that the BOG should ensure that its internal supervision divisions cooperate appropriately and that its internal organisational structure fits the needs of the authority in terms of AML/CFT supervision. It is essential to increase its capacity to carry out proper AML/CFT inspections, especially in relation to on-site inspections.

643. *Recommendation 29.* The BOG and the HCMC have been given appropriate powers to monitor and ensure compliance of FIs with their AML/CFT requirements. There are adequate provisions to ensure that supervisory authorities have access to relevant data when monitoring compliance. The remaining issues relate to the implementation of existing provisions. With regard to the BOG, the assessors have some doubts about the BOG's capacity to use its supervision powers in the most appropriate way since, although the BOG aims to carry out supervision in a risk-based manner, no proper risk-based approach has been implemented to identify SIs that may raise a higher ML/FT risk. The introduction of such an approach could help the BOG using its limited resources in a more appropriate way. The HCMC is only starting using its powers in relation to AML/CFT supervision. The MOD/ID has been provided with the power to conduct on-site inspections and to gather the information it deems necessary to perform its duties but has not used that power in the AML/CFT area. This should be the case under the supervision of the HPISC.

644. *Recommendation 17.* The regime of sanctions for failing to comply with national AML/CFT requirements raises significant concerns. With regard to credit institutions supervised by the BOG, the most usual sanction is a requirement to pay a non-interest bearing deposit and this applies to all types of breaches whatever their seriousness. This, in effect, limits the sanctions to loss of interest or investment opportunity over the period of deposit. Other sanctions are available but they have only been imposed to a limited extent since the BOG considers the imposition of non-interest bearing deposits effective and dissuasive although they are not publicised. The BOG should review its use of sanctions to ensure that they are effective, proportionate and dissuasive (the financial sanctions should not necessarily take the form of non-interest bearing deposit and information should be published). Specific sanctions for directors and senior managers should be available and implemented where appropriate. The HCMC should ensure that the sanctions in place fully meet the FATF standards i.e. are effective, proportionate and dissuasive and are implemented properly.

645. For financial institutions supervised by MOD/ID (and now HPISC), the Greek authorities should consider the need for consequential amendments to the regulatory laws to ensure that enforcement and sanctions for violations of the AML Law requirements by FIs are in line with the FATF standards and are sufficiently dissuasive. Such sanctions should apply not only to legal persons that are financial institutions but also to their directors and senior management.

646. *Recommendation 23 – market entry.* The Greek authorities should introduce a licensing requirement for insurance agents by the insurance regulator to enable application and enforcement of the AML/CFT legal requirements in this sub-sector. Fit and proper tests should be conducted for all directors of credit institutions.

647. *Recommendation 23 – supervisory programme and procedures.* The BOG seems to have given more priority to the conduct of AML/CFT inspections and has recently extended its supervision programme to bureaux de change, money remitters and leasing/factoring companies. However, the supervision mechanisms in place (that are still in their infancy) and the resources devoted to such an exercise (see comments above on resources) are not sufficient to address the actual needs for monitoring the implementation of AML/CFT requirements by SIs. This

raises an important issue in terms of effectiveness of the supervisory programme. The BOG should implement a risk-based supervisory program for AML/CFT and adopt a more systematic consolidated approach to the supervision of AML/CFT policies risk management systems (including carrying out more inspections at the headquarters level). The inspection procedures in their current format do not seem very appropriate for the inspections of sectors such as money remitters and bureaux de change. This should be addressed properly. Based on the information provided during the on-site-visit, the assessors believe that the assessment of bureaux de change and money remitters lacks quality and that the BOG should address this issue as a priority.

648. The HCMC and the HPISC should implement a robust supervisory programme for AML/CFT purposes with proper inspection procedures.

649. *Recommendation 25.* The most complete guidelines have been adopted so far by the BOG. As set out in the FATF standards, such guidelines should provide details on new trends, patterns and methods which may be used for ML of FT and assist FIs to comply with their respective AML/CFT obligations. The BOG, the HCMC⁴⁸ and the HPISC should adopt sector-specific guidance with updated information on ML and FT trends and techniques and a broader scope in order to comprehensively address the FATF requirements. This could be done in cooperation with representatives of the private sector.

3.10.3 Compliance with Recommendations 17, 23, 25, 29 & 30

Rec.	Rating	Summary of factors underlying ratings
Rec.17	PC	<ul style="list-style-type: none"> for FIs supervised by the BOG: (1) the current use of sanctions (non-interest bearing deposit) is neither sufficiently effective nor sufficiently dissuasive; (2) the range of sanctions imposed is not sufficiently broad and is not proportionate to the severity of a situation; (3) the implementation of sanctions to FIs directors or senior management is uncertain; for FIs supervised by the HCMC: (1) based on the information available, there is insufficient evidence to show that the sanctions regime in place offers a sufficiently broad range of sanctions for failing to comply with AML/CFT requirements: (2) due to the very low volume of compliance monitoring carried out by the HCMC, the effectiveness of the sanctions regimes cannot be measured; for FIs supervised by MOD/ID: there is insufficient information to show that the MOD/ID has the authority to impose sanctions for non-compliance with the AML Law and MOD Circulars. No sanctions have been imposed for AML/CFT breaches.
Rec.23	PC	<p><i>Market entry</i></p> <ul style="list-style-type: none"> absence of a licensing requirement for insurance agents; fit and proper tests are not conducted for all directors of credit institutions; <p><i>Supervisory programme and procedures</i></p> <ul style="list-style-type: none"> BOG: the current supervisory programme adopted by the BOG raises important doubts in terms of effectiveness (lack of resources and qualified personnel, quality of inspections); HCMC AML/CFT supervision of securities firms is very recent and effectiveness has not been demonstrated; MOD/ID: there is no AML/CFT supervision of insurance companies.
Rec.25	NC	<ul style="list-style-type: none"> BOG guidelines are very general and their relevance to certain SIs (e.g. money remitters and leasing companies) is limited; HCMC and MOD/ID guidelines are incomplete and generally too broad.

⁴⁸ Although Circular 31 has been adopted, the assessment team was told that additional guidance will be issued by the HCMC.

Rec.29	PC	<ul style="list-style-type: none"> • while appropriate supervision powers have been given to the BOG, there is limited capacity of the BOG to use them in an effective way; • the BOG has not used the full range of sanction it has at its disposal; • the HCMC has only recently started to use its supervision powers and there is insufficient evidence of effectiveness, • the MOD/ID has not used its supervision powers in the AML/CFT area.
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3.11 Money or value transfer services (SR.VI)

3.11.1 Description and Analysis

650. *Money remittance firms (funds transfer intermediaries)*. The BOG has been designated as the authority to licence and supervise money remittance firms. The basic law is the Banking Law 2076 for credit and other financial institutions (re: Article 2 (6) and Article 24) which defines financial institutions as including money transmission activities. Specific licensing and supervisory powers over money remittance companies are provided by Article 15 of Banking Law 2076 and more specifically by Chapter 18 of Law 3148/2003. This law also amends the AML Law 2331 redefining the term “competent authority” to include companies intermediating funds transfers under the BOG. It also provides for sanctions for non-compliance with the licensing requirements. Prior to Law 3148/2003, the BOG indicates that money remittance firms were required to remit customers’ funds only through authorised credit institutions (which were subject to AML requirements) and that they were also subject to statistical reporting requirements on their foreign currency transactions.

651. In addition, the BOG Governor’s Act 2536/2004 outlines the terms and conditions for licensing of money transmission companies and provides specific rules on operations, including on customer identification and record keeping. This Law and the Governor’s Act cover Greek money remittance companies which may be representatives of foreign money transfer operators (e.g. Western Union and Moneygram) as well as standalone Greek operators. They do not cover the subagents of the overseas operators or agents of the Greek-based remitters and hence are not licensed or registered by the BOG. There are 14 licensed money transmission companies in Greece (including Postal companies). It also appears to cover remittances made through the postal giro system. Of these, 6 are franchises of 2 large overseas operations. There are a total of 1,876 subagents and 923 branches.

652. *Bureaux de change*. Bureaux de change are authorised to conduct money transfer business pursuant to Section II 2 (c) of the BOG Governor’s Act 2541/2004 and Law 2515/1997. The same rules of operation described in the BOG Act 2536/2004 for money transfer companies apply to bureaux de change companies (see Section 3.10 of the report). In addition, Article 55A of the BOG Statute provides the basic law that empowers the BOG to exercise prudential supervision over bureaux de change.

653. The AML Law and the BOG Governor’s Act 2577/2006 apply to both money transfer and bureaux de change companies. The Governor’s Act requires the submission of annual information on SIs AML systems, including money transfer and bureaux de change companies. The BOG is responsible for their supervision, including for AML/CFT compliance monitoring. Since 2003, the BOG has carried out 29 inspections of bureaux de change and 19 of money remittance companies. Due to an apparent lack of specialist skills of the BOG personnel in the money transfer/bureaux de change sector, the effectiveness and focus of the on-site inspections carried out in bureaux de change and money remittance companies from an AML/CFT perspective is not clearly shown. The BOG maintains a current list of 14 bureaux de change and 14 licensed money transfer companies. There is a requirement under Governor’s Act 2536/2004 for money remittance companies to inform the BOG of the names and addresses of agents within 15 days of their authorisation. No similar requirement appears to exist for bureaux de change companies in Governor’s Act 2541/04. It is not clear from Governor’s Act 2536/04 whether reporting of information on the agents is an ongoing/periodic requirement and whether this would also apply to subagents.

654. *Sanctions.* Bureaux de change and money remittance companies are subject to specific sanctions regimes. For money remittance firms, sanctions are those provided by Chapter 18 of Law 3148/2003: administrative fines, temporary suspension of operation or revocation of the authorisation of operation. Administrative fines may be equal to: a) an amount not to exceed 30% of the value of the violation concerned; or b) a lump sum not to exceed EUR 150,000, and shall constitute government revenue. No reference is made to sanctions applicable to directors or senior managers. Section V of BOG Governor's Act 2541/2004 provides sanctions for bureaux de change: suspension of operation, administrative fines (fine in favour of the Greek government up to 30% of the value of the shares transferred in breach of the provisions) and revocation of authorisation. The same provision sets out sanctions for natural persons: barring from the bureau's Board of Directors as well as from any other executive position in the bureau. The range of sanctions applicable to bureaux de change and money remittance companies seems satisfactory and the sanctions themselves seem proportionate.

655. *Informal money or value transfer systems.* The existence of informal transfer systems are not known to exist by either the public authorities or the private sector. There is some awareness within the BOG and in the private sector that certain transportation companies are providing organised informal currency transfer services across the Greek borders to and from neighbouring countries. The extent of this service, and whether it is only concerned with cross-border transportation of currency or whether it involves other forms of informal transfer system, is unknown as there has not been an assessment of its existence or the scale and risks involved. The apparent lack of specialist skills of BOG personnel supervising money transfers companies/bureaux de change, might lead to a lack of awareness of where informal money or value transfer systems can arise in Greece. The assessors were also told that some underground money transfers services take place in call centres. The Greek authorities had not concluded any investigations to confirm or deny the existence of such services.

3.11.2 Recommendations and Comments

656. Current provisions in relation to agents of bureaux de change should be clarified since it is not certain that bureaux de change are obliged to inform the BOG of the names and addresses of their agents. This may impede the ability of the competent authority to access such information.

657. The BOG should improve the quality of the supervision carried in bureaux de change and money remittance companies. It is essential to develop proper inspections procedures that address the specific risk of this financial sector.

658. The Greek authorities should review the existence of informal remittance businesses for purposes of registration of licensing and oversight for AML/CFT purposes.

659. In general, Greece should take immediate steps to properly implement Recommendations 5-7, SR.VII and other relevant FATF Recommendations and to apply them also to the bureaux de change and money remittance companies.

3.11.3 Compliance with Special Recommendation VI

Rec.	Rating	Summary of factors underlying ratings
SR.VI	PC	<ul style="list-style-type: none"> • the lack of specialised, trained staff means that there are general concerns about the effectiveness of the BOG supervision programme as applied to MVT services; • there was some evidence of informal transfer services, which were not applying AML/CFT measures and not being supervised; • in general, Greece should take immediate steps to properly implement Recommendations 5-7, SR.VII and other relevant FATF Recommendations and to apply them also to bureaux de change and money remittance companies.

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1 Customer due diligence and record-keeping (R.12) (applying R.5, 6 & 8-11)

4.1.1 Description and Analysis

660. The obligations laid down in the AML Law apply to the following non-financial professions and business:

- chartered accountants, auditors, independent accountants and audit firms;
- tax consultants, tax experts and related firms;
- real estate agents and companies;
- casinos (including internet casinos) and entities engaging in gaming activities;
- auction houses;
- dealers in high value goods and auctioneers, whenever the transaction value exceeds EUR 15,000 to be paid as a lump sum or in instalments;
- notaries and lawyers when they participate, either in or arranging on behalf of their clients transactions involving: transfer of real estate or a business; management of cash, securities or other assets owned by their clients; opening and operation of bank accounts, savings accounts or securities accounts; establishment, operation or management of trusts or similar entities, or by acting on their own behalf or on behalf of their clients in the context of financial or real estate transactions. Legal advice remains subject to the obligation of professional secrecy, unless the legal counsellor himself/herself is involved in money laundering or counsels the commission of money laundering or knows that the client is seeking legal advice for the purpose of committing money laundering.

661. All the above mentioned professions and businesses are subject to AML/CFT preventive obligations in the terms of Articles 4 to 9 of Law 2331/1995 as amended by Law 3424/2005.

662. The purpose of the AML Law is clearly to bring all of the professions within scope – see Article 2a 1, which says that the obligations of Section 1 apply to the firms listed – including DNFBPs. Pursuant to Articles 4.1, 4.9, 4.10 etc., all references in the Law applying to “credit institutions and financial institutions” also apply to the additional DNFBPs listed in Article 2a.

663. Greece contends that a separate business sector for trust and company service providers does not exist and therefore AML/CFT obligations are not applicable to persons offering these services. Yet services such as acting as a formation agent of legal persons are offered by lawyers or other regulated and supervised professionals (in the report, all references to lawyers also includes lawyers who provide company services). The assessment team did find that at least one business, with offices in two Greek cities, offered company formation services. The evaluation team was unable to meet with the company.

664. The main deficiencies in the AML/CFT preventative measures applicable to financial institutions as set out in the main AML Law (i.e. Recommendations 5, 6, and 8-11 and described in Section 3 above) apply also to DNFBPs, since the core obligations for both DNFBPs and financial institutions are based on the same general AML/CFT regime (subject to the comments above on the exact scope of the AML Law).

665. In practice, although DNFBPs have been within the scope of the AML Law since December 2005, and competent authorities have been identified, no AML/CFT supervision is being undertaken, and compliance with the provisions in the AML Law is ineffective.

666. In the casinos industry, the Casino Operations Oversight Committee (the authority responsible for licensing casinos) has requested the Hellenic Casino Association to be informed on the measures adopted by casinos in the European Union (via the European Casinos Association) in the AML/CFT area. The Hellenic Casino Association has also been asked to provide information on the implementation by the Greek casinos industry of the requirements under the 2001/97/EC Directive and the FATF Recommendations.

Applying Recommendation 5

667. The same deficiencies in the implementation of Recommendation 5 under the AML Law apply to reporting financial institutions and reporting non-financial businesses and professions. In general, none of the DNFBPs spoken to by the evaluation team were applying the Law, and few were aware of their obligations. However, for commercial or other operational/regulatory reasons the following steps are being taken:

668. *Casinos.* The general operations of casinos are supervised by the Casino Supervisory Division of the Ministry of Tourism Development. Casinos are obliged to take details of a visitor's identification under Ministerial Decision T/6736. In practice, all visitors are asked for identity information such as name, address, telephone number and photograph ID (such as a passport or Identity Card) at the entrance to the casino. The casino keeps copies of the information obtained. No further identification of players is undertaken at any time. Casinos in Greece operate on a cash basis, and chips can only be purchased with cash. In addition, chips can normally only be redeemed for cash. Several banks operate branches in casinos, with a full range of normal banking services. In exceptional circumstances, customers might be given a casino cheque for winnings over EUR 10,000, although the industry thought this would be very rare. Casinos are not permitted by law to issue a certificate of winnings.

669. *Real estate agents.* In practice real estate agents carry out checks on the identity of the buyer and seller of a property. They check details on deeds against standard identity documentation (such as Identity cards). The evaluation team was told that this is done for commercial reasons, as the agent's fee is paid by both parties.

670. *Dealers in precious metals and stones.* The evaluation team was told that this sector does not perform any formal identification of clients. Much of this sector works on the basis of trust, and identity might be checked for commercial reasons. Transactions mostly take place in cash, but the evaluation team was informed that purchases over EUR 13,000 must be made by cheque. In addition, some checks might be carried out to ensure that customers are not on credit blacklists.

671. *Auditors and accountants.* There is no current practice among accountants to take evidence of identity for AML/CTF purposes. The Greek Accounting and Auditing Oversight Board (ELTE) has drawn up a decision which will impose new obligations on the firms it supervises. ELTE is expecting these provisions to be published in the Government Gazette by the end of 2006, with supervision of compliance with the obligations commencing in May 2007.

672. *Notaries.* Notaries are public functionaries, working in the private sector, who are involved in preparing documents for the sale of land and the formation of companies. They perform functions regarding the authentication of documents. Transfers of real property and incorporation of SA and LLC corporations are among the documents that they draft and authenticate. In each case, the notary public is required by Article 8 of the Notarial Code (Law 2830/2000) to "control the identities" of the parties to the contract. In practice, the parties appear together in the notary's office and the notary asks for a copy of the passport or the identity card. The notary writes down the information declared in the relevant legal document. The evaluation team was informed that a notary can be prosecuted if they fail to check identity.

673. *Lawyers.* Lawyers are not under a formal obligation to take identity information from clients, and no evidence was presented to the evaluation team to suggest that they are doing so.

674. *TCSPs*. Trust and company service providers are not separately recognised nor regulated as a separate business category operating in Greece. They do not fall under the scope of the AML Law. The assessment team did find that at least one business, with offices in two Greek cities, offered company service.

Applying Recommendation 6

675. The same deficiencies in the implementation of Recommendation 6 under the AML Law apply to reporting financial institutions and reporting non-financial businesses and professions. The evaluation team was provided with no evidence to suggest that any of the competent authorities for the DNFBPs had taken steps to issue any additional guidance.

Applying Recommendation 8

676. The same deficiencies in the implementation of Recommendation 8 under the AML Law apply to reporting financial institutions and reporting non-financial businesses and professions. In practice there currently appears to be little current scope for the use of new technologies in relation to the DNFBP sector.

Applying Recommendation 9

677. The same deficiencies in the implementation of Recommendation 9 under the AML Law apply to reporting financial institutions and reporting non-financial businesses and professions. The requirements in relation to third party introductions currently appear to be of limited application to the DNFBP sector, in any event.

Applying Recommendation 10

678. Although the DNFBP sector is subject to the general AML requirements set out in Section 3.5, above, there is no formal adoption of these measures in practice. Some sectors (for example casinos and notaries) are under separate obligations (not related to AML/CFT) to maintain details of customer identification.

Applying Recommendation 11

679. The same deficiencies in the implementation of Recommendation 11 under the AML Law apply to reporting financial institutions and reporting non-financial businesses and professions. Some of the DNFBPs are subject to separate obligations in respect of monitoring, and these can be summarised as follows:

- *Casinos*. Casinos are required to practice ongoing monitoring of transactions. However, these obligations are separate from AML/CFT requirements.
- *Real estate agents*. Real estate agents do not practice ongoing monitoring of transactions and relationships. Most transactions are conducted on a one-off basis. There may be some monitoring conducted for business development purposes.
- *Dealers in precious metal and stones*. Ongoing monitoring of transactions and relationships is not routinely carried out.
- *Auditors and accountants*. Auditors might conduct some ongoing monitoring of transactions and relationships, though not necessarily for AML/CFT purposes.
- *Notaries*. Notaries do not perform ongoing monitoring, as the transactions they notarise are usually one-off transactions.
- *Lawyers*. It is unclear whether lawyers are carrying out any ongoing monitoring on existing clients.

4.1.2 Recommendations and Comments

680. Although parts of the AML Law have been amended to include DNFBPs within scope, it is disappointing to note the lack of progress in bringing the requirements fully into force. Greece should, therefore, take steps to

fully implement the provisions of the AML Law in respect of DNFBPs and to clarify the drafting in the AML Law to ensure that each relevant section fully applies not only to credit and financial institutions.

681. In particular the relevant competent authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, and to develop guidance relevant to the individual sectors.

4.1.3 Compliance with Recommendation 12

Rec.	Rating	Summary of factors underlying ratings
Rec.12	NC	<ul style="list-style-type: none"> • similar technical deficiencies in the AML Law relating to Rec. 5, 6 and 8-11 that apply to financial institutions also apply to DNFBPs (see comments and ratings in Section 3.2); • although DNFBPs are technically subject to various provisions of the AML Law, practical application is extremely limited. This raises serious concerns in relation to the effectiveness of the measures in place; • no AML/CFT measures apply to TCSPs; • internet casinos are covered by law but there is no action taken in practice; • it is unclear if casinos on Greek owned or operated vessels are covered by the AML Law.

4.2 Monitoring transactions and other issues (R.16) (applying R.13-15 & 21)

4.2.1 Description and Analysis

Applying Recommendation 13

682. DNFBPs are subject to the same requirements of the AML Law as apply to financial institutions, and are detailed in Section 3.7 above. All DNFBPs (except lawyers) are required to report STRs to the FIU. In practice, none of the DNFBPs or their representative bodies spoken to during the evaluation had taken steps to comply with the provisions of the requirement to report suspicious transactions. The FIU told the evaluation team that 4 STRs were reported in 2006 from "new" firms. Details have been requested but not yet received. However, the following general comments can be made:

683. *Casinos.* The Casinos spoken to by the evaluation team were not aware of the requirement to report STRs, and felt that doing so might compromise the requirement that they should not provide any certification of winnings.

684. *Real estate agents* The real estate agent spoken to by the evaluation team considered that banks were in a better position than estate agents to assess the suspicion or otherwise of a transaction, as they dealt with the transfers of funds.

685. *Dealers in precious metal and stones.* The dealers spoken to advised the evaluation team that they might notify a bank or the police if anything suspicious arose in the course of a transaction.

686. *Auditors and accountants.* Although there is no current guidance to accountants in respect of the submission of STRs, the Greek Accounting and Auditing Oversight Board (ELTE) is issuing guidance which will ensure that the firms it supervises are complying fully with the law relating to AML/CTF. It was not clear at the time of the on-site visit when the new provisions would be published in the Government Gazette and thus when they would come into effect, although ELTE is hoping to begin supervision in May 2007.

687. *Notaries*. Notaries in Greece consider that suspicious transactions are more likely to be identified by lawyers, as the role of a notary is to record the details of the contract, and they do not see their role as an investigative one. Accordingly, knowledge of the requirement to submit STRs among notaries is extremely limited.

688. *Lawyers*. Lawyers are, by virtue of AML Law Article 4.19, required to report STRs to a Committee, comprising five members appointed by the National Federation of Bar Associations, and located at the premises of the Athens Bar Association. The Committee will be responsible for forwarding STRs to the FIU. A decision of the Minister of Justice is required to specify the operating procedures of the Committee. The evaluation team was informed that consultation between the Ministry of Justice (the competent authority for lawyers) and the Committee had not been able to resolve some fundamental issues of how the committee would operate in practice, and particularly how much of a role it would play in “filtering” STRs going to the FIU. There continues, therefore, to be no effective STR reporting system for lawyers. The MOEF, in its AML co-ordination role, expressed some concern at the impasse between the Ministry of Justice and the Committee.

Applying Recommendation 14

689. As all DNFBPs are within the scope of the AML Law, the protection from breach of restriction on disclosure in Article 4.14 and the prohibition on disclosure set out in Article 4.15 apply. However, the practical impact of these provisions is extremely limited, given the lack of awareness of the requirement to submit STRs in the DNFBP sector. In addition, the evaluation team was informed by The Greek Accounting and Auditing Oversight Board (ELTE) that their planned guidance would include an obligation on auditors who formed suspicions of AML/TF to report this to the client and to mention it in the published audit report. This gives grounds for concern that the industry guidance will potentially be requiring auditors to engage in “tipping off”, which is contrary to the AML Law.

Applying Recommendation 15

690. By virtue of Article 4.9.a.(ii) of the AML Law, DNFBPs are subject to the requirement to establish adequate procedures of internal control and communication in order to forestall and prevent operations related to money laundering and terrorist financing. However, these requirements are very general.

691. *Casinos*. Casinos are required to have internal controls relating to the monitoring of financial transactions to prevent theft, fraud and tax evasion, but not specifically for AML/CFT requirements. There are internal surveillance systems and audit teams from the Casino Division of the MOT, who are required to be on-site on a 24-hour basis to supervise the counting of cash and to intervene and assist in ensuring compliance with the law where necessary. All casinos are required to be independently audited and audit reports must be submitted to the Casino Division within 6 months of their year ends. It is unclear to what extent such provisions apply to internet casinos and to casinos on Greek owned or operated vessels.

692. *Auditors and accountants*. Auditors’ and accountants’ professional practice do include compliance programs that address internal controls, compliance and audit requirements, but not specifically related to AML/CTF.

693. *Notaries*. Requirements for taking identification are clearly laid out in the Notarial Code. There is no requirement for an AML/CTF compliance function or an internal audit function.

694. *Lawyers*. There is no requirement for an AML/CTF compliance function or an internal audit function.

Applying Recommendation 21

695. There is little or no monitoring of relationships and expansion of operations into other countries, which pose increased risks of ML and FT, as described in R. 21 for AML/CFT purposes apply here. This is particularly

relevant to the casino sector, where evidence of ship-based casino operations were discovered by the evaluation team, with an office in Piraeus.

4.2.2 Recommendations and Comments

696. Greece should take steps to fully implement the provisions of the AML Law in respect of DNFBPs. In particular the relevant competent authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, and to develop guidance relevant to the individual sectors and to clarify the drafting in the AML Law to ensure that each relevant section fully applies not only to credit and financial institutions.

4.2.3 Compliance with Recommendation 16

Rec.	Rating	Summary of factors underlying ratings
Rec.16	NC	<ul style="list-style-type: none"> • similar technical deficiencies in the AML Law relating to Rec. 13, 15 & 21 that apply to financial institutions also apply to DNFBPs (see comments and ratings in Sections 3.6, 3.7 & 3.8); • although DNFBPs are covered by the scope of the AML Law, in practice nothing has been done to implement the provisions within the DNFBP community, and thus practical application is extremely limited. This raises serious concerns in relation to effectiveness of the measures in place; • no AML/CFT measures apply to TCSPs; • there are insufficient detailed requirements concerning the implementation of internal controls.

4.3 Regulation, supervision and monitoring (R. 24-25)

4.3.1 Description and Analysis

Recommendation 24

697. Although most of the DNFBP sectors are now covered by the AML Law, there are serious concerns about how effective the regime is, with little evidence of actual supervision.

698. *Casinos*. The Casino Operations Oversight Committee was established under Law 2206/94. Since 1994 it has been given the responsibility to licence all casinos, and is under the overall control of the Ministry of Tourism Development. According to the Law 2206/1994, Article 3 (Operation of Casinos), paragraph 2, after conducting of the bid and licencing all casinos, the Casino Committee shall remain and operate as a Committee for the supervision of casinos. Thus, the general operations of casinos are supervised by the Casino Supervisory Division/ Casino Inspectorate (who maintain an on – site presence during gambling hours) and the Casino Operations Oversight Committee. Both the Casino Supervisory Division and the Casino Operations Oversight Committee are under the overall control of the Ministry of Tourism Development.

699. The Casino Operations Oversight Committee receives and processes all applications for a licence. Licences are offered by way of tender, and are granted only after checks on solvency and integrity are carried out. Any transfer of shares in the casino is permitted only after approval is given by the Committee. Ongoing supervision of casinos is carried out by the Casino Inspectorate, who maintains an on-site presence during gambling hours.

700. In conclusion, although casinos are subject to regulation and supervision, this does not appear to extend to AML/CTF measures.

701. *Internet casinos.* The AML Law specifies that the Ministry of Economy and Finance is the competent authority for internet casinos, and the Gambling Control Committee is the competent authority for “other entities engaging in gambling activities”. However, the Gambling Control Committee is not yet operational.

702. The evaluation team was not given any evidence of the activities of either competent authority, and representatives from both the Casino Supervisory Committee and the casinos themselves had no knowledge of the Gambling Control Committee. It appears that no active monitoring of AML/CTF compliance is taking place. No effective regime is in operation for AML/CTF matters.

703. Greece has not taken any measures to identify whether there are any Greek residents/citizens who are currently: (i) owning or operating an internet casino; (ii) owning or operating a company that runs an internet casino; or (iii) owning or operating a server that is located in Greece and which is hosting an internet casino.

704. *Casinos on ships.* Casinos gambling facilities appear to be offered on Greek operated ships leaving from Greece. Although the Directorate of Security of the Ministry of Merchant Marine is responsible for the inspection of casinos operating in Greek vessels, no AML/CFT measures appear to apply to such casino gambling.

705. *Real Estate Agents.* There is no mandatory licence requirement for conducting real estate business in Greece. Greece has a Union of Real Estate Agents, which is grouped into 19 Unions throughout the country. The evaluation team was told that in order to join one of the unions, candidates should have a high school education. Current estimates are that there are around 6,000 members. In addition, local professional chambers, which licence a variety of sole practitioner professions, can issue licences to those with 9 years’ high school education and no criminal convictions.

706. The AML Law specifies that the MOEF is competent authority for AML/CTF supervision of real estate agents. The evaluation team was told that supervision will be undertaken by the General Directorate of Tax Controls, which comes under the overall control of the MOEF. At the time of the on-site visit there was no evidence that such supervision was taking place. The MOEF informed the evaluation team that the General Directorate of Tax Controls is carrying out a study of AML/CTF risks in the sector.

707. *Dealers in precious metals and stones.* High value goods dealers are required to register their businesses with the tax authorities and to obtain operating licences. These are renewed every 3 to 5 years. In addition the Association of High Value Goods Dealers is a group of local syndicates formed in 30 prefectures. The evaluation team was told that around 75,000 shops were members of the association, mostly jewellers or dealers in other high value goods. The local Associations meet regularly, and ad hoc information is issued by way of circulars. This does not appear to extend to AML/CTF. There is no formal code of ethics.

708. The AML Law specifies that the MOEF is competent authority for AML/CTF supervision of high value goods dealers. The evaluation team was told that supervision will be undertaken by the General Directorate of Tax Controls, which comes under the overall control of the MOEF. At the time of the on-site visit there was no evidence that such supervision was taking place. The MOEF informed the evaluation team that the General Directorate of Tax Controls is carrying out a study of AML/CTF risks in the sector.

709. *Auditors and Accountants.* The Accounting and Auditing Supervisory Board (ELTE) determines accounting standards and carries out checks on quality of chartered accountants in Greece. It has power to impose sanctions on accounting firms. At the time of the on-site visit, ELTE had drafted a decision which it was hoping to publish in the Ministerial Gazette by the end of 2006, with it coming into effect in May 2007. The evaluation team was told that this decision sets out various obligations in terms of AML systems and controls. No translation was available at the time of the on-site visit. These new requirements are due to be supervised by ELTE. ELTE has around 2,000 members, and has the power to issue licences and to revoke those licences.

710. The Chamber of Economists (SOEL) is the licensing authority for other accountants. The evaluation team was told that there are approximately 20,000 individual accountants who fall under its auspices. The evaluation team was not able to meet with this authority or any of its members. Under the AML Law auditing and accounting companies are supervised for AML/CTF compliance by ELTE. At the time of the on-site visit there was no evidence that such supervision was taking place, but, as described above, they are planning to commence supervision in 2007.

711. *Notaries.* Notaries are required to belong to the Association of Notaries, which is divided up into 9 chambers throughout Greece. This is a representational body. Notaries are required to be law school graduates with 2 years' experience as a lawyer. They must then pass a notarial examination set by the Ministry of Justice, before they obtain a licence to practise

712. Notaries are actually supervised by the Primary Court Prosecutor of the Court of First Instance and are examined by them. These examinations do not extend to AML/CTF measures. Disciplinary sanctions can be applied by the Ministry of Justice and more minor sanctions can be applied by the Association of Notaries. The AML Law specifies that the Ministry of Justice is the competent authority for notaries. At the time of the on-site visit there was no evidence that supervision was being carried out.

713. *Lawyers.* Lawyers are required to join the bar association where they practise. The evaluation team was informed that there are 41,000 lawyers in Greece, who belong to one of 63 local bar associations. The bar associations have power to disbar lawyers who are convicted of a criminal offence, and if 3 disciplinary matters are proved against the lawyer. The bar associations appear to be vocal representative bodies, but do not carry out routine examinations of their members. The AML Law specifies that the Ministry of Justice is the competent authority for lawyers. At the time of the on-site visit there was no evidence that supervision was being carried out, and there was concern that the MoJ had not reached agreement with the Committee appointed to receive STRs under Article 19 of the AML Law.

Recommendation 25

714. None of the DNFBPs have currently been issued with guidance on submitting STRs. The Greek Accounting and Auditing Oversight Board (ELTE) is planning to issue guidance which will come into effect in 2007. Discussions with ELTE revealed that this guidance would include an obligation on auditors who formed suspicions of AML/TF to report this to the client and to mention it in the published audit report. This gives grounds for concern that the industry guidance will potentially be requiring auditors to engage in "tipping off", which is contrary to the AML Law.

715. The FIU has not provided any additional guidance to the DNFBP sector, and it is important that potential risks facing each part of the DNFBP sector are highlighted, as knowledge of AML/CTF amongst the sector is limited.

4.3.2 Recommendations and Comments

716. Although Greece has extended the scope of the AML Law to include most DNFBPs within its scope, and has assigned competent authorities to supervise the relevant DNFBPs, it should ensure that these competent authorities commence effective supervision as a matter of urgency.

717. Competent authorities should be sufficiently resourced to undertake this role, and should take steps to establish contact with the relevant trade associations and firms/individuals within the DNFBP sector to ensure that all DNFBPs are aware of their responsibilities under the AML Law.

718. The competent authorities and the FIU should provide guidance and feedback to DNFBPs to ensure that they are aware of their obligations.

4.3.3 Compliance with Recommendations 24 & 25

Rec.	Rating	Summary of factors underlying ratings
Rec.24	NC	<ul style="list-style-type: none"> • although most DNFBPs are now included within the scope of the AML Law, little, if any, effective supervision is currently taking place; • there is a lack of designed supervisors for some DNFBPs; • the regime for supervision of DNFBPs is ineffective, as is demonstrated by the lack of awareness among firms; • it is unclear whether ship casinos are covered by the AML/CFT Law; • no AML/CFT measures apply to TCSPs.
Rec.25	NC	<ul style="list-style-type: none"> • with regard to DNFBPs, there is no current guidance issued by competent authorities on AML/CTF; • the FIU does not provide guidance/feedback to the DNFBPs.

4.4 Other non-financial businesses and professions Modern secure transaction techniques (R.20)

4.4.1 Description and Analysis

719. Greece has extended the scope of the AML Law to include dealers in high value goods, auctioneers, venture capital companies and tax consultants (Article 2a.1), although detailed requirements and supervision for these sectors have not yet commenced.

720. Cash is still predominant in everyday transactions in Greece. An increasing number of electronic financial transactions are taking place but the vast majority of Greeks still prefer to conduct much of their business with cash.

721. Some industries in Greece are heavily reliant on cash. For instance, in casinos, the purchase of chips can only be made in cash, and winnings are almost always paid in cash. Casinos are permitted to issue cheques in respect of winnings over EUR 10,000, although industry practice would suggest that this is utilised very rarely, possibly because of the prohibition on issuing a certificate of winnings. Industry practice for dealers in precious metals and stones suggests a high degree of reliance on cash for amounts up to EUR 13,000, with limited identification measures. Finally, countries in the EU have EUR 500 banknotes in circulation. This is an EU-wide issue, and not exclusive to Greece, but potentially raises issues in relation to cash smuggling.

4.4.2 Recommendations and Comments

722. The Greek authorities could take further steps to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

4.4.3 Compliance with Recommendation 20

Rec.	Rating	Summary of factors underlying ratings
Rec.20	LC	<ul style="list-style-type: none"> • Greece has not taken sufficient steps to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

Incorporation/registration of legal persons

723. The establishment of a legal person is subject to constitutive requirements (i.e. the legal procedure which creates the legal person) and statutory requirements (i.e. the articles of partnership/association or the organisation chart, which contain the administrative and functional conditions of the legal person). In practice, these two acts are joined into one aggregate act, which is the Charter of partnership/association.

724. *SA companies.* In order to set up a “*Société Anonyme*” (SA), persons must go to a notary public to have the articles of association prepared (see Law 2190/1920). These must include provisions listing the manner in which the SA will operate, how profits will be distributed to shareholders, how the initial capital will be paid up and other matters such as who will be the legal representative of the SA for purposes of binding the SA to contracts, accepting service of documents and generally acting as the public voice of the SA. Once this has been completed, an application to register the SA is filed with the MOD or the local prefecture. If all documents are in order, the registration is completed and an approval letter is issued with a request to have the articles published in the Official Gazette. With this document, the SA may proceed to the local tax office in order to obtain a tax identification number and may then begin operations. The Gazette notice is a formality which may take at least two weeks to publish.

725. For certain types of SA (listed companies, mutual fund companies, banks, brokerage firms, professional football and basketball companies, and branches of foreign banks), the registration takes place at the various offices of the MOD. Each SA is allocated a single registration number. The information kept is as follows: the articles of association as well as any amendments to those articles, names of directors and documents governing their appointment, director and shareholder resolutions as well as relevant papers regarding the annual shareholders meeting. The MOD (Corporate Registry Section) collects information on matters such as the validity of the annual general meeting, shareholder votes, changes in the board of directors, and other such matters. The central registry at the MOD is fully computerised.

726. For all other types of SAs (the majority), records are held at the local prefecture where the head office of the SA is located. A decision to establish the company and approval of the Articles of Incorporation must be issued by the appropriate Prefecture (there are currently 52 prefectures in Greece) Department of Commerce and registered in the relevant corporate registry kept by the Prefecture (with the date of entry being the effective date of incorporation of the company). Following such registration, an announcement is published in the Government Gazette. For SA companies which are not supervised directly by the MOD, only the name of the SA and the registry number is held at the ministry. Documentation is held at their local prefecture.

727. For SA companies registered at the Athens Stock Exchange, the Central Securities Depository (CSD) was established on February 1991. The CSD is responsible in particular for (1) the providing of registry services and clearing and settlement of listed or non-listed securities on the ATHEX or other exchanges or organised markets ; (2) the registration of the dematerialised listed or non-listed securities on the ATHEX or other exchanges or organised markets and (3) the providing of services in changes of securities registered in the computerisation system, or in the beneficiaries, due to clearing, corporate actions, or actions of the beneficiary.

728. All SA companies get a registration number that is used as an identification number for contacts with authorities, financial institutions, etc.

729. *Limited liability companies (LLCs)* are governed by Law 3120/1955 and are set up through a notary, their company articles and terms of reference are registered with the Court of First Instance in the city or area of incorporation as well as at the tax office. A summary thereof is published in the Government Gazette.

730. *Limited and general partnerships* are created by a private document whose terms of reference are registered with the Court of First Instance in the city or area of incorporation as well as at the tax office.

731. *Sole proprietorships* are also governed by tax legislation, set up without any terms of reference and are only issued tax numbers from the tax office.

732. All limited and general partnerships and sole proprietorships must also register with their local professional commercial chamber (like a guild) where they pay a registration fee.

733. *Foreign Unlimited Liability and Limited Liability Companies* that have branches in Greece are registered with the companies' registry kept by a Prefecture, and publication formalities are required for the establishment of a branch. Additional licensing may also be required depending on the kind of activities performed (e.g. in case of certain industrial establishments). The main obligations of branches of foreign companies operating in Greece are to submit to the competent Prefecture: (1) any modification of the data which has been submitted for their establishment; (2) a copy of the annual balance sheet of the foreign company and (3) a record of its operations in Greece during the financial year of the respective balance sheet.

734. At the time of the on-site visit, there was no computerised central registry of companies and no plan to institute such a measure in the near future.

735. *Shipping companies.* Shipping companies in Greece are subject to a separate registration regime. The Greek shipping companies established pursuant the Greek legislation usually have the form of SA companies or LLCs. There are two types of shipping companies: Shipping Companies (SCs, subject to Law 959/1979; more than 4,000 are registered) and Maritime Company of Pleasure Yachts (MCPYs, subject to Law 3162/2003; more than 300 are registered). The SCs Register and the MCPYs Register are kept at the MOMM and cover the entire Greek territory and are regarded as central registers. According to the current legislation, a memorandum of association duly signed must contain the names of the founder shareholders as well as the numbers of shares they hold, the names of the members of the board of directors and the name of the company's representative. Moreover, the memorandum must mention the company's address, address of founders, the members of the board including their tax registration number. Any modification in the composition of the members of the board as well as in the company's representative must be made to the Register with the registration of the minutes of the company's general meeting where the shareholders composition appears. Both registers are publicly accessible. The shareholders' composition, as appears in the memorandum of association or the registered minutes of the the company's general meeting is accessible by anyone who files a relevant application (including individuals, financial institutions or competent authorities).

736. *Foreign branches of shipping companies.* Foreign shipping companies may establish branch (or representative) offices in Greece⁴⁹. Pursuant to Article 25 of Law 27/1975 those companies must have management, operation, etc. of ships over 500 gross tonnes plying international and not domestic voyages. The establishment licence of the branch office is issued by a joint ministerial decision of the MOMM and MOEF, upon an application of the interested party. This application contains information and documentation by the Registry of the country where the company is registered, regarding the Good Standing of the said company, its board of director, the personal details of its representative in Greece, its purpose of business, etc. Furthermore, a memorandum of the company's association is also deposited as well as other documents (modifications in the number of the board, etc.). These branch offices are required to submit to competent Ministries annual financial

⁴⁹ Emergency Law 89/67 was adopted to regulate the establishment of foreign branches of shipping companies in Greece. It is not longer in force. The current legal regime of foreign branches of shipping companies is regulated by Article 25 of Law 27/1975 as amended by Law 2234/1994.

detailed reports. They are also required to keep the requisite accounting books and records. These books are subject to random checks by the competent authorities, as is the case for all Greek companies. Assessors were told that there are more than 4,000 branches of foreign shipping companies licensed in Greece.

737. *Branches of offshore companies.* To establish an offshore company office the following prerequisites apply: (1) the business must be exclusively engaged in activities outside of Greece; (2) bank letter of guarantee for USD 50,000 must be deposited to the Ministry of Economy and Finance (article 22 Law 1262/1982); (3) with reference to branches of foreign shipping companies it is required that they cover with foreign currency their annual expenses for operating in Greece with an amount at least equal to USD 50,000 and all payments in Greece for themselves or on behalf of third parties; (4) an offshore branch must keep a receipts and expenses book but it has no obligation to publish any financial statements.

738. *Associations.* An association of persons pursuing a non-lucrative purpose (see articles 78 of the Civil Code) shall acquire personality by means of its registration at a special public register (of associations) kept at the Court of First Instance in the district of which is situated the seat of the association. For the application, the deed of constitution, the names of the members of the management and the Articles of the association (i.e. purpose, name, seat of the association; the condition for joining, for resigning or being excluded from the association as well as the members' rights and obligations; the resources of the association; the organs of management of the association; etc.) signed by the members and dated shall be provided. The Register of Associations includes the name and seat of the association, the date of the Articles of association and information related to the managers.

739. *Foundations.* To set up a foundation two legal acts are needed: the founding act in the form of a notarial deed or will, and the state approval of this founding act, which gives the foundation legal personality. According to Arts. 108 and 112 of the Civil Code, foundations can only be established by state approval. The competent Ministry recommends the establishment by presidential decree. The presidential decree then has to be published in the Official Journal of the Government. The MOEF keeps a register of foundations.

740. *Civil companies.* Civil companies with a legal personality are registered in the Register of associations. The register contains the incorporation of the company, the publicity formalities and the payment of subscriptions by the associates/partners.

741. *Non-governmental organisations funded by the MOFA.* For those non-governmental organisations, a separate register is kept within the Ministry.

Access to information on beneficial control and ownership

742. It is the Government Gazette information that is used by FIs or DNFBPs to later identify the client when opening a bank account or other account or relationship. The information on the different registers is taken at face value and no verification is carried out. The Prefecture at the place where the head office of the associations, the civil companies and incorporated commercial companies are located, checks annually that they meet the requirement of the law (i.e. the Civil Code for associations, foundations and civil companies, the Commercial Law and codifying Laws 3190/1955 (on limited companies) and 2190/1920 (on incorporated companies)).

743. The information available in the different registries relates to the composition of the board of directors as indicated in the articles of incorporation of the company. The changes of shareholders are not registered. There is an obligation to provide the MOD and MOMM with the minutes of the general meetings. However, since bearer shares are allowed in Greece, the attendance list for general shareholders' meetings only provides information on control of the company for the day of the particular shareholders' meeting. The attendance list is considered to be generally inadequate for determining the control of the company between two shareholders' meetings. The changes in shareholders' composition between two general meetings must be registered with the competent tax authority.

744. SA companies with registered shares have to establish a share registry and keep it updated. Transfers of shares require a notary or private document duly authenticated by the competent tax authority and a statement of stock transfer to that said tax authority. In case the aforementioned procedure is not followed, the acquisition of shares does not generate any lawful right for the person who acquired the stocks in terms of dividend rights, participation in general meetings, transfers of shares, etc. The assessors were told that competent authorities and FIs may have an access to information held by local tax offices in cases where they have a legitimate interest to do so. No further explanation was provided.

745. In relation to shipping companies and the identification of the beneficial control and ownership of such legal entities, the MOMM refers to the work being done in the International Maritime Organisation (IMO) framework, the UN agency specialised in shipping matters. In this context, there is a general understanding that identifying ownership and beneficial control of a ship essentially consists in identifying who manages the crew; who decides for the ship's employment; and who signs the charter party. The MOMM refers to the provisions of the ISM Code (the International Safety Management Code) elaborated by the IMO. The Code includes a wide definition of the term "company"⁵⁰ and stipulates the company's obligations. Additionally, the MOMM believes that documents/certificates issued pursuant to the said Code, may be used for identifying the requisite persons, since they comprise the details of the individual designated as responsible for the operation of the ship. Greece is member of the IMO since 1958. The assessment team did not get evidence on how the existence and possible implementation of such international standards could have an impact on Greece's compliance with the requirements under Recommendation 33. Moreover the focus and objective of such requirements appear to be different to that of Recommendation 33.

746. The authorities, registrars, company formation providers and financial institutions generally interpret the beneficial owners of the legal persons to be the listed shareholders on the registration documents such as the terms of incorporation. This is insufficient to meet the requirements under Recommendation 33 and the definition of beneficial owner adopted by the FATF ("*the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement*"). Access to information on the ultimate beneficial ownership and control records might only be available to a court order. This access is therefore dependent on the prior initiation of a criminal investigation, and, as a result, the possibility for some competent authorities (particularly financial regulatory authorities) to access this information is excluded.

747. There are no statutory requirements for the inclusion of information about the ultimate beneficial ownership and control structure of the legal persons (as defined by the FATF) in the incorporation or registration documents and no requirement for registration authorities to verify and keep accurate records of these. Finally, the assessors noted a general lack of understanding of the issue of ownership and control structures by FIs and competent authorities. No beneficial ownership information for foreign companies is available.

748. The legislation does not provide for general disqualifications of directors, company secretaries, liquidators and promoters from acting in a leading position in legal persons, when such persons have been found guilty of offences. However, there are some professional limitations deriving from the codifying Laws of 1955 and 1920 and for companies operating in the regulated financial sector (banks, insurance companies, etc.).

749. Based on the information collected, the assessors believe that access to information on the beneficial ownership and control of legal persons cannot be timely, and that competent authorities encounter practical difficulties to obtain such information, especially in case of a chains of companies.

Bearer shares

⁵⁰ "Company" means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all duties and responsibility imposed by the Code.

750. SA companies may issue anonymous (or bearer) shares. Under Article 11A of Law 2190/1920, SA companies may be formed with either nominal shares (named) or anonymous shares. Various amendments to this law have narrowed this in order to carry out a number of types of business, so that SA companies with nominated (or registered in a person's name) shares are required to conduct those businesses. For example, SA companies who engage in the following types of business must have nominated shares: banks, insurance companies, airlines, railroads, public works such as sewage, gas and electric companies, real estate sales, investment companies, leasing and factoring, private schools, hospitals, professional football and basketball clubs and holding companies. However, other companies may issue bearer shares and the assessment team was informed that a significant number of companies issue bearer shares.

751. *Listed companies.* Law 2396/1996 introduced the dematerialisation of shares issued by Greek SA companies listed in the ATHEX as well as in any Stock Exchange operating in Greece (articles 39-61). The dematerialisation procedure lasted until the end of 1999, and as of 2000 all shares listed in the ATHEX have been dematerialised, in book-entry form. According to the same Law, all shares listed in the ATHEX are registered in the records of the *Dematerialised Securities System (DSS)*. Bearer shares as well as registered shares are recorded in accounts held with the DSS in the name of each shareholder (end-customer/investor system). These accounts are kept and operated (administered) by the account Operators of the DSS. Such Operators handle the respective "Investors' Sub-Accounts", whereas the shares of each investor are kept with the sub-account administered by the Operator chosen by the investor.

752. Greek legislation sets forth detailed provisions in respect of the holding and administration of accounts held within the DSS and the relevant shareholders' rights. Greek Law establishes a direct relationship between the issuer of the shares and the account holder. Nevertheless, it must be noted that these rules, governing company law issues, may only be enforced on shares issued by Greek SA companies.

753. *Non-listed companies.* For those companies that are not registered at the Athens Stock Exchange, it is required that when such shares are transferred, the parties attend a notary's office and complete an agreement. The purchaser's name and the company name must be listed in this document. It must then be taken to the local tax office and a 5 percent tax is paid. The document remains filed with the tax authority and can only be released by an order of an examining magistrate. This is not possible for media companies where the ultimate physical person must be listed on the agreement but it is possible for almost all other SA companies.

754. Generally, competent authorities are not able to obtain current and timely information on the control of legal entities, particularly those where ownership is held through bearer shares. Very limited measures have been taken to ensure adequate transparency concerning the ownership and control of legal persons that issue bearer shares and no information is provided on the potential misuses of such shares.

5.1.2 Recommendations and Comments

755. The measures currently in place in Greece to ensure adequate transparency concerning the beneficial ownership and control of legal persons are incomplete and insufficient. Information is decentralised, often not computerised and intransparent. A centralised registration system for all legal persons should be established. The assessors recommend that the creation of an appropriate system of central registration for legal persons be expedited and that steps be taken to appropriately monitor its implementation.

756. Competent authorities do not have access in a timely fashion to adequate, accurate and current information on beneficial ownership and control. There should be easier gateways to access ultimate beneficial ownership and control records by the competent authorities, in a timely manner.

757. Under current Greek law, there is no appropriate provision to ensure transparency as to the share ownership (direct or indirect) of corporations that have issued bearer shares, except in the case of corporations listed on a

stock exchange. The Greek authorities should consider removing bearer shares from their law or otherwise taking measures to ensure adequate transparency regarding beneficial ownership.

5.1.3 Compliance with Recommendation 33

Rec.	Rating	Summary of factors underlying ratings
Rec.33	NC	<ul style="list-style-type: none"> • there is no requirement to collect or make available information on beneficial ownership and ultimate control of legal persons; • the system in place does not provide access to adequate, accurate and current information on beneficial ownership and ultimate control in a timely manner; • there is no appropriate measure to ensure transparency as to the shareholders of corporations that have issued bearer shares (unless the corporation is listed on a stock exchange).

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and Analysis

758. Trusts cannot be set up under Greek law. However, there are no obstacles for a Greek citizen to be trustee of a foreign trust. In such a case the settlers and beneficiaries will therefore necessarily be governed by the law of a jurisdiction which recognises the concept. The applicable law is the foreign law chosen by the parties or, if none has been chosen, that with which the trust shows the closest connection. There are no other legal arrangements similar to trusts that exist in Greece.

5.2.2 Recommendations and Comments

N/A

5.2.3 Compliance with Recommendation 34

Rec.	Rating	Summary of factors underlying ratings
Rec.34	NA	<ul style="list-style-type: none"> • Trusts are not recognised under Greek law. There are no other legal arrangements similar to trusts that exist in Greece. .

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and Analysis

759. The different legal forms in which non-profit organisations can operate in Greece are: civil societies, associations, foundations and *committees for collection*. Their statutes are detailed in the Greek Civil Code and associations and foundations are the most common forms.

760. For associations, a special public register (of associations) is kept at the Court of First Instance in the district of which is situated the seat of the association. The list of foundations is kept at the MOEF. For those non-governmental organisations (NGOs) which are active in the area of international development and are funded by the MOFA, a separate register is kept within the Ministry.

761. All non-profit organisations obtain certification from the tax authorities for their tax exempt status. They have in place some record-keeping requirements for tax purposes (the rule of 5 years applies). There are no statistics on the aggregate number and types of non-profit organisations since the system of registration was decentralised. The assessors were informed that in recent years there has been a proliferation of associations but that a large majority of them are inactive (they are registered but do not operate).

762. Greece has not carried out a review of its non-profit sector and was unable to provide the assessors with any information on the activities, size and other relevant features of this sector. No specific outreach to non-profit organisations has been carried out with a view to protecting the sector from FT abuse. Current laws and regulations have not been reviewed to ascertain their adequacy for CFT purposes and no steps have been taken to promote effective supervision or monitoring of the non-profit organisations. There are no known procedures or controls either at the registration/authorisation phase to ensure that such organisations are not controlled by criminals and terrorists and the proper conduct of their activities. The Greek authorities met by the assessors believe that the non-profit organisations sector is not at risk of being misused for FT.

763. Annex 4 of the BOG Governor’s Act 2577/2006 identifies accounts of NPOs as representing a higher FT risk. With respect to accounts of non-profit organisations, FIs must verify the legitimacy of their objects, requiring the submission of a certified copy of their establishing deed (charter etc.), their certificate of incorporation, the certificate of registration and the number of their registration with the competent public authority. When such corporation has appointed more than one authorised signatory to operate its account, the identities of all authorised signatories shall be verified, according to the identity verification procedures for natural persons.

5.3.2 Recommendations and Comments

764. Greece has not implemented the requirements set out in SR.VIII. The various basic requirements with regard to registration and record keeping are not sufficient to meet the FATF standards. Greece should implement adequate measures in line with the FATF requirement. In particular, Greece should (1) carry out a comprehensive domestic review of its non-profit sector; (2) adopt the necessary measures to protect this sector from terrorist financing through outreach and effective oversight; and (3) implement effective domestic co-operation and information-sharing mechanisms among competent authorities that hold information on non-profit organisations. This should be addressed as a matter of importance.

5.3.3 Compliance with Special Recommendation VIII

Rec.	Rating	Summary of factors underlying ratings
SR.VIII	NC	• Greece has not implemented the requirements set out in SR VIII.

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and coordination (R.31 & R.32)

6.1.1 Description and Analysis

Recommendation 31

765. The development, co-ordination and implementation of AML/CFT policy in Greece is carried out through the General Directorate of Economic Policy of the MOEF. The MOEF has been designated as the coordinating authority with regard to the implementation of the AML Law and the assessment of the effectiveness of the mechanisms adopted against ML and FT (Article 2a. 6 of the AML Law). The MOEF is also responsible for coordinating the activities of competent authorities as defined in the law (supervisory authorities).

766. Policies have not been sufficiently set to provide the necessary mechanisms for full and effective cooperation between the FIU, law enforcement, supervisors and other competent authorities. The primary mechanism used is the FIU itself, which due to its unique construction could in theory promote interagency cooperation. However, in practice, this does not seem to be the case and in so far there have been limited results. All competent authorities much rely on informal and ad-hoc contacts to exchange information and sporadically cooperate. The MOEF does not appear to have a global and full picture of domestic initiatives in the AML/CFT area and co-operation and co-ordination is ad hoc⁵¹.

767. The assessors believe that policy makers have not ensured that effective mechanisms are in place which enable the police, SCS, the Customs and the FIU in particular to coordinate domestically with each other, and together implement a national policy to combat ML and FT.

Recommendation 32 (Criterion 32.1)

768. Greece does not review the effectiveness of its systems to combat money laundering and terrorist financing on a regular basis.

6.1.2 Recommendations and Comments

769. Greece should, as a matter of priority, develop and implement effective mechanisms to enable all authorities dealing with AML/CFT issues to co-operate and collaborate closely and effectively with each other. For instance, such mechanisms could take the form of contact/ad-hoc groups and regular meetings at all levels. Greece should ensure a proper and effective implementation of the mechanisms of exchange of information set out in the MOEF Decision of 22 February 2007.

770. The assessors would also like to recommend that the AML/CFT topic be subject to a broad consultation and debate at national level. In other countries, this has taken the form of a national action plan to discuss AML/CFT issues. There is a critical need in Greece to identify the issues at stake in the AML/CFT area, review the current risk of ML and FT and address the legislative weaknesses and the implementation issues in relation to the current AML/CFT requirements. It is also essential that each authority be given the possibility to identify and report on specific problems it faces when fighting against ML and FT. The private sector should also be part of that broad consultation process. The assessors believe that such initiative should be seen in light with the proposal made under Recommendation 26 (see Section 2.5 of the report) to give the FIU Committee an oversight and coordination role at national level. This requires a thorough review of the Greek AML/CFT policy and strategy. Such recommendations could be taken into account by the legislative committee within the MOEF that is currently working on the implementation of the 3rd AML/CFT Directive.

6.1.3 Compliance with Recommendation 31

Rec.	Rating	Summary of factors underlying ratings
Rec.31	PC	<ul style="list-style-type: none"> • mechanisms for cooperation between the FIU, law enforcement, supervisors and other competent authorities are insufficient and ineffective to address the need for domestic AML/CFT coordination; • there is no regular review of the effectiveness of the AML/CFT system.

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

⁵¹ The MOEF Decision of 22 February 2007 introduces formal mechanisms for exchanging information between the MOEF, the FIU and the supervisory authorities.

Ratification and implementation of conventions

771. Greece ratified the Vienna Convention in 1991 (Law 1990/1991) and signed the Palermo Convention in 2000, though it has not yet ratified the latter. The authorities advised that they will soon send the ratification law to Parliament. Greece ratified the International Convention for the Suppression of the Financing of Terrorism in 2002 (Law 3034/2002).

772. The ratification of international treaties is often followed by implementing legislation, though in Greece the international treaty becomes part of Greek law upon ratification. According to Article 28(1) of the Constitution, treaties ratified by Greece and in accordance with the generally accepted rules of international law are an integral part of the domestic law and prevail over any contrary statutory provision. In theory, treaties could be applied without implementing legislation, except in cases where the treaty requires the criminalisation of a conduct.

773. Implementing legislation in Greece is typically adopted a few years after the ratification of a treaty, which may give rise to issues regarding the applicable legal provisions. For example, the Vienna Convention's provisions on the criminalisation of ML and confiscation were transposed by the AML Law, but the ratification law was passed in 1991. Similarly, the criminalisation provision of the International Convention for the Suppression of the Financing Terrorism was only transposed by Law 3251/2004, whereas the ratification law was passed in 2002.

774. In general, Greece has transposed into Greek law the Vienna Convention's requirements in relation to the criminalisation of drug-ML, confiscation and international cooperation. In addition, Greece has provided mutual assistance related to controlled delivery in a number of cases under Article 11 of the Vienna Convention.

775. In line with Article 6.2(a) of the Palermo Convention, the predicate offences for ML should cover all serious offences and countries should seek to extend this to the widest range of predicate offences. In Greece, the scope of the ML offence is too limited. Article 6(2)(e) of the Palermo Convention obligates countries to make self-laundering an offence unless it is contrary to fundamental principles of domestic law. Self-laundering is not properly criminalised in Greece, but this cannot be justified on the basis of its being contrary to the Greek fundamental law.

776. Article 10 of the Palermo Convention and Article 5 of the Terrorist Financing Convention require the adoption of effective, proportionate and dissuasive sanctions. In Greece, the penalties are not sufficiently dissuasive and there are doubts about their effectiveness.

777. Article 5 of the Vienna Convention requires confiscation to apply to property derived directly or indirectly from proceeds of drug-related crime. The Greek provisions do not permit the confiscation of indirect proceeds.

778. Similarly, while Greece has transposed most of the provisions of the International Convention for the Suppression of the Financing of Terrorism, some issues have not been fully addressed yet: as already explained, the current provision of the PC criminalising the financing of terrorism (Article 187A, paragraph 6) only covers the financing of joining or forming structured and continuously acting terrorist groups and not that of terrorist individuals or of terrorist acts, as the latter are defined at Article 187A (1). This provision is therefore not in line with Article 2 (1) of the Convention. To date, Greek authorities have not located any assets belonging to terrorists in their financial system. In addition, the Convention requires Parties to cooperate by considering "feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments" (Article 18 (2) b). This issue is expected to be addressed through the implementation of the EU Regulation No. 1889/2005 on cash controls, but at present no such detection or monitoring is carried out.

Implementation of the U.N. Security Council Resolutions

779. In general, Greece implements U.N. Security Council Resolutions imposing sanctions by way of Presidential Decrees, based on Law 92/1967 on the implementation of U.N. Sanctions, Security Council Resolutions concerning the total or partial interruption of economic relations. This procedure has been applied with regard to Security

Council Resolution 1267 (1999) and subsequent Resolutions on Osama bin Laden, Al-Qaeda and the Taliban under a Presidential Decree. The terrorist lists compiled in accordance with these Resolutions are circulated by the MOFA to various agencies. The MOEF circulates the list it receives from the MOFA to financial institutions. The mission was informed that no assets had so far been frozen under these Resolutions.

780. Greece is implementing U.N. Security Council Resolution 1373 (2001) by several means. Law 3251/2004 introduced the criminal offence of financing of terrorism (see comments above) and also provided for administrative penalties to be applied against legal persons involved in terrorist offences. Greece has so far submitted 4 reports or supplementing reports to the Counter-Terrorism Committee (January 2002, November 2002, July 2003, and March 2005), which show some progress in implementing the requirements of Resolution 1373. However, given the absence of clear avenues to quickly locate and freeze terrorist funds and the fact that the prevention and suppression of the financing of terrorism is not yet regulated in a comprehensive manner by law, it is considered that Greece has not yet fully implemented Resolution 1373, in particular operative paragraphs 1 (a) and (c). As explained in Section 2.4 of the report, Greece has not developed its own list under Resolution 1373 but as a European country is subject to the EU Regulations requirements.

Additional elements

781. In addition to the two U.N. treaties mentioned above, Greece has also ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime (see Law 2655/95).

6.2.2 Recommendations and Comments

782. Greece should ratify the Palermo Convention and fully implement it. Greece should also fully implement the Vienna Convention as well as the Terrorist Financing Convention. Finally, Greece should fully implement the UN Security Council Resolutions relating to the prevention and suppression of FT.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

Rec.	Rating	Summary of factors underlying ratings
Rec.35	PC	<p><i>Ratification of the Palermo Convention:</i></p> <ul style="list-style-type: none"> • Greece has not ratified the Palermo Convention; <p><i>Implementation of the Palermo Convention:</i></p> <ul style="list-style-type: none"> • the scope of the ML offence is too limited (see comments in relation to Rec.1); • self-laundering is not properly criminalised in Greece, and this cannot be justified on the basis of its being contrary to the Greek fundamental law (see comments in relation to Rec.1); • the penalties are not dissuasive and there are doubts about their effectiveness (see comments in relation to Rec.2); <p><i>Implementation of Vienna Convention:</i></p> <ul style="list-style-type: none"> • The Greek provisions do not permit the confiscation of indirect proceeds (see comments in relation to Rec.3). <p><i>Implementation of the Terrorist Financing Convention:</i></p> <ul style="list-style-type: none"> • the penalties are not dissuasive and there doubts about their effectiveness (see comments in relation to Rec.2); • the CDD requirements are inadequate and the implementation of STR reporting is not fully effective (see comments in relation to Rec.5 & 13).

SR.I	PC	<p><i>Implementation of the Terrorist Financing Convention.</i></p> <ul style="list-style-type: none"> the CDD requirements are inadequate and the implementation of STR reporting is not fully effective (see comments in relation to Rec.5 & 13). <p><i>Implementation of S/RES/1267(1999) and S/RES/1373(2001):</i></p> <ul style="list-style-type: none"> the current process does not allow freezing of terrorist assets without delay (see comments in relation to SR.III); Greece has a limited ability to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system (see comments in relation to SR.III).
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6.3 Mutual Legal Assistance (R.36-38 & SR.V)

6.3.1 Description and Analysis

Recommendation 36 and Special Recommendation V

Scope of assistance allowed

783. In Greece, mutual legal assistance is based on three types of instruments:

- bilateral mutual legal assistance treaties in force with 21 countries (Albania, Armenia, Australia, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Egypt, Georgia, Hungary, Lebanon, Poland, Romania, Russia, Slovakia, Slovenia, Syria, Tunisia and the United States);
- multilateral treaties, such as the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, which was ratified by Greece by Legislative Decree 4218/1961 and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime of 8 November 1990, ratified by Greece by Law 2655/1998. Greece has not ratified yet the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union⁵²; and
- the relevant provisions of Greek law, in particular Articles 457–461 of the CCP dealing with mutual legal assistance. These provisions were drafted in 1951 and have not been amended since then.

784. In the absence of any applicable treaty, domestic law is applied. Articles 457–461 of the CCP deal with “judicial assistance” other than extradition. The types of assistance available under these provisions are “investigative acts,” but only a few are mentioned here, i.e., the interrogation of witnesses and defendants, viewing of premises, expert reports and confiscation of documentary evidence. It is unclear whether and under what provision other forms of “interrogatory acts,” which are set out in detail at Section 2 of the CCP (Articles 251–269) and those that are described in detail in Recommendation 36 (C.36.1), including production of records and seizure of documents, are permitted as part of mutual legal assistance.

785. In terms of process, Article 457 deals with requests for legal assistance by the Greek authorities to foreign legal authorities (competent authorities, procedures and formalities). Article 458 deals with requests for legal assistance by foreign authorities to the Greek authorities (competent authorities, formalities and procedures, including the right of the Justice Minister to decline to give assistance when, under Articles 437 and 438 of the CCP, extradition is not permitted, or permitted only on the conditions laid down in bilateral treaties). Article 459

⁵² The purpose of this Convention is to encourage and modernise cooperation between judicial, police and customs authorities by supplementing the provisions and facilitating the application of the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, and its 1978 Protocol, the 1990 Convention applying the Schengen Agreement and the Benelux Treaty of 1962.

deals with transfer of an accused person abroad; Article 460 with travel expenses for witnesses and experts; and Article 461 with the transmission of documentary evidence, which is subject to reciprocity (see comments below).

Conditions for refusal

786. *General public policy consideration.* Since legal assistance and the provisions of the CCP and those concerning the organisation of the courts (Law 1756/1988) relate to the protection of domestic law and order and of public order in general, requests from foreign authorities can under no circumstances be carried out if they conflict in form and in substance with the provisions on criminal procedure and the organisation of the courts, otherwise the Greek State would appear to be acting in violation of and contrary to the established ethical and socio-political principles of the State.

787. *Reciprocity.* Greece applies the principle of reciprocity in cases where there is no convention. Reciprocity is provided as a condition for legal assistance, as for example the dispatch of documentary evidence (Article 461 of the CCP).

788. *Dual criminality.* According to the Greek authorities, dual criminality is not a condition for providing legal assistance. Greece has made no reservation to the 1959 Convention, which, as a general rule in cases of Mutual Legal Assistance, does not require dual criminality⁵³. Article 458 of the Greek CCP, on the other hand provides that “the Minister of Justice, upon a concurrent opinion of the competent Council of the appeal judges, may refuse the execution of the requests....if....the defendant is not allowed to be extradited for the act for which the foreign judicial authority carries out an investigation.” This provision seems to make clear the possibility of involving the dual criminality requirement, but, as has been seen above, the CCP dates from 1951, well before the 1959 Convention, and has not been amended since. Moreover, from publicly available information, it seems that at least in recent practice, prosecutors require dual criminality for all forms of mutual legal assistance.

789. *Fiscal offences.* In Greece mutual legal assistance may be refused if the request concerns a fiscal offence in line with Article 2 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959⁵⁴. It seems that Greece does not make a severe and strict check of the grounds for refusal under Article 2 of the same Convention and affords assistance if at all possible. It does not seem though assistance would be refused for a ML offence that also involved fiscal matters.

790. *Secrecy.* According to the Greek authorities, bank secrecy may be waived using a procedure laid down in Article 3 of Law 1059/1971 as amended by Act 1868/1989, which authorises waivers to conduct investigations and identify infringements, following a decision by the competent legal authorities. Under Article 3 of the said Law, waivers are authorised by a Judicial Council (a three-judge panel which is a section of a Court of Appeals which deals with orders from the examining magistrates) ruling on an application by the competent public prosecutor, the examining magistrate, or the body conducting the preliminary investigation. Waivers are ordered by the court dealing with the substance of the case. Greek law allows no appeal against waiver decisions.

791. The procedure described above applies, *mutatis mutandis*, to mutual legal assistance: a request will be sent to the Minister of Justice, who will transmit it to the Prosecutor General in the Court of Appeal with jurisdiction over the bank. Provided the file is complete, the Prosecutor General will transmit it to the public prosecutor for an

⁵³ In accordance with the 1959 Convention and provided that no reservation has been expressed, it is not possible to require dual criminality in taking any requested measure, including search and seizure. On the other hand, from the specific provisions of Article 51(1)(a) of the Schengen Convention and Article 18(1)(f) of the 1990 Convention, it follows clearly that one party can refuse to provide assistance by requiring the existence of dual criminality when the requested action is coercive and, more specifically, a search or seizure.

⁵⁴ Article 2 stands the following: « Assistance may be refused: (a) if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence; (b) if the requested Party considers that execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of its country ».

application to the *Chambre d'Accusation* (section of a Court of Appeals which deals with orders from the examining magistrates) established for the criminal court of first instance. Hearings before the *Chambre d'Accusation* must be preceded by an investigation by the examining magistrate.

Processes for executing requests

792. *Description.* The mutual legal assistance system consists of a Central Unit within the Department of Special Criminal Cases in the MOJ, which is the Greek “central authority”⁵⁵. This Unit is responsible for the application of conventions (multilateral and bilateral) concerning the provision of mutual assistance in criminal matters and handles requests for legal assistance. The Unit is an administrative service and its staff (7) are administrative staff, while the persons responsible for executing requests are judges. The Unit has no responsibility in the execution of requests but can issue instructions aimed at resolving any practical problems arising during the procedure for the execution of a request, although actual instructions about the handling of a request cannot be given, because of the distinction between the administrative and judicial function.

793. Incoming requests to Greece (apart from those transmitted directly to a judicial authority in accordance with the Schengen Implementing Convention, or in accordance with Article 15 (Paragraph 2) of the 1959 Convention) are received in the Ministry of Justice, sometimes via the Ministry of Foreign Affairs), and will then be forwarded to the Central Unit within the Ministry in Athens. The function of the Central Unit at this stage is to register the incoming request on the internal computer system, and to check the request as to matters of form, rather than substance. It seems that the Central Unit checks whether the conditions laid down in Article 14(1) of the European Convention on mutual assistance have been met, i.e. the formal part of the request, including translation. It will also ensure that translations of the request are available, and if they are not, will arrange for translations to be made via the Ministry of Foreign Affairs. The Central Unit then sends the request to the Prosecutor of the appropriate Court of Appeal for execution. Where a request is transmitted directly to a judicial authority in Greece, in terms of the Schengen Convention, or as a result of urgency, it will be received by the Prosecutor in the local Court of Appeal. Cases of direct transmission should be notified by the Prosecutor of the Court of Appeal to the Ministry, but no information was provided on whether such notifications (as well as the outcome of the request) currently take place. Having completed the execution of the request, the documents or evidence obtained are sent back through the same route, from the person executing the request, to the Prosecutor of the Court of Appeal, to the Ministry of Justice in Athens, and then back to the requesting authority. In cases where the request has been received directly by the Prosecutor of the Court of Appeal, he may transmit the material directly to the requesting authority.

794. Greek prosecutors and police authorities may co-operate with other countries' authorities in order to determine the best venue for prosecution of defendants although there are no specific provisions.

795. *Effectiveness of the process.* Generally, Greece's experience of international mutual legal assistance seems comparatively limited. Greece neither sends nor receives large numbers of requests (see figures below) and the timeliness, constructiveness or effectiveness of the assistance provided by Greece is difficult to judge in the absence of general and reliable data on incoming and outgoing mutual assistance requests.

796. The Central Unit accepts the requesting country's classification of a request as urgent and usually applies special procedures to forward it to the Prosecutor at the competent Court of Appeal by the fastest possible means, i.e., by courier, fax or airmail. Clear priority is given to handling urgent requests and every appropriate means is used to speed up the dispatch to the requesting State of the documents it requires. In addition, a request can be dealt with as urgent when classified as such in retrospect. However, it appears that the Central Unit does not monitor the

⁵⁵ According to the provisions of article 3(2)(a) of Presidential Decree 278/1988 the competences of this Unit are the following: “The care for the execution of the competences of the Ministry of Justice on criminal matters, such as immunity of Members of Parliament, extraterritoriality, suspension of prosecution, return of deported aliens, the application of international conventions (multilateral and bilateral), and legislation about providing legal assistance in criminal cases, the start of the procedure relating to requests of Greek and foreign judicial authorities for the extradition of criminals, the keeping of the relevant files of legal assistance, and the study and introduction on entering into bilateral conventions with penal content”.

execution of the requests received, which it considers to be within the Prosecutor's exclusive area of competence. Following transmission, the execution of these requests rests entirely with the investigating judge (under the supervision of the Prosecutor).

797. According to Article 28 of the Constitution, ratified treaties supersede any other statute. With regard to interim measures for instance, it happens that the MOJ assist the prosecutors and judges by giving lectures at the Judicial School on the implementation of international treaties and on the procedures in foreign jurisdictions, such as freezing or waiving of banking secrecy, which may delay or prevent the efficient seizure and confiscation of criminal proceeds. As international treaties once ratified become part of the law of the land, judges and prosecutors expressed the wish to have additional information on the technicalities of implementation. This may have an impact on the effectiveness of the process.

798. From publicly available information it appears that in the period of 1997–1998 the average time for executing a request under the 1959 European Convention on Mutual Assistance was around 3.5 months while it was around four months under the Schengen Convention. It is unclear whether the average time required for executing a request has changed compared to the 1997–1998 figures, knowing that the applicable legal framework is still the same.

Additional elements

799. Direct contact between competent authorities concerning ML or TF cases is possible if the requests are coming from other EU member countries and from countries with which Greece has signed an agreement explicitly. The authorities have informed the assessors that such powers are regularly used.

Recommendation 37 and Special Recommendation V

800. There was some confusion as regards the application of dual criminality. In practice, however, it is clear from Greece's unqualified signature of the 1959 Convention that there is no legal basis for Greece requiring dual criminality for any requests for Mutual Legal Assistance under the 1959 Convention, in conformity with its international obligations. Because it seems that some prosecutors have applied dual criminality requirements, this has produced an unsatisfactory situation. Greece should clarify its position on this issue, through appropriate means, which may include legal reform. The Greek authorities have confirmed to the assessors that they do not require dual criminality for the purposes of mutual legal assistance, inasmuch as the 1959 European Convention on mutual assistance and the Convention implementing the Schengen Agreement apply. The assessors believe that more guidance and clarity on the issue would be welcome.

Recommendation 38 and Special Recommendation V

801. Under the 1959 European Convention on Mutual Assistance and the 1990 Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime, both being ratified by Greece, the Greek authorities are able to provide assistance to the other Parties in the area of seizure and confiscation with regard to ML and the predicate offences listed in the AML Law. In the opinion of the prosecutors met by the mission, such assistance has actually been provided in a number of cases.

802. The list of predicate offences being currently limited, it seems that Greece would not be able to seize and confiscate proceeds originating from any offences that are not predicate offences under the AML Law. Subject to the limitations above, the Greek authorities would be able to seize and confiscate property in cases where the request relates to property of corresponding value.

803. Greece has agreements enabling co-ordination of seizure and confiscation actions with other EU countries through Eurojust. Eurojust is a European Union body established in 2002 to enhance the effectiveness of the competent authorities within Member States when they are dealing with the investigation and prosecution of

serious cross-border and organised crime. Greece does not have an asset forfeiture fund and has not yet considered setting one up.

804. While there is no legal provision that would specifically authorise or prohibit asset-sharing in Greek law, the Greek authorities have expressed interest and readiness to conclude ad hoc arrangements for sharing confiscated assets with other jurisdictions.

Additional elements

805. Foreign non-criminal confiscation orders are not recognised or enforced in Greece.

Statistics

806. Statistical data on ML-related mutual legal assistance requests were made available by the MOJ concerning the years 2000–2005. Accordingly, from January 1, 2000 to mid 2005, Greece has received 32 requests for mutual legal assistance concerning ML cases, the majority of the requests originating from within the European Union. Out of the 32 requests, 18 were granted, 8 were denied and 6 are still pending. No specific data was available on the time period required by the Greek authorities to respond to the requests received. It seems that it usually takes between one month and one year for Greece to comply with a request. It would appear that in a number of instances, significant delays occur owing to the overloading of the court system and lack of coordination between various players.

807. The Greek authorities have clarified that since 2000 the Court of Appeal of Athens had received 35 requests of mutual legal assistance of which: 10 were related to the freezing of bank deposits in drug cases and three in theft cases; 15 to ML of the proceeds of fraud and forgery; five to smuggling of tobacco products; and two to illegal trading of human beings. No information was available on the overall number of mutual legal assistance requests for the entire country concerning predicate offences. Some requests have been received in relation to TF but no statistics were available at the time of the on-site visit.

808. From discussions with the Greek authorities, it transpired that they have requested assistance in 10 money-laundering-related cases in the past few years, but it was unclear whether and how many of these requests were granted or denied.

6.3.2 Recommendations and Comments

809. The assessors found difficulties in obtaining a clear picture of the Mutual Legal Assistance system in Greece. Very incomplete and imprecise information was provided before and during the visit especially in relation to implementation of existing requirements. The Greek authorities' assessment of the position is that the mutual legal assistance system in Greece has worked well and responded effectively to all requests for judicial assistance thus far. Based on the relatively poor information available especially with regard to the implementation of mutual legal assistance, the assessors find it difficult to assess the true position.

810. The assessors believe that application or not of the dual criminality condition in the context of mutual legal assistance deserves some clarification and clear guidance. The apparent ambiguity regarding dual criminality as regulated under the applicable treaties and the domestic legal framework on the one hand and contradictory judicial practice on the other should be resolved.

811. The assessors also have concerns about the ability of Greece to provide mutual legal assistance in cases involving FT as it is currently defined in Greece (see comments in relation to SR II).

812. It is unclear to the assessors whether in the absence of a treaty the apparent limitation on the forms of assistance available for mutual assistance under Articles 457–458 of the CCP constitutes an obstacle to undertaking certain types of investigatory acts that are authorised in the domestic context. It would appear that most mutual

assistance requests are executed under bilateral and multilateral treaties, so the impact may be minimal. In any event, this should be clarified.

813. Greece's limitations on the definition of ML may limit its ability to provide assistance for ML based on predicate offences that are not covered by Article 1 of the AML law.

814. Requests from EU member countries can be handled expeditiously if they are channelled directly between judicial authorities. On the contrary, the team is concerned about the potential delays when dealing with requests that are not transmitted directly to the Greek judicial authority. From publicly available information, it appears that an urgent request for seizure of a bank account could take up to 10 days to execute⁵⁶. The Greek authorities believe that the main cause of delays in incoming requests results from incomplete data being contained in the request, which necessitated further correspondence with the requesting State. There have also been delays because of the lack of clarity of the content of the requests (e.g. lack of precise information on where to find witnesses or accused persons). The assessors believe that the current system should be streamlined and that the Greek authorities should try to slim down the procedures and seek to ensure that as few stages as possible are involved.

815. The assessors have found no evidence that the resources allocated to the operation of international judicial co-operation were inadequate. However, the Greek authorities should ensure that current resources could cope with any increase in the number of requests.

816. Greece does not have an asset-forfeiture fund, nor any specialised agency that would deal with confiscated assets. The lack of such agency seems to have posed problems in certain cases where perishable goods had to be seized or confiscated. Greece should consider establishing such a fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes.

817. The lack of systematic compilation of data on all incoming and outgoing requests prevents, partly due to the fact that requests are also submitted through direct channels, the MOJ's Central Unit to form a comprehensive view on the use of mutual legal assistance. In addition, the Central Unit does not consider itself competent to monitor the execution of requests transmitted through it, leaving their execution entirely in the hands of prosecutors. The Central Unit should make sure that prosecutors do send copies to the Central Unit of each and every request they receive through direct channels and of the responses provided. The Central Unit should play a more proactive role in coordinating mutual legal assistance in Greece: for example, it should be authorised to monitor the execution of requests and effectively follow-up on every request received to ensure that no unnecessary delays occur. It should have the power to formally request prosecutors to treat mutual legal assistance requests as high priority and impose deadlines for urgent requests.

818. Finally, the assessors were not satisfied with the level of statistical information available concerning mutual legal assistance. A considerable amount of work seems necessary to bring the record keeping up to an acceptable standard. The Greek authorities would find it in their own interests to perform this work, since it will enable them to monitor their work, and justify any claims for further resources, both technical and human, in due course. The following statistics should be systematically kept in relation to mutual legal assistance: (1) number of *all* mutual legal assistance requests made or received either between judicial authorities or through the Ministry of Justice in relation to ML, TF and predicate offences (including freezing, seizing and confiscation); (2) data on the nature of the request, whether it was granted or refused and the time required to respond.

6.3.3 Compliance with Recommendations 36 to 38 and Special Recommendation V

⁵⁶ In short, the current system involves a request passing from the Ministry of Foreign Affairs (if the request has been received there) to the Central Unit in the Ministry of Justice, (who might have to send it back to the Ministry of Foreign Affairs if a translation is required), to the Prosecutor of the Court of Appeal, to the Prosecutor General of the Court of First Instance, to the President of the Court of First Instance, and then to the Investigating judge, who would execute the request with the assistance of the Police.

Rec.	Rating	Summary of factors underlying ratings
Rec.36	LC	<ul style="list-style-type: none"> • in the absence of a treaty the apparent limitation on the forms of assistance available for mutual assistance appear to constitute an obstacle to undertaking certain types of investigatory acts that are authorised in the domestic context ; • the effectiveness of the current laws cannot be demonstrated due to the lack of quantitative and qualitative data; moreover the overloaded court system seems to have impacted on effectiveness; • the current limitations in relation to the criminalisation of ML and FT may have a impact on Greece's ability to deliver mutual legal assistance in ML/FT cases.
Rec.37	LC	<ul style="list-style-type: none"> • there is a lack of consensus on the scope and application of the dual criminality requirement.
Rec.38	LC	<ul style="list-style-type: none"> • Greece has not considered establishing an asset-forfeiture fund; • Greece's limitations on the definition of ML may limit its ability to seize and confiscate property derived from predicate offences that are covered by the AML Law.
SR.V	LC	<ul style="list-style-type: none"> • there are concerns on the ability of Greece to provide a full range mutual legal assistance in cases involving FT as it is currently defined in Greece.

6.4 Extradition (R.37, R.39 & SR.V)

6.4.1 Description and Analysis

Recommendation 39 and Special Recommendation V

819. In Greece, extraditions are carried out on the basis of bilateral or multilateral intergovernmental agreements, with concurrent application, as the case may be, of the relevant provisions of the CCP, articles 436 through 456 for those matters not regulated by the agreements. In case an extradition issue arises between Greece and another country without a relevant agreement being in place, the extradition is carried out only on the basis of the reciprocity principle always in conformance with the relevant procedural provisions.

820. Under Article 437 of the CCP, extradition of an alien is permitted:

- a. when the alien is accused of a punishable act for which both the Greek penal law and the law of the state requesting extradition provide custodial penalty, the maximum limit of which is two years or higher or the death penalty. In cases of accumulated crimes, extradition is allowed for each of the accumulated crimes, provided that one of them is punishable with one of the above penalties. If the person for whom extradition is requested has already been irrevocably convicted by a court of any state with a custodial penalty of at least three months for a crime not provided by Article 438 c) *[the crime is characterised as political, military, tax-related or related to the press, or is prosecuted only by complaint of the victim, or when the circumstances show that extradition is requested for political reasons]*, and extradition is requested for a crime committed in recidivism according to both the Greek penal law and the law of the state requesting extradition, extradition may be allowed if this crime is punishable as a misdemeanour with any custodial penalty;
- b. when the courts of the state requesting extradition have convicted him to a custodial penalty of at least six months for a punishable act which is characterised as a misdemeanour or a felony by both the Greek penal law and the laws of the state requesting extradition; and
- c. when the alien explicitly consents to surrender to the state requesting his extradition.

821. On the contrary, extradition may not be granted:

- In case the extraditee alien had the Greek nationality at the time of commission of the relevant act

- When the prosecution of the crime committed abroad falls, in accordance with the Greek law, within the jurisdiction of the Greek courts.
- In the case of a crime which, under the Greek law, is designated as military, political, or of form or is prosecuted only upon a complaint of the injured person or when under the circumstances it derives that the extradition was requested for political reasons.
- If, under the laws of the state requesting the extradition or of the Greek state or the state where the crime was committed, there have already arisen (before the decision on the extradition) legal grounds preventing the prosecution or the enforcement of the sentence or precluding or eliminating punishability.
- If it is deemed likely that the person for whom extradition is requested shall be prosecuted by the state to which such person is surrendered for an act different than that for which extradition is requested.

822. At present, Greece has bilateral extradition treaties in force with Australia, Canada, Croatia, Egypt, Fiji Islands, Georgia, India, Lebanon, Malawi, Mexico, the former Yugoslav Republic of Macedonia (FYROM), New Zealand, Russia, Slovenia, South Africa, Samoa, Swaziland, Syria, Tunisia, United Kingdom, and the United States. It is unclear whether these treaties extend to ML and the financing of terrorism, as most of them predate the Vienna Convention.

823. Greece is also a contracting Party to the 1957 European Convention on Extradition and it therefore has a treaty basis for extradition with 43 other Council of Europe member States as well as with South-Africa and Israel. The treaty provides for an obligation to extradite persons (Article 1) for any offence “punishable under the laws of the requesting Party and of the requested Party by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty. Where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting Party, the punishment awarded must have been for a period of at least four months.” The Greek authorities have made several reservations to the Convention, one of which clarifies that the application of the Convention is subject to Article 438 (a) of the CCP, which prohibits the extradition of Greek nationals. Under both extradition treaties and domestic law, the extradition of Greek nationals is not allowed. Nevertheless, the principle of *aut dedere aut iudicare* (hand over or try) remains fully operational. The only exception to the prohibition of extradition of nationals involves procedures of surrender under the European arrest warrant (see comments below). As an exception to the European Convention on Extradition, a special regime of surrender is in place with regard to other European Union countries in accordance with the European Union Council Framework Decision of June 13, 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA). This Framework Decision was implemented in Greece by Law 3251/2004 on the European arrest warrant, amendment of Law 2928/2001 on criminal organisations and other provisions. It is based on the recognition of judicial decisions issued in other European Union member States with regard to the arrest and surrender of persons sought either for the purpose of criminal proceedings or the execution of a custodial sentence. Under Article 10 of Law 3251/2004, a European arrest warrant must be executed subject to dual criminality, if it concerns an offence punishable in the issuing country by at least 12 months custodial sentence, and, if the issuing State has already imposed a penalty, at least by 4 months of custodial sentence. The execution of the European arrest warrant is permitted, without verification of dual criminality, if the offence is punishable by at least three years of imprisonment and is one of the offences defined on a closed list. Subject to certain limitations, Greek nationals will be surrendered under the provisions of this law.

824. In terms of extradition process, Article 445 mandates the President of the competent Appeals Court to order “without any delay” the arrest of the person whose extradition was requested. The arrested person can be detained for the purpose of extradition for a period of one month, and if in that period the extradition request has not arrived, he/she has to be released. If the request was made in time and following verification of the identity of the fugitive, a council of appeals court judges takes a decision as to whether or nor the extradition request should be granted. This decision can be appealed against to the Supreme Court. Once the decision is final, the Minister of Justice orders the extradition.

825. The authorities advised that they treat all extradition requests in an expeditious manner and have so far had no major delays in ordinary extradition cases. Typically, if the person sought consents to his/her extradition, the

process is relatively fast (simplified extradition), whereas if the fugitive refuses consent, it may take a longer period of time. In some recent cases confusion has arisen with regards to application of the European arrest warrant to the surrender of non-nationals, but this was due to problems of implementation in another European Union member State.

826. The above process could apply to ML and FT cases equally, as their penalty is above the two-year threshold. However, there are potentially some cases where extradition could be limited because a different threshold of punishment exists for some of the predicate offences of ML (see Article 1Aq) of the AML law).

Recommendation 37 (dual criminality relating to extradition) and Special Recommendation V

827. Greece makes extradition conditional on the existence of dual criminality under Article 437 (a) of the CCP and Article 2, paragraph 1, of the 1957 European Convention of Extradition. Extradition is conditional on the existence of dual criminality in all bilateral extradition treaties as well. According to the Greek authorities, dual criminality is deemed to exist when the ML offence for which extradition is sought is within the scope of Article 2 of the AML Law, i.e., the ML offence and the underlying predicate offences are similar in the laws of both parties. Based on the information available, the assessment team cannot ensure that differences in the manner in which Greece and the requesting country categorise or denominate the predicate offence do not pose an impediment to the provision of mutual legal assistance.

Additional elements

828. Direct transmission of extradition requests between appropriate ministries is allowed in Greece.

829. Persons can be extradited based only on warrants of arrests or judgements according to the European arrest warrant. A simplified procedure of extradition of consenting persons who waive formal extradition proceedings is in place. The final decision on the execution of the European arrest warrant shall be taken by the competent Presiding Judge of the Court of Appeal within a period of 10 days after consent has been given (Art. 21Law3251/04).

Statistics

830. There were five cases in which extradition was requested from Greece and which may involve ML. Extradition was also requested in two other cases involving exclusively money-laundering. Extradition was granted in one of these two cases. According to the MOFA, approximately five extradition requests are received per year through diplomatic channels, but it is unclear whether these relate to ML or other offences.

6.4.2 Recommendations and Comments

831. The extradition process seems to work efficiently despite the workload of the officials handling extradition requests. There is relatively little experience with “pure” ML cases and none with regard to the financing of terrorism.

832. The current limitations in relation to the criminalisation of ML and FT (see Sections 2.1 & 2.2), may have a significant impact on Greece’s ability to extradite persons sought for these offences. There are also potentially some cases where extradition could be limited because a different threshold of punishment exists for some of the predicate offences of ML (some thresholds are below the two year threshold applicable in extradition cases). Finally, there is a risk that the dual criminality requirement for extradition under Article 437 (a) of the CCP is applied in a narrow sense because cases punished in Greek Law below the 2 years prison penalty would not be subject to extradition.

833. There is a lack of statistics in relation to extradition requests. The following statistics should be systematically kept in relation to extradition: (1) number of all extradition requests in relation to ML, TF and

predicate offences; (2) data on the nature of the request, whether it was granted or refused and the time required to respond.

6.4.3 Compliance with Recommendations 37 & 39 and Special Recommendation V

Rec.	Rating	Summary of factors underlying ratings
Rec.37	LC	<ul style="list-style-type: none"> • there is a risk that the dual criminality requirement for extradition is applied in a narrow sense.
Rec.39	LC	<ul style="list-style-type: none"> • the current limitations in relation to the criminalisation of ML may have a impact on Greece's ability to extradite persons sought for this offence; • there are potentially some cases where extradition could be limited because a different threshold of punishment exists for some of the predicate offences of ML (some threshold are below the two year threshold applicable in extradition cases).
SR.V	LC	<ul style="list-style-type: none"> • the application of the dual criminality may create an obstacle to extradition in cases involving FT activities that are not specifically criminalised in Greece.

6.5 Other Forms of International Co-operation (R.40 & SR.V)

6.5.1 Description and Analysis

BOG co-operation

834. Under the EU Directives for banking, the BOG can conduct supervision of FIs operating in EU countries and to this effect can cooperate and exchange information with overseas regulators including on AML issues. Article 21 of the Banking Act states that the BOG “may exchange information pertinent to its powers (supervisory powers) under Article 18 of this Law, with the respective supervisory authorities of other Member States, without prejudice to the obligation of professional secrecy as defined in paragraph 1.” Paragraph 1 of Article 21 imposes a duty of confidentiality on the BOG and their auditors, prohibiting the disclosure of information on individual institutions. Article 21 also authorises the BOG to conclude cooperation agreements for the exchange of information with competent authorities outside the EU region for supervisory purposes and subject to confidentially guarantees on the disclosure of such information.

835. The BOG uses Memoranda of Understanding as a mechanism for the exchange of information with third countries' competent authorities. In this context, the BOG has entered into MOUs with the following supervisors:

- EU Member States: Banca d' Italia (Italy), Nederlandsche Bank (Netherlands), Commission Bancaire (France), BaFin (Germany), FSA (UK), and Central Bank of Cyprus (Cyprus).
- Balkan Countries: Bank of Albania, National Bank of Romania, Bulgarian National Bank, National Bank of Serbia, and Banking Regulation and Supervision Agency (Turkey).

836. An MOU with the National Bank of the Former Yugoslav Republic of Macedonia ("FYROM") is described by the BOG as being near completion.

837. Other MOUs have been signed in the context of the European System of Central Banks:

- Memorandum of Understanding on cooperation between Payment Systems Overseers and Banking Supervisors in stage three of economic and monetary union;

- Memorandum of Understanding on high level principles of cooperation between the Banking Supervisors and Central Banks of the European Union in Crisis Management Situations;
- Memorandum of Understanding on Cooperation between the Banking Supervisors, Central Banks and Finance Ministries of the European Union in Financial Crisis Situations.

838. There are no statistics on the number of formal requests for assistance made or received by the BOG relating to or including AML/CFT, including whether the request was granted or refused. However, the BOG told the evaluation team that it has recently held discussions with its counterparts in the Netherlands and Albania. .

HCMC co-operation

839. The HCMC is empowered to cooperate with the authorities responsible for the supervision of ISFs in other jurisdictions (Law 2396/96 Article 5). HCMC is for this purpose empowered to obtain information from supervised firms and communicate it to the authorities in the other jurisdiction for use by those authorities in the course of their supervisory duties. HCMC is also able, under Law 1969/1991 (Article 76 paragraph 13.f), to exchange information with other supervisory and regulatory authorities of EU states and third countries, as long as the responsibility of professional secrecy is respected. HCMC has extensive powers under Law 1969/1991 to obtain information and does not need approval from an external agency, such as the government, before cooperating with a foreign regulator. Information may be communicated to a foreign authority whether or not any alleged conduct would be an offence if undertaken in Greece. It appears that these information exchange powers include AML/CFT.

840. The HCMC also has to co-operate closely with foreign competent authorities as provided under paragraphs 3, 9 and 10 of article 5 of Law 2396/1996. In addition, the HCMC should exchange any information held in its files or obtained from the supervised entities under condition of confidentiality provided for in article 5.12 of Law 2396/1996 and article 76.12 and 76.13 f) of Law 1969/1991 with foreign competent authorities originated from non-members of the EU. These conditions are not disproportionate or unduly restrictive. The HCMC is authorised to conduct inquiries and investigations on behalf of foreign counterparts (Chapter H, Article 26.4 of Law 3340/2005. The information received must be only used for the purpose specifically described in each request (Article 26.2, Chapter H of Law 3340/2005).

841. The purpose of Memoranda of Understanding (MoU) is to establish and implement a procedure for the provision of assistance among competent authorities for the supervision of the capital market, in order to enhance the efficiency of the supervisory function entrusted with them. These Memoranda enable supervisory authorities to exchange confidential information, in order to exercise supervision and achieve compliance of the supervised agents of the market with the existing institutional regulations. The memoranda of understanding between stock exchanges, companies and other capital market agents, and therefore are the first stage for the establishment and further improvement of the relations among these countries' capital markets.

842. The HCMC signed, in 1999, a Multilateral Memorandum of Understanding with the competent authorities of the 15 EU member states for the exchange of information in the securities field. Moreover, the HCMC signed, in 2002, the IOSCO (International Organisation of Securities Commissions) Multilateral Memorandum of Understanding between members of IOSCO for the exchange of information in the securities field. Finally, the HCMC has signed Bilateral MoUs with the following authorities:

- U.S. Securities & Exchange Capital Market Commission (17 December 1996)
- Romanian National Securities Commission (30 November 1998)
- Securities and Exchange Commission of Cyprus (1 September 1998)
- Portuguese Comissao do Mercado de Valores Mobiliarios (9 July 1998)
- Albanian Securities Commission (1 April 1999)
- Bulgarian National Securities Commission (1 December 2000)
- Slovenian Securities Market Agency (6 October 2000)

- Central Bank of Cyprus
- Comissao de Valores Mobilirios de Brazil (17 May 2000)
- Capital Markets Board of Turkey (5 October 2001)
- Czech Securities Commission (28 June 2001)
- Securities Commission of the Federation of Bosnia and Herzegovina (27 June 2001)
- Financial Services Board of the Republic of South Africa (9 October 2002)
- Polish Securities and Exchange Commission (1 August 2003)
- Hungarian Financial Supervisory Authority (8 January 2003)
- Bulgarian Financial Supervisory Authority (28 March 2005)
- Slovakian Financial Supervisory Authority (28 June 2005)
- Israel Capital Market Commission (27 September 2005)
- Serbian Securities Commission (3 December 2005)

843. The assessors were informed that no requests for assistance related to ML or FT has been received by the HCMC so far.

MOD/ID cooperation

844. Under EC Directives, MOD/ID is able to conclude an agreement to exchange information with another supervisor. However, such agreements are not a prerequisite to exchanging information. When information is being exchanged, legislation requires that certain conditions have to be fulfilled, including that the other supervisor must treat the information confidentially.

845. In the case where the MOD/ID is the home member state supervisor, the host member state supervisor is taken into its confidence, to the extent necessary for the proper execution of the home member state supervision. This system, however, is only applicable in the EU.

846. Legislation provides the MOD/ID with the power to obtain information for the benefit of other supervisors in the framework of insurance groups. The Insurance Act also enables the ID to share information with supervisors in non-EU/EEA countries and to cooperate with them on supervisory issues. Although no formal agreements for information sharing are in place with such supervisors, information is regularly exchanged with them.

847. The Insurance Act also enables the ID to share information with supervisors in non-EU/EEA countries and to cooperate with them on supervisory issues. Although no formal agreements for information sharing are in place with such supervisors, information is regularly exchanged with them.

848. The assessors were informed that no request for assistance related to ML or FT has been received by the MOD/ID so far.

Customs cooperation

849. The 33rd Division of Customs Law Enforcement is the official contact point for mutual administrative assistance. Greek Customs administration exchanges information on a regular basis with Interpol, EUROPOL, OLAF (European Anti-Fraud Office), WCO (World Customs Organisation), with the other EU member states using EU Regulation 515/1997, with third countries on the basis of bilateral and multilateral agreements or through EU protocols. Examples of such agreements are: SECI (Southeast European Cooperative Initiative) agreement law 2865/2000; WCO Recommendation of 1953; Greece-Bulgaria law 2766/1999; Greece-USA law 2066/1992; Greece-Albania law 2180/1994; Greece-Turkey law 2895/2001; Greece-Uzbekistan law 3078/2002; Greece-Russia law 2529/1997, Greece-Georgia law 2650/1998; Greece-Armenia law 2869/2000; Greece-Rumania law 2845/2000; Greece-Cyprus law 2847/2000; EU protocol with FYROM (Former Yugoslavian Republic of Macedonia) on cooperation and mutual assistance on customs matters. Greek Customs authority has also liaison officers at Interpol's Athens headquarters, at Europol Hague, and at SECI Romania.

850. If Hellenic customs discovers an unusual cross-border movement of gold, precious metals or precious stones, it notifies, as standard procedure, the Customs Service or other competent authorities of the countries from which these items originated and/or to which they are destined for, and co-operates with a view to establishing the source, destination, and purpose of the movement of such items and toward the taking of appropriate action.

851. On the international level, good cooperation exists between the Hellenic customs and its counterparts, which allows customs-to-customs information exchange. These channels have been used in cases of suspicion of under and over invoicing; and information was passed to the foreign counterpart. However, these channels have not been used regarding cash seizures and no recorded information of such cases is available for the use of foreign authorities.

Hellenic police cooperation

852. The Hellenic police fully cooperates with Interpol and Europol and on a bilateral basis when necessary. The Public Security Division exchanges through the National Unit of Europol, the Schengen-Sirene Office or the SECI Centre (South-Eastern European Cooperation Initiative) as well as through the net of Greek Liaison Officers serving abroad. In 2006, the Hellenic EUROPOL National Unit received 32 requests for information relating to money laundering. In matters relating to the financing of terrorism, the Special Violent Crime Division (SCVD) exchanges information through the State Security Division and the Division of International Police Co-operation with Interpol and Europol. The State Security Division collaborates with the SITCEN (European Joint Situation Centre) of the general secretariat of the EU Council and with the EU Members in the framework of the Terrorism Working Group (T.W.G.) and the Police Working Group on Terrorism (P.W.G.T.). Through its committee member of the Ministry of Public Order on the FIU, it has requested assistance from Interpol in some ML cases 12(2001) 5 (2002) 3(2003) 8 (2004).

SCS cooperation

853. According to article 2 § 4 of Presidential Decree n°85 of 25th may 2005, the SCS cooperates and exchanges information and elements relating to the object of its mission with other authorities, services and bodies, domestic and abroad. During 2005-2006, Interpol sent to the SCS 4 requests relating to money laundering. All of them have been answered. During the same period of time, it received 14 requests from Europol relating to cases of money laundering being committed abroad but with possible connections to companies or persons located in Greece. The SCS has answered 8 of them and is in the process of analysing the remaining ones.

854. The evaluation team was provided with very general information regarding the exchange of information between law enforcement agencies and their foreign counterparts. However, international co-operation between the Greek law enforcement authorities and their counterparts seems to function fairly well.

FIU cooperation

855. According to article 7 § 6 b) of the AML Law, the Greek FIU receives, investigates and evaluates any information on money laundering and suspicious transactions as may be forwarded to it by foreign authorities and bodies with which it cooperates and provides any assistance required. The AML Law provides therefore the FIU with a broad and unrestricted capacity to exchange information with foreign FIUs and other authorities. The Ministerial Decision of 12th September 2006 defines specific restrictions in line with the Egmont Group Best Practices for the exchange of information between FIUs.

856. The Greek FIU joined the Egmont Group since 1999. However, at the time of the on-site visit, it was still not connected to the Egmont Secure Web, which is a priority of the Principles for Information Exchanges between

FIUs for ML and TF cases. The evaluation team was told that the connection to the Egmont Secure Web as well as to the FIU.Net should be achieved in the near future⁵⁷.

857. The Greek FIU does not consider that it needs an MOU to exchange information with foreign FIUs. In practice it has signed MOUs with Italy, France, Belgium, Romania and Singapore. Six further MOUs are in the process of being finalised. Specific provisions of the Ministerial Decision of 12 September 2006 provides for the existing MOUs to be amended in case of inconsistencies arising due to the new powers of the Greek FIU.

858. The evaluation team was told that the Greek FIU does exchange information with foreign FIUs, at least where the foreign request is sufficiently precise (e.g., passport number, date of birth, exact spelling of the name) to allow appropriate searches. It can obtain relevant information requested by foreign counterpart from other competent authorities or other persons, it can search its own database, including with respect to information related to STRs (though search capabilities are very limited), as well as other databases to which it has access. However the lack of personnel and basic technical resources of the FIU as well as its limited access to databases raises serious concerns as to the effectiveness of the information exchange with foreign authorities. No statistics were provided to the evaluation team so that it was not possible to make any assessment.

General

859. Only limited information was made available to the evaluation team in relation to international co-operation, and there are general concerns about the effectiveness of the provisions in place. The evaluation team was not made aware of any restrictions on information exchange involving fiscal matters and there was no evidence to suggest that information exchanged was subject to disproportionate or unduly restrictive conditions, and nothing to suggest that information received was treated otherwise than in an authorised manner.

6.5.2 Recommendations and Comments

860. The BOG, HCMC and MOD/ID have been given the power to exchange information with their foreign counterparts. The HCMC and the MOD/ID have not been requested for such cooperation in the AML/CFT area and therefore the effectiveness of their respective procedures cannot be measured. As far the BOG is concerned, there is little indication that cooperation with its counterparts is effective and is provided in line with the FATF standards.

861. Due to the current lack of personnel and technical resources, there are serious doubts about the FIU's capacity to provide the widest range of international cooperation to its counterparts in a rapid, constructive and effective manner. The Greek FIU should as soon as possible ensure its access to the FIU.Net in order to secure and increase the exchange of information with its foreign counterparts. More generally, it is essential to provide the FIU with more appropriate resources (staff, technical, etc. See conclusion in Section 2.5 of the report) to fulfil its tasks, including at international level.

862. The Greek FIU and the BOG should maintain statistics on the formal requests made or received by/from foreign FIUs, including whether the request was granted or refused, and on spontaneous referral made to foreign authorities.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

Rec.	Rating	Summary of factors underlying ratings
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⁵⁷ The evaluation team has been advised that the connection to the Egmont Secure Web was completed in April 2007.

Rec.40	PC	<ul style="list-style-type: none"> • due to a lack of personnel and technical resources and limited database access, there is an issue of effectiveness with regard to the information exchange of the FIU with foreign authorities on AML matters; • there are no formal statistics to suggest that cooperation between financial supervisors and their counterparts in AML matters is effective and is provided in line with the FATF standards.
SR.V	LC	<ul style="list-style-type: none"> • due to a lack of personnel and technical resources and limited database access, there is an issue of effectiveness with regard to the information exchange of the FIU with foreign authorities on CFT matters (in relation with Rec.40); • there is no information to suggest that cooperation between financial supervisors and their counterparts in AML/CFT matters is effective and is provided in line with the FATF standards (in relation with Rec.40).

7. RESOURCES AND STATISTICS

7.1 Resources and Statistics (R. 30 & 32)

863. The text of the description, analysis and recommendations for improvement that relate to Recommendations 30 and 32 is contained in all the relevant sections of the report i.e. all of section 2, parts of sections 3 and 4, and in section 6. There is a single rating for each of these Recommendations, even though the Recommendations are addressed in several sections. Section 7.1 of the report contains only the box showing the rating and the factors underlying the rating.

Rec.	Rating	Summary of factors underlying ratings
Rec.30	NC	<p><i>in relation to the FIU:</i></p> <ul style="list-style-type: none"> • the FIU is understaffed and critically lacks organisational and technical resources to fully and effectively perform its functions (in particular, there is no permanent financial analysts); <p><i>in relation to the law enforcement authorities:</i></p> <ul style="list-style-type: none"> • insufficient resources are allocated to ML and FT investigations in the Hellenic Police and the Customs and the training in AML/CFT matters is generally insufficient; <p><i>in relation to the prosecution authorities</i></p> <ul style="list-style-type: none"> • insufficient resources are allocated to the over-worked public prosecutor service; • there is specialisation in and no specific training available on the identification, tracing, seizure and confiscation of criminal proceeds; <p><i>in relation to BOG:</i></p> <ul style="list-style-type: none"> • the BOG lacks sufficient numbers of staff with specialist qualifications and expertise in AML/CFT matters to enable it to carry out its supervisory duties effectively; <p><i>in relation to HCMC:</i></p> <ul style="list-style-type: none"> • the HCMC dramatically lacks staff with relevant AML/CFT qualifications, skills and experience to carry out its supervisory powers; <p><i>in relation to MOD/ID and HPISC</i></p> <ul style="list-style-type: none"> • the MOD/ID lacked qualified staff to carry out its supervisory powers and the HPISC has not yet been established.

Rec.32	NC	<p><i>Review of the effectiveness of the AML/CFT system</i></p> <ul style="list-style-type: none"> • Greece does not review its AML/CFT system on a regular basis. <p><i>Collection of statistics</i></p> <ul style="list-style-type: none"> • <i>in relation to the FIU</i>: no statistics on the number of requests made or received by/from foreign FIUs, including whether the request was granted or refused, and on spontaneous referral made to foreign authorities; • <i>in relation to law enforcement authorities/MOJ</i>: no statistics on ML/FT investigations, prosecutions and convictions, and on property frozen, seized and confiscated; • <i>in relation to mutual legal assistance</i>: (1) no statistics on requests relating to freezing and confiscation made or received; (2) no statistics on requests relating to TF; (3) no statistics on requests relating to predicate offences; (4) generally no statistics on the nature of the request, whether it was granted or refused and the time to respond; • <i>in relation to extradition</i>: (1) incomplete statistics on requests relating to ML, TF and predicate offences; (2) no statistics on requests relating to predicate offences; (3) generally no data on the nature of the request, whether it was granted or refused and the time to respond; • <i>in relation to the BOG</i>: no statistics on the formal requests for assistance made or received by BOG, including whether the request was granted or refused.
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7.2 Other relevant AML/CFT measures or issues

N/A

7.3 General framework for AML/CFT system (see also section 1.1)

Greek criminal justice system

864. The Greek criminal justice system allows for a full rehearing of all criminal cases in the Court of Appeal. The assessment team was advised that a large majority of convicted defendants in criminal cases exercise their right to a full rehearing of the case in the Court of Appeal. Legal costs are also apparently lower than in some other countries. These factors when combined with the resources available to the courts and criminal justice system appear to create an overburdened criminal justice system with inherent long delays.

865. Moreover, the total number of crimes reported by the police has significantly increased since the early 1990s and it appears that the whole criminal justice system is not prepared to deal with the increased volume of criminality. Police seems to have responded more effectively than the courts system, which cannot currently keep pace with the volume of cases and the court delays have created a real bottleneck⁵⁸.

866. The assessment team was informed that an average criminal case for a serious offence e.g. for murder, would take approximately five years from the time that a case was first passed to an investigating judge, through to the completion of the hearing in the Court of Appeal. However it was stated that money laundering cases would be fast-tracked so that they may only take an average of three years to complete. The assessment team believes that the combination of factors as described above may impact adversely on the ability of the system to commence and complete money laundering and terrorist financing cases within a reasonable timeframe.

⁵⁸ Due to the quantitative and qualitative changes in criminality in the 1990's the clearance rate has dropped from 58.4% for felonies and 90.4% for misdemeanours in 1987 to 45.9% for felonies and 77.4% for misdemeanours in 1997 (see the European Institute for Crime Prevention and Control, "Criminal Justice Systems in Europe and North America, Greece" 1999).

Elaboration of domestic legislation based on international legal requirements

867. As a member of the EU, Greek law has been greatly influenced by European Union law and the “acquis communautaire”. Greece has also been active ratifying international conventions and adopting (in a rather protracted way) domestic legislation to respond to its international commitments. In the criminal law area and its extension in AML/CFT matters, Greece has adopted a large set of repressive measures that generally lacks the precision and the quality that is required by international and domestic law in order to impose efficient AML/CFT systems. For instance, in relation to confiscation and seizure, a series of provisions (the Criminal Code, the CCP and the AML Law especially) is in place that dramatically lacks harmonisation.

868. In their project to adopt a new AML Law, the Greek authorities should elaborate a more harmonised and sophisticated set of measures in line with international standards keeping in mind the necessary elaboration and integration with existing domestic legislation.

TABLES

Table 1: Ratings of Compliance with FATF Recommendations

Table 2: Recommended Action Plan to improve the AML/CFT system

Table 3: Authorities' Response to the Evaluation (if necessary)

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (NA).

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

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	PC	<ul style="list-style-type: none"> • the predicate offences for ML are limited by the threshold of EUR 15,000, and terrorist financing is inadequately criminalised as a predicate offence; • the offence of ML effectively requires the prosecution to prove all the elements of the predicate offence; • self-laundering is not clearly criminalised; • the limited data available indicates that the offence is not being effectively implemented, as shown by the very low number of convictions
2. ML offence – mental element and corporate liability	PC	<ul style="list-style-type: none"> • criminal liability does not apply to legal persons and there is no fundamental principle of law prohibiting it; • taking all the relevant provisions into account, penalties are not sufficiently dissuasive (the sentence for money laundering cannot exceed the sentence for the predicate offence with regard to a misdemeanour); • there are doubts about the effectiveness of the current administrative sanctions regime; • the limited data available indicates that the offence is not being effectively implemented, as shown by the very low number of convictions.
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> • indirect proceeds cannot be confiscated; • seizure does not extend to all property that is the proceeds of crime; • courts cannot void or prevent transactions from the time the crime has

		<p>been committed;</p> <ul style="list-style-type: none"> • there is insufficient evidence to indicate the current provisions have been effectively implemented and used; • generally, there is a lack of uniformity when applying the confiscation provisions which raises issues of effective implementation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • it has not been clearly shown that bank secrecy has been fully lifted by the AML Law. The AML Law potentially only lifts bank secrecy for STRs in respect of money laundering.
5. Customer due diligence	PC	<ul style="list-style-type: none"> • the requirement to conduct CDD does not extend to all sectors of the financial services sector (notably insurance brokers and agents); • the basic obligations, such as when to conduct CDD or measures to identify legal persons are not consistently set out in law or regulation; • there are no secondary and more detailed requirements for the insurance sector; • the duty to conduct CDD is not extended to all of the situations required by the FATF Recommendations, notably where there is a suspicion of money laundering or terrorist financing, and where doubts arise as to previously obtained CDD information; • simplified due diligence measures in the general law appear to be unduly permissive; • there is a lack of clarity in the simplified due diligence measures in the BOG Governor's Act Annex 4; • the law, guidance and industry practice in relation to identifying legal persons is not in line with FATF requirements; • the law and guidance in relation to ascertaining beneficial ownership is fragmented and inconsistent. The obligation for identifying the beneficial owners of legal persons is too limited and there is no obligation to take proactive steps to identify persons who exercise ultimate effective control of the customer; • no obligation to apply enhanced measures for high risk customers in the securities and insurance sectors; • there are only limited requirements to conduct ongoing CDD for firms supervised by the HMC and the MoD; • allowing a period of 30 days to complete verification of the identity of two categories of high risk customers is not in line with FATF requirements; • there are limited requirements to conduct CDD in respect of existing clients in the AML Law and the securities and insurance sectors; • the requirement to ascertain the nature and purpose of the business relationship is not clearly set out in the AML Law or provisions issued by the competent authorities; • the BOG measures have just been adopted and there is very limited evidence that AML/CFT measures have been effectively implemented.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • the requirement to identify and conduct CDD on PEPs does not extend to the securities and insurance sectors; • BOG Governor's Act applies the requirements relating only to PEPs from countries outside the EU; • the nature and extent of the enhanced CDD measures required for PEPs are not clearly stated; • the requirement to identify a PEP's source of wealth is not explicitly stated; • BOG Governor's Act does not require a SI to obtain senior management

		<p>approval before setting up a business relationship with a PEP;</p> <ul style="list-style-type: none"> the BOG measures have just been adopted and there is no evidence generally that AML/CFT measures have been effectively implemented.
7. Correspondent banking	LC	<ul style="list-style-type: none"> the definition of "cross-border" is too narrow, and excludes EU member states; the BOG measures have just been adopted and there is no evidence generally that AML/CFT measures have been effectively implemented.
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> there are no requirements for the securities or insurance sectors; there is no requirement for SIs to have measures to prevent misuse of technological developments; the means proposed for dealing with the risks of non face to face business issued by the BOG appears to be limited to customers having an account with a financial institution based in the EU.
9. Third parties and introducers	PC	<ul style="list-style-type: none"> the BOG has introduced specific provisions for third party reliance but they are partially inconsistent and do not address all the requirements under Recommendation 9; there is no provision for third party reliance in the general AML Law or the HCMC/MOD provisions; insurance brokers/agents are not covered by the AML Law, and there is lack of clarity over the role they play in the customer due diligence process.
10. Record keeping	LC	<ul style="list-style-type: none"> the provisions on record keeping in the AML Law do not clearly require keeping business correspondence; there are no specific record-keeping requirements or guidelines to ensure that (i) transactions can be fully reconstructed, and (ii) recorded information is available on a timely basis to domestic competent authority.
11. Unusual transactions	PC	<ul style="list-style-type: none"> there is no specific requirement in the AML Law or guidance to monitor all complex, unusual large transactions unless they raise specific suspicions of ML or TF; BOG guidance is not sufficiently clear and appears to suggest that certain findings need only be documented when consideration is given to submission of an STR; the provisions adopted by the HCMC limit the requirement to monitor transactions that could be connected with ML; the MOD/ID Circular does not contain any requirement for insurance companies as set out in Recommendation 11.
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> similar technical deficiencies in the AML Law relating to Rec. 5, 6 and 8-11 that apply to financial institutions also apply to DNFBPs (see comments and ratings in Section 3.2); although DNFBPs are technically subject to various provisions of the AML Law, practical application is extremely limited. This raises serious concerns in relation to the effectiveness of the measures in place; no AML/CFT measures apply to TCSPs; internet casinos are covered by law but there is no action taken in practice; it is unclear if casinos on Greek owned or operated vessels are covered by the AML Law.
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> insurance agents and brokers are not covered by the obligation to report; not all predicate offences required in Recommendation 1 are included in scope; not all the required aspects of terrorist financing are included in the scope of the reporting requirement;

		<ul style="list-style-type: none"> • industry practice would suggest that not all attempted transactions are reported; • the weaknesses in the STR system (especially low numbers in total and very low numbers of STRs outside the banking system) raise significant concerns in relation to the effectiveness of the reporting system.
14. Protection & no tipping-off	C	Recommendation 14 is fully met
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • <i>for FIs supervised by BOG</i>: the requirements on internal controls (e.g. screening procedures) are not fully AML/CFT oriented and there are doubts about their proper implementation by SIs; • <i>for the FIs supervised by HCMC and in the insurance sector</i>: existing requirements are either very general (on internal procedures and controls and screening procedures) or non-existent (on independent audit function and training).
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> • similar technical deficiencies in the AML Law relating to Rec. 13, 15 & 21 that apply to financial institutions also apply to DNFBPs (see comments and ratings in Sections 3.6, 3.7 & 3.8); • although DNFBPs are covered by the scope of the AML Law, in practice nothing has been done to implement the provisions within the DNFBP community, and thus practical application is extremely limited. This raises serious concerns in relation to effectiveness of the measures in place; • no AML/CFT measures apply to TCSPs; • there are insufficient detailed requirements concerning the implementation of internal controls.
17. Sanctions	PC	<ul style="list-style-type: none"> • <i>for FIs supervised by the BOG</i>: (1) the current use of sanctions (non-interest bearing deposit) is neither sufficiently effective nor sufficiently dissuasive; (2) the range of sanctions imposed is not sufficiently broad and is not proportionate to the severity of a situation; (3) the implementation of sanctions to FIs directors or senior management is uncertain; • <i>for FIs supervised by the HCMC</i>: (1) based on the information available, there is insufficient evidence to show that the sanctions regime in place offers a sufficiently broad range of sanctions for failing to comply with AML/CFT requirements; (2) due to the very low volume of compliance monitoring carried out by the HCMC, the effectiveness of the sanctions regimes cannot be measured; • <i>for FIs supervised by MOD/ID</i>: there is insufficient information to show that the MOD/ID has the authority to impose sanctions for non-compliance with the AML Law and MOD Circulars. No sanctions have been imposed for AML/CFT breaches.
18. Shell banks	LC	<ul style="list-style-type: none"> • there is no obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
19. Other forms of reporting	NC	<ul style="list-style-type: none"> • there is no evidence that Greece has considered implementing a system for reporting currency transactions across all regulated sectors.
20. Other NFBP & secure transaction techniques	LC	<ul style="list-style-type: none"> • Greece has not taken sufficient steps to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • absent an NCCT list, there are effectively no requirements for the securities sector; • there are no requirements for the insurance sector; • banking sector guidance does not contain any directly relevant criteria pursuant to which SIs should examine with special attention countries that

		<p>are not applying the FATF Recommendations;</p> <ul style="list-style-type: none"> • industry practice suggests that very limited measures are currently being taken and that there is no effective implementation.
22. Foreign branches & subsidiaries	PC	<ul style="list-style-type: none"> • the AML Law provisions are insufficient to address all the elements of Recommendation 22; • <i>for FIs supervised by BOG</i>: Greek provisions do not explicitly require branches and subsidiaries of Greek SIs located in third countries to apply the higher standard, to the extent that local laws and regulations permit; • <i>for the FIs supervised by HCMC and in the insurance sector</i>: (1) the HCMC and MOD/ID provisions do not apply to subsidiaries; (2) there is no requirement applicable to the securities and insurance sectors to pay particular attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply the FATF Recommendations; (3) there is no explicit provision to require FSIs to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local laws, regulations or other measures.
23. Regulation, supervision and monitoring	PC	<p><i>Market entry</i></p> <ul style="list-style-type: none"> • absence of a licensing requirement for insurance agents; • fit and proper tests are not conducted for all directors of credit institutions; <p><i>Supervisory programme and procedures</i></p> <ul style="list-style-type: none"> • BOG: the current supervisory programme adopted by the BOG raises important doubts in terms of effectiveness (lack of resources and qualified personnel, quality of inspections); • HCMC AML/CFT supervision of securities firms is very recent and effectiveness has not been demonstrated; • MOD/ID: there is no AML/CFT supervision of insurance companies.
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • although most DNFBPs are now included within the scope of the AML Law, little, if any, effective supervision is currently taking place; • there is a lack of designed supervisors for some DNFBPs; • the regime for supervision of DNFBPs is ineffective, as is demonstrated by the lack of awareness among firms; • it is unclear whether ship casinos are covered by the AML/CFT Law; • no AML/CFT measures apply to TCSPs.
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> • very little feedback is given by the FIU or other competent authorities; • BOG guidance on STRs is not sufficiently specific to cover the diverse sector it supervises • Other BOG guidelines are very general and their relevance to certain SIs (e.g. money remitters and leasing companies) is limited; • HCMC and MOD/ID guidelines are incomplete and generally too broad • with regard to DNFBPs, there is no current guidance issued by competent authorities on AML/CTF; • the FIU does not provide guidance/feedback to the DNFBPs
Institutional and other measures		
26. The FIU	NC	<ul style="list-style-type: none"> • the FIU is inappropriately structured to properly and effectively undertake its functions; • the current composition and functions of the Committee raise potential conflicts of interest when dealing with STRs that adversely affect the FIU's operational independence and autonomy and potentially could lead to undue influence or interference; • reporting forms and procedures have not yet been provided to all reporting

		<p>entities;</p> <ul style="list-style-type: none"> • the FIU does not have adequate and timely access to all the financial, administrative and law enforcement information it requires to properly perform its functions; • there are insufficient physical and electronic security systems to securely protect the information held by the FIU; • the reports published by the FIU do not provide adequate information on statistics, typologies and trends; • in practice, there are real issues as to whether the Egmont principles are applied in relation to security of information and the FIU is not connected to the Egmont Secure Web thus impacting effective co-operation; • the lack of human resources, the paper based STR system, the lack of appropriate IT infrastructure and the current system for processing STRs has resulted in a serious lack of effectiveness in the FIU, which in turn impedes the overall effectiveness of the AML/CFT system.
27. Law enforcement authorities	LC	<ul style="list-style-type: none"> • the system put in place by the AML Law does not prevent parallel investigations (and then duplication of efforts) on ML or FT cases; • the resources of the prosecution service are insufficient for it to effectively perform its functions, taking into account the structure of the criminal justice system and the appeal procedures. • the data and other information available is insufficient to demonstrate that the ML/FT investigation and prosecution process is effective.
28. Powers of competent authorities	C	Recommendation 28 is fully met.
29. Supervisors	PC	<ul style="list-style-type: none"> • while appropriate supervision powers have been given to the BOG, there is limited capacity of the BOG to use them in an effective way; • the BOG has not used the full range of sanctions it has at its disposal; • the HCMC has only recently started to use its supervision powers and there is insufficient evidence of effectiveness, • the MOD/ID has not used its supervision powers in the AML/CFT area.
30. Resources, integrity and training	NC	<p><i>in relation to the FIU:</i></p> <ul style="list-style-type: none"> • the FIU is understaffed and critically lacks organisational and technical resources to fully and effectively perform its functions (in particular, there is no permanent financial analysts); <p><i>in relation to the law enforcement authorities:</i></p> <ul style="list-style-type: none"> • insufficient resources are allocated to ML and FT investigations in the Hellenic Police and the Customs and the training in AML/CFT matters is generally insufficient; <p><i>in relation to the prosecution authorities</i></p> <ul style="list-style-type: none"> • insufficient resources are allocated to the over-worked public prosecutor service; <p><i>in relation to BOG:</i></p> <ul style="list-style-type: none"> • the BOG lacks sufficient numbers of staff with specialist qualifications and expertise in AML/CFT matters to enable it to carry out its supervisory duties effectively; <p><i>in relation to HCMC:</i></p> <ul style="list-style-type: none"> • the HCMC dramatically lacks staff with relevant AML/CFT qualifications, skills and experience to carry out its supervisory powers; <p><i>in relation to MOD/ID</i></p> <ul style="list-style-type: none"> • the MOD/ID dramatically lacks qualified staff to carry out its supervisory powers.

31. National co-operation	PC	<ul style="list-style-type: none"> mechanisms for cooperation between the FIU, law enforcement, supervisors and other competent authorities are insufficient and ineffective to address the need for domestic AML/CFT coordination; there is no regular review of the effectiveness of the AML/CFT system.
32. Statistics	NC	<p><i>Review of the effectiveness of the AML/CFT system</i></p> <ul style="list-style-type: none"> Greece does not review its AML/CFT system on a regular basis. <p><i>Collection of statistics</i></p> <ul style="list-style-type: none"> <i>in relation to the FIU:</i> no statistics on the number of requests made or received by/from foreign FIUs, including whether the request was granted or refused, and on spontaneous referral made to foreign authorities; <i>in relation to law enforcement authorities/MOJ:</i> no statistics on ML/FT investigations, prosecutions and convictions, and on property frozen, seized and confiscated; <i>in relation to mutual legal assistance:</i> (1) no statistics on requests relating to freezing and confiscation made or received; (2) no statistics on requests relating to TF; (3) no statistics on requests relating to predicate offences; (4) generally no statistics on the nature of the request, whether it was granted or refused and the time to respond; <i>in relation to extradition:</i> (1) incomplete statistics on requests relating to ML, TF and predicate offences; (2) no statistics on requests relating to predicate offences; (3) generally no data on the nature of the request, whether it was granted or refused and the time to respond; <i>in relation to the BOG:</i> no statistics on the formal requests for assistance made or received by BOG, including whether the request was granted or refused.
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> there is no requirement to collect or make available information on beneficial ownership and ultimate control of legal persons; the system in place does not provide access to adequate, accurate and current information on beneficial ownership and ultimate control in a timely manner; there is no appropriate measure to ensure transparency as to the shareholders of corporations that have issued bearer shares (unless the corporation is listed on a stock exchange).
34. Legal arrangements – beneficial owners	NA	<ul style="list-style-type: none"> Trusts are not recognised under Greek law. There are no other legal arrangements similar to trusts that exist in Greece. .
International Co-operation		
35. Conventions	PC	<p><i>Ratification of the Palermo Convention:</i></p> <ul style="list-style-type: none"> Greece has not ratified the Palermo Convention; <p><i>Implementation of the Palermo Convention:</i></p> <ul style="list-style-type: none"> the scope of the ML offence is too limited (see comments in relation to Rec.1); self-laundering is not properly criminalised in Greece, and this cannot be justified on the basis of its being contrary to the Greek fundamental law (see comments in relation to Rec.1); the penalties are not dissuasive and there are doubts about their effectiveness (see comments in relation to Rec.2); <p><i>Implementation of Vienna Convention:</i></p> <ul style="list-style-type: none"> The Greek provisions do not permit the confiscation of indirect proceeds (see comments in relation to Rec.3). <p><i>Implementation of the Terrorist Financing Convention:</i></p> <ul style="list-style-type: none"> the penalties are not dissuasive and there doubts about their effectiveness

		(see comments in relation to Rec.2); <ul style="list-style-type: none"> the CDD requirements are inadequate and the implementation of STR reporting is not fully effective (see comments in relation to Rec.5 & 13).
36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> in the absence of a treaty the apparent limitation on the forms of assistance available for mutual assistance appear to constitute an obstacle to undertaking certain types of investigatory acts that are authorised in the domestic context ; the effectiveness of the current laws cannot be demonstrated due to the lack of quantitative and qualitative data; moreover the overloaded court system seems to have impacted on effectiveness; the current limitations in relation to the criminalisation of ML and FT may have a impact on Greece's ability to deliver mutual legal assistance in ML/FT cases.
37. Dual criminality	LC	<ul style="list-style-type: none"> there is a lack of consensus on the scope and application of the dual criminality requirement; there is a risk that the dual criminality requirement for extradition is applied in a narrow sense
38. MLA on confiscation and freezing	LC	<ul style="list-style-type: none"> Greece has not considered establishing an asset-forfeiture fund; Greece's limitations on the definition of ML may limit its ability to seize and confiscate property derived from predicate offences that are covered by the AML Law.
39. Extradition	LC	<ul style="list-style-type: none"> the current limitations in relation to the criminalisation of ML may have a impact on Greece's ability to extradite persons sought for this offence; there are potentially some cases where extradition could be limited because a different threshold of punishment exists for some of the predicate offences of ML (some threshold are below the two year threshold applicable in extradition cases).
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> due to a lack of personnel and technical resources and limited database access, there is an issue of effectiveness with regard to the information exchange of the FIU with foreign authorities on AML matters; there are no formal statistics to suggest that cooperation between financial supervisors and their counterparts in AML matters is effective and is provided in line with the FATF standards.
Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	PC	<p><i>Implementation of the Terrorist Financing Convention:</i></p> <ul style="list-style-type: none"> the CDD requirements are inadequate and the implementation of STR reporting is not fully effective (see comments in relation to Rec.5 & 13). <p><i>Implementation of S/RES/1267(1999) and S/RES/1373(2001):</i></p> <ul style="list-style-type: none"> the current process does not allow freezing of terrorist assets without delay (see comments in relation to SR.III); Greece has a limited ability to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system (see comments in relation to SR.III).
SR.II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> the scope of the offence is excessively narrow as it does not make it a crime to collect or provide funds or material support to terrorist individuals or for specific terrorist acts; terrorist financing ought to be a stand alone offence for which prosecution is available, regardless of whether the group actually carries out or

		<p>attempts a specific terrorist attack;</p> <ul style="list-style-type: none"> • the defence in Article 187A(8) is too broad and appears to undermine and negate the intentions of the provision; • it is unclear that Article 2.5 of the Terrorist Financing Convention is applicable in relation to the FT offence; • administrative liability with regard to the financing of terrorism is too restrictive; • criminal liability does not apply to legal persons and there is no fundamental principle of law prohibiting it; • there have been no TF cases and it is too early to assess whether the offence is effectively implemented.
SR.III Freeze and confiscate terrorist assets	PC	<ul style="list-style-type: none"> • 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; • Greece has a limited ability to freeze funds in accordance with S/RES/1373(2001) of designated terrorists outside the EU listing system; • 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; • 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; • there are no sanctions for failure to follow freezing requests; • processes for de-listing and unfreezing funds are not publicly known and it is impossible to determine their effectiveness, if they exist at all; • Greece has no procedure in place for allowing payment of basic living expenses and fees in line with UNSCR 1452; • Greece does not have appropriate procedures through which a person or entity whose funds have been frozen can challenge that measure before a court; • Greek authorities should be able to freeze terrorist assets without first having to open a criminal investigation; • 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.
SR.IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> • insurance agents and brokers are not covered by the obligation to report; • not all the required aspects of terrorist financing are included in the scope of the reporting requirement; • industry practice would suggest that not all attempted transactions are reported; • the weaknesses in the STR system (especially low numbers in total and very low numbers of STRs outside the banking system) raise significant concerns in relation to the effectiveness of the reporting system.
SR.V International co-operation	LC	<ul style="list-style-type: none"> • there are concerns on the ability of Greece to provide a full range mutual legal assistance in cases involving FT as it is currently defined in Greece (in relation to Recommendation 36); • the application of the dual criminality may create an obstacle to extradition in cases involving FT activities that are not specifically criminalised in Greece (in relation to Recommendation 39); • due to a lack of personnel and technical resources and limited database

		<p>access, there is an issue of effectiveness with regard to the information exchange of the FIU with foreign authorities on CFT matters (in relation with Rec.40);</p> <ul style="list-style-type: none"> • there is no information to suggest that cooperation between financial supervisors and their counterparts in AML/CFT matters is effective and is provided in line with the FATF standards (in relation with Rec.40).
SR VI AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> • the lack of specialised, trained staff means that there are general concerns about the effectiveness of the BOG supervision programme as applied to MVT services; • there was some evidence of informal transfer services, which were not applying AML/CFT measures and not being supervised; • in general, Greece should take immediate steps to properly implement Recommendations 5-7, SR.VII and other relevant FATF Recommendations and to apply them also to bureaux de change and money remittance companies.
SR VII Wire transfer rules	PC	<ul style="list-style-type: none"> • the derogation set out in the EU regulation for wire transfers within the EU (classified as domestic transfers) is not in compliance with the FATF requirements under SR.VII; • there are currently no sanctions for non-compliance with the EU regulation, and the sanctions regime generally is not effective or dissuasive; • in terms of effectiveness, there is insufficient evidence that the Regulation has been properly implemented, nor is there sufficient evidence of effective compliance monitoring of credit institutions with the requirements under the EU Regulation.
SR.VIII Non-profit organisations	NC	<ul style="list-style-type: none"> • Greece has not implemented the requirements set out in SR VIII.
SR.IX Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> • there is no system for declaring or disclosing cash or bearer negotiable instruments in line with SR IX.

Table 2: Recommended Action Plan to Improve the AML/CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Greece should ensure that the list of predicate offences includes all of the FATF designated predicate offences and amend Article 1.A.q) of the AML Law to include all offences punishable by at least six months in prison, regardless of the value of the property generated by the offence; • Greece should criminalise self-laundering; • Greece should extend criminal liability to legal persons and ensure that the existing system of administrative and civil liability of companies is used effectively; • The authorities should ensure that ML is a stand alone offence that does not require, in effect and practice, a conviction for the predicate offence.
Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • Greece should amend the scope of the FT offence to make it a crime to collect or provide funds or material support to terrorist individuals or for specific terrorist acts. In addition, terrorist financing should be an offence in itself, whether or not a terrorist act has actually occurred and whether or not funds were used to finance a particular act; • Greece should review and limit the legal defence to the law in Article 187.A (8); • Greece should clarify what “funds” means for the purpose of Article 187A and ensure that the FT offence does not require that the funds be actually used; • Greece should expand the administrative liability with regard to the financing of terrorism.
Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • Greece should adopt measures that allow: (1) the confiscation of indirect proceeds; (2) to give courts the power to void or prevent actions involving the proceeds of crime from the time the predicate offence was convicted; • Greece should extend the powers of to all property that could be the proceeds of crime, not just accounts, safe deposit boxes and immovable property; • The Greek general confiscation legislation should provide for freezing on an ex parte basis, with the right to appeal; • Greece should provide guidance on what they consider an <i>instrumentality intended for use in a crime</i>; • Greece should provide guidance on using the various confiscation regimes; • Greece should review its laws and administrative structures so as to have an effective system to trace, seize and confiscate criminal proceeds.
Freezing of funds used for terrorist	<ul style="list-style-type: none"> • Greece should develop its ability to freeze funds in accordance with

financing (SR.III)	<p>S/RES/1373(2001) of designated terrorists outside the EU listing system;</p> <ul style="list-style-type: none"> • Greek authorities should ensure that the authorities can freeze terrorist assets without first having to open a criminal investigation; • Greece should take the appropriate measures to speed the current process for notifying ministries and the financial sector of entities on UN lists; • Greece should provide guidance to financial institutions as well as DNFBPs on freezing assets of listed entities and should monitor FIs and DNFBPs for compliance with measures taken under the Resolutions; • Greece should adopt a regime of sanctions for failure to follow freezing requests; • Greece should develop publicly known processes for de-listing and unfreezing funds and procedures for allowing payment of basic living expenses and fees in line with UNSCR 1452; • Greece should adopt appropriate procedures through which a person or entity whose funds have been frozen can challenge that measure before a court; • Greece should adopt measures to protect the rights of bona fide third party owners of property that may be involved in terrorist financing.
The Financial Intelligence Unit and its functions (R.26 and R.30)	<ul style="list-style-type: none"> • The Greek authorities should consider restructuring the FIU (especially more specialised personnel should be hired to carry out STRs analysis functions and Greece should give consideration to tasking the Committee members with a broad oversight and/or coordination role at national level); • Greece should review the effectiveness of the FIU. For instance, a mechanism for exchange of information with the judiciary would be very helpful to provide the FIU with some useful indicators of effectiveness and more broadly, Greece should adopt measures that ease the mechanisms for exchange of information between the FIU and other competent authorities; • Greece should ensure that the FIU is allocated with sufficient and skilled staff and has a comprehensive IT system to collect and process the STRs (for instance, the FIU should as soon as possible ensure its connection to the FIU.net); • The FIU should take all necessary measures to ensure that the information held is securely protected. The physical security of the facilities should be appropriately ensured and the current STR data system should be properly protected and backed up; • Greece should ensure that the FIU has a more direct and timely access to all financial, administrative and law enforcement information it requires to properly undertake its functions; • More reporting forms should be adopted and the reports published by the FIU should provide information on statistics, typologies and trends.
Law enforcement, prosecution and other competent authorities (R.27 & 28)	<ul style="list-style-type: none"> • Greece should promote a more proactive approach to detect and expose third party ML cases as opposed to self-laundering and consideration should be given to a greater specialisation of prosecutors and judges in financial crime and ML cases; • Consideration should be given to making use of special investigative techniques in relation to ML and FT as they have proved successful in relation to drug trafficking; • Particular attention should be paid to establish effective coordination and

	information sharing between Customs and other law enforcement authorities in relation to the implementation of the controls on cash and bearer negotiable instruments leaving and entering the Greek territory, so as to enable the use of special investigative techniques in relation to cash.
Cross border declaration or disclosure (SR.IX)	<ul style="list-style-type: none"> • Greece should implement measures conforming to the requirements of SR.IX.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	<ul style="list-style-type: none"> • Greece should develop a less selective and partial approach to risk and carry out full risk assessments in order to identify areas of higher or lower ML/FT risk.
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<p><i>General</i></p> <ul style="list-style-type: none"> • Greece should make sure that all basic CDD obligations as defined by the FATF are set out in the AML Law; • Greece should take steps for insurance brokers and agents to be brought within the scope of the AML law, and thus the CDD requirements; • Greece should engage with the private sector to promote compliance with the CDD requirements; <p><i>In relation to Recommendation 5:</i></p> <ul style="list-style-type: none"> • Greece should consider adopting an express requirement precluding the opening and maintenance of anonymous or numbered accounts; • Financial institutions should be required to conduct CDD in all of the situations required by the FATF Recommendations, notably where there is a suspicion of money laundering or terrorist financing, and where doubts arise as to previously obtained CDD information; • In relation to simplified and enhanced due diligence, Greece should consider expanding and updating the guidance issued by competent authorities, and consider including more guidance on how to apply the provisions on a risk-based basis; • Financial institutions should be required to identify legal persons and beneficial ownership in the circumstances set out in FATF standards; • Firms supervised by the HCMC and firms in the insurance sector should be required to conduct ongoing CDD in line with FATF requirements; • The timing of verification of high risk customers should be properly regulated and be in line with FATF requirements; • The requirements to conduct CDD in respect of existing clients in the AML Law and the securities and insurance sectors should be in line with the FATF standards; • All financial institutions should be subject to a clear requirement to ascertain the nature and purpose of the business relationship; • Competent authorities should clarify SIs' responsibilities in situations where full CDD information cannot be obtained. <p><i>In relation to Recommendation 6:</i></p> <ul style="list-style-type: none"> • The securities and insurance sectors should be required to identify and conduct CDD on PEPs; • The requirements relating to PEPs should cover PEPs from EU countries and impose a specific requirement to obtain senior management approval before the business relationship commences; • The requirement to identify a PEP's source of wealth should be explicitly stated;

	<p><i>In relation to Recommendation 7:</i></p> <ul style="list-style-type: none"> • The provisions in relation to cross-border correspondent banking should be extended to include institutions in EU member states; <p><i>In relation to Recommendation 8:</i></p> <ul style="list-style-type: none"> • Measures should be mandated to fully implement Recommendation 8 (i.e. introduce requirements for the securities or insurance sectors; adopt requirements for SIs to have measures in place to prevent misuse of technological developments and ensure that the existing BOG measures to deal with the risks of non face to face business apply to all FIs).
Third parties and introduced business (R.9)	<ul style="list-style-type: none"> • Greece should review the use of third parties to conduct CDD in all sectors (particularly in the insurance sector and in situations involving group companies); • Competent authorities should ensure that any appropriate guidance deemed necessary after considering the operation of third party reliance in the financial services sector covers all sectors where this is practised (particularly the insurance sector); • The current provisions adopted of the BOG should be clarified to be fully consistent and in line with the requirements under Recommendation 9.
Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> • Greece should consider clarifying exactly when the bank secrecy law (Law 1059/1971) is over-ridden by other statutory provisions, and clarify the provisions of the AML Law on matters such as the scope of money laundering/terrorist financing.
Record keeping and wire transfer rules (R.10 & SR.VII)	<p><i>In relation to Recommendation 10:</i></p> <ul style="list-style-type: none"> • The provisions on record keeping in the AML Law should clearly require retention of business correspondence; • Greece should adopt specific record-keeping requirements or guidelines to ensure that (i) transactions can be fully reconstructed, and (ii) recorded information is available on a timely basis to domestic competent authority. <p><i>In relation to SR.VII:</i></p> <ul style="list-style-type: none"> • More effort should be made vis-à-vis the financial community to raise awareness with regard to the new requirements applicable to domestic (in the FATF sense) and cross-border wire transfers; • The Greek authorities should adopt effective, proportionate and dissuasive sanctions applicable to infringements of the provision laid down in the EU Regulation on wire transfers.
Monitoring of transactions and relationships (R.11 & 21)	<p><i>In relation to Recommendation 11:</i></p> <ul style="list-style-type: none"> • Greece should require all financial institutions to examine all complex, unusual etc. transactions, even if suspicion does not technically arise, and impose a clear requirement to document the findings of any examination undertaken; <p><i>In relation to Recommendation 21:</i></p> <ul style="list-style-type: none"> • All financial institutions should be required to monitor business relationships with persons from countries not or insufficiently applying the FATF standards.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<p><i>In relation to Recommendation 13 and SR.IV:</i></p> <ul style="list-style-type: none"> • The obligation to submit STRs should be extended to cover all sectors of the financial services industry, and should cover all predicate offences in full (including tax evasion) and all aspects of terrorist financing; • The obligation to report attempted transactions should be clarified; • Greece should review the effectiveness of the reporting system; <p><i>In relation to Recommendation 19:</i></p>

	<ul style="list-style-type: none"> • Greece should consider the feasibility and utility of implementing a currency reporting system across all regulated sectors; <p><i>In relation to Recommendation 25:</i></p> <ul style="list-style-type: none"> • The competent authorities should provide more comprehensive guidance (and take steps to update existing guidance, where appropriate) to improve the effectiveness of suspicious transaction reporting; • The FIU should provide greater and a further range of feedback to competent authorities and reporting institutions to assist in improving the quality of STRs submitted, and to help identify new areas where suspicion might arise.
<p>Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<p><i>In relation to Recommendation 15:</i></p> <ul style="list-style-type: none"> • Financial institutions supervised by the BOG are required to have screening procedures but the link to AML/CFT provisions should be strengthened; • Financial institutions in the securities and insurance sectors should be required to adopt internal procedures and policies; <p><i>In relation to Recommendation 22:</i></p> <ul style="list-style-type: none"> • Branches and subsidiaries of Greek SIs located in third countries should be required to apply the higher standard, to the extent that local laws and regulations permit ; • In the securities and the insurance sectors: (1) Greece should adopt provisions in relation to Rec. 22 that apply to subsidiaries; (2) Greece should adopt some requirements to pay particular attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply the FATF Recommendations; (3) Greece should adopt an explicit provision to require FIs to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local laws, regulations or other measure.
<p>Shell banks (R.18)</p>	<ul style="list-style-type: none"> • Financial institutions should be required to determine that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.
<p>The supervisory and oversight system - competent authorities and SROs</p> <p>Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)</p>	<p><i>In relation to Recommendation 23:</i></p> <ul style="list-style-type: none"> • The Greek authorities should introduce a licensing requirement for insurance agents by the insurance regulator. Fit and proper tests should be conducted for all directors of credit institutions; • The BOG should implement a risk-based supervisory program for AML/CFT and adopt a more systematic consolidated approach to the supervision of AML/CFT policies risk management systems. The BOG should improve the quality of the assessment of bureaux de change and money remitters. • The HCMC and the HPISC should implement a robust supervisory programme for AML/CFT purposes with proper inspection procedures. <p><i>In relation to Recommendation 29:</i></p> <ul style="list-style-type: none"> • The adoption of a proper risk based approach should be considered by the BOG to improve its capacity to use its supervision powers in an effective way; • The BOG should review its use of sanctions to ensure that they are effective, proportionate and dissuasive; • The HCMC should use its supervision powers on a regular and effective basis; • Once established, the HPISC should be given appropriate supervision

	<p>powers in the AML/CFT area;</p> <p><i>In relation to Recommendation 17:</i></p> <ul style="list-style-type: none"> • The BOG should review the regime of sanctions applicable for failing to apply AML/CFT requirements and specific sanctions for directors and senior managers should be available and implemented where appropriate; • The HCMC should ensure that the sanctions in place fully meet the FATF standards i.e. are effective, proportionate and dissuasive and are implemented properly; • In the insurance sector, the Greek authorities should adopt sanctions for violations of the AML Law requirements that are in line with the FATF standards and are sufficiently dissuasive. <p><i>In relation to Recommendation 25:</i></p> <ul style="list-style-type: none"> • The BOG, the HCMC and the HPISC should adopt sector-specific guidance with updated information on ML and FT trends and techniques and a broader scope in order to comprehensively address the FATF requirements.
Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • Current provisions in relation to agents of bureaux de change should be clarified since it is not certain that bureaux de change are obliged to inform the BOG of the names and addresses of their agents; • The BOG should improve the quality of the supervision carried in bureaux de change and money remittance companies; • Sanctions should be available to directors and senior management of money remittance companies; • The Greek authorities should review the existence of informal remittance businesses for purposes of registration of licensing and oversight for AML/CFT purposes; • In general, Greece should take immediate steps to properly implement Recommendations 5-7, SR.VII and other relevant FATF Recommendations and to apply them also to the bureaux de change and money remittance companies.
4. Preventive Measures –Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • Greece should take steps to fully implement the provisions of the AML Law in respect of DNFBPs and to clarify the drafting in the AML Law to ensure that each relevant section fully applies not only to credit and financial institutions; • The relevant competent authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, and to develop guidance relevant to the individual sectors. • TCSPs, internet casinos and casinos on Greek owned or operated vessels should be fully subject to the AML/CFT requirements.
Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Greece should take action to ensure that the requirements in relation to Recommendations 13, 14, 15 and 21 are fully implemented within the DNFBP community.
Regulation, supervision and monitoring (R.24-25)	<p><i>In relation to Recommendation 24</i></p> <ul style="list-style-type: none"> • Greece should ensure that DNFBPs are subject to effective supervision. <p><i>In relation to Recommendation 25</i></p> <ul style="list-style-type: none"> • The competent authorities and the FIU should provide guidance and feedback to DNFBPs to ensure that they are aware of their obligations.
Other designated non-financial businesses	<ul style="list-style-type: none"> • The Greek authorities could take further steps to encourage the

and professions (R.20)	development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Greece should adopt measures that improve transparency concerning beneficial ownership and ultimate control of legal persons and ease the access from competent authorities to that information; • A centralised registration system for all legal persons should be established; • The Greek authorities should consider removing bearer shares from their law or otherwise taking measures to ensure adequate transparency regarding beneficial ownership.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	NA.
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • Greece should implement adequate measures in line with the requirements under SR.VIII; • In particular, Greece should (1) carry out a comprehensive domestic review of its non-profit sector; (2) adopt the necessary measures to protect this sector from terrorist financing through outreach and effective oversight; and (3) implement effective domestic co-operation and information-sharing mechanisms among competent authorities that hold information on non-profit organisations.
6. National and International Co-operation	
National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • The AML/CFT topic should be subject to a broad consultation and debate at national level; • Greece should develop and implement effective mechanisms to enable all authorities dealing with AML/CFT issues to co-operate and collaborate closely and effectively with each other.
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Greece should ratify the Palermo Convention and fully implement it (in particular, the predicate offences for ML should cover all serious offences; Greece should extend the scope of the ML offence; self-laundering should be properly criminalised and Greece should adopt effective, proportionate and dissuasive sanctions); • Greece should fully implement the Vienna Convention as well as the Terrorist Financing Convention (in particular, Greece should permit the confiscation of indirect proceeds and extend the scope of the FT offence); • Greece should fully implement the UN Security Council Resolutions relating to the prevention and suppression of FT (in particular, Greece should adopt a process that allows freezing of terrorist assets without delay).
Mutual Legal Assistance (R.36-38, SR.V)	<ul style="list-style-type: none"> • The application or not of the dual criminality condition in the context of mutual legal assistance should be clarified and subject to clear guidance; • Greece should review the current limitations in relation to the criminalisation of ML and FT to improve Greece's ability to deliver mutual legal assistance in ML/FT cases and extend its ability to seize and confiscate property derived from predicate offences that are covered by the AML Law; • In the absence of a treaty, Greece should clarify the forms of assistance available for mutual assistance;

	<ul style="list-style-type: none"> • Greece should adopt mechanisms that allow the execution of mutual legal assistance requests in a timely way and without undue delays; • Greece should consider establishing an asset-forfeiture fund.
Extradition (R.39, 37, SR.V)	<ul style="list-style-type: none"> • Greece should take the necessary steps to ensure that the dual criminality requirement for extradition does not limit its capacity to answer extradition requests; • Greece should review the current limitations in relation to the criminalisation of ML and the applicable thresholds of punishment for some of the predicate offences of ML to improve Greece's ability to extradite persons sought for this offence.
Other Forms of Co-operation (R.40, SR.V)	<ul style="list-style-type: none"> • Greece should take measures to strengthen the capacity of the FIU to exchange information with foreign authorities on AML/CFT matters; • Greece should take measures to ensure that cooperation between financial supervisors and their counterparts in AML matters is effective and is provided in line with the FATF standards.
7. Resources and Statistics	
Resources of Competent Authorities (R.30)	<p><i>in relation to the FIU:</i></p> <ul style="list-style-type: none"> • The FIU should employ a permanent professional staff of experienced financial analysts and should be provided with a comprehensive IT system to collect and process the STRs and any type of information it receives, including link analysis software; • The FIU should consider adopt a secure electronic reporting system; • The FIU should ensure its connection to the FIU.net; • The FIU staff should be provided with adequate ongoing training in AML and CFT matters; • The FIU should ensure that high professional standards are maintained when hiring new personnel. <p><i>in relation to the law enforcement authorities:</i></p> <ul style="list-style-type: none"> • Additional resources should be allocated to ML and FT investigations in the Hellenic Police and the Customs and their staff should be provided with adequate training in AML/CFT matters; <p><i>in relation to the prosecution authorities</i></p> <ul style="list-style-type: none"> • AML/CFT and financial crime training programs should be continued and developed, including typologies/methods and trends, to improve prosecutorial AML/CFT expertise; • Additional resources should be allocated to the over-worked public prosecutor service so that it can fully and effectively performs its functions; • Consideration should be given to a greater specialisation of prosecutors and judges in financial crime and ML cases (including identification, tracing, seizure and confiscation of criminal proceeds). <p><i>in relation to BOG:</i></p> <ul style="list-style-type: none"> • the BOG should be provided with more staff with specialist qualifications and expertise in AML/CFT matters to enable it to carry out its supervisory duties effectively; <p><i>in relation to HCMC:</i></p> <ul style="list-style-type: none"> • the HCMC should be provided with more staff with specialist qualifications and expertise in AML/CFT matters to enable it to carry out its supervisory duties effectively; <p><i>in relation to HPISC</i></p>

	<ul style="list-style-type: none"> the HPISC should be provided with more staff with specialist qualifications and expertise in AML/CFT matters to enable it to carry out its supervisory duties effectively.
Statistics (R.32)	<p><i>Review of the effectiveness of the AML/CFT system</i></p> <ul style="list-style-type: none"> Greece should review the effectiveness of its AML/CFT system on a regular basis; <p><i>Collection of statistics</i></p> <ul style="list-style-type: none"> <i>in relation to the FIU:</i> the FIU should publish more comprehensive periodic reports on its activity including detailed statistics, typologies and trends as well as sanitised cases. The Greek FIU should maintain more comprehensive and detailed statistics on STRs and other reports received. The FIU should collect statistics on the number of requests made or received by/from foreign FIUs, including whether the request was granted or refused, and on spontaneous referral made to foreign authorities; <i>in relation to law enforcement authorities/MOJ:</i> Greece should establish a reliable and comprehensive system to collect statistics on ML/FT investigations, prosecutions and convictions, and on property frozen, seized and confiscated; <i>in relation to mutual legal assistance:</i> statistics should be collected on (1) requests relating to freezing and confiscation made or received; (2) requests relating to TF; (3) requests relating to predicate offences; (4) the nature of the request, whether it was granted or refused and the time to respond; <i>in relation to extradition:</i> statistics should be collected on (1) requests relating to ML, TF and predicate offences; (2) requests relating to predicate offences; (3) the nature of the request, whether it was granted or refused and the time to respond; <i>in relation to the BOG:</i> statistics should be collected on the formal requests for assistance made or received by BOG, including whether the request was granted or refused.
Other relevant AML/CFT measures or issues	NA
General framework for AML/CFT system	<ul style="list-style-type: none"> Greece should review the effectiveness of its criminal justice system to understand and address the factors that impact adversely on the ability of the system to commence and complete money laundering and terrorist financing cases within a reasonable timeframe; In their project to adopt a new AML Law, the Greek authorities should elaborate a more harmonised and sophisticated set of measures in line with international standards keeping in mind the necessary elaboration and integration with existing domestic legislation.

Table 3: Authorities' Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country Comments

ANNEXES

- Annex 1 List of acronyms
- Annex 2 Details of all bodies met during the on-site visit – ministries, other government authorities or bodies, private sector representatives and others
- Annex 3 List of laws, regulations and other material used for the evaluation
- Annex 4 Copy of the AML Law as amended by Law 3424/2005
- Annex 5 Key provisions introduced by HCMC Rule 23/404 of 22 November 2006
- Annex 6 Hierarchy of legal norms in Greece

Acronyms

AML Law		Law 2331/1995 on “prevention and combating of the legalisation of income from criminal activity” as amended by Law 3424/2005
AML/CFT	-	Anti-Money Laundering and Combating the Financing of Terrorism
ASE	-	Athens Stock Exchange
BOG		Bank of Greece
CC	-	Civil Code
CCP	-	Code of Criminal Procedure
CDD	-	Customer Due Diligence
CP		Criminal Code
CSD	-	Central Securities Depository
DNFBP-		Designated non-financial businesses and professions
ELTE		Accounting and Auditing Supervisory Board
EU	-	European Union
FATF	-	Financial Action Task Force
FI		Financial Institution
FIU	-	Financial Intelligence Unit
FT	-	Financing of terrorism
HCMC -		Hellenic Capital Markets Commission
HPISC	-	Hellenic Private Insurance Supervisory Committee
KYC	-	Know your customer/client
ML	-	Money laundering
MLA	-	Mutual legal assistance
MOD		Ministry of Development
MOD/ID		Ministry of Development/Insurance Directorate
MOEF		Ministry of Economy and Finance
MOFA		Ministry of Foreign Affairs
MOJ		Ministry of Justice
MOMM		Ministry of Merchant Marine
MOPO		Ministry of Public Order
MOU		Memoranda of Understanding
NPO		Non Profit Organisation
PEP		Politically Exposed Person
SCS		Special Control Service
SI		Supervised Institution
STR		Suspicious Transaction Report
SVCD		Special Violent Crime Division of the Hellenic Police

Details of all bodies met during the on-site visit – ministries, other government authorities or bodies, private sector representatives and others

I. Ministries

- Ministry of Economy and Finance
 - General Directorate of Economic Policy
 - Special Control Service
- Ministry of Justice
- Ministry of Public Order
- Ministry of Foreign Affairs
- Ministry of Merchant Marine
- Ministry of Development
 - Corporate Registry Section
 - Insurance Directorate

II. Criminal justice and operational agencies

- Financial Intelligence Unit
- Hellenic Police
 - Special Violent Crime Division
 - Public Security Division
- The Customs Service and Customs and Duties, Thessalonica and Northern Greece
- Court of 1st Instance and Court of Appeals
- Athens's Prosecution Office of the Court of Appeal
- Association of Prosecutors of Greece

III. Financial sector – government

- Bank of Greece
- Hellenic Capital Market Commission
- Hellenic Private Insurance Supervisory Committee

IV. Financial sector – association and private sector entities

- Hellenic Bank Association
- Association of Greek Exchange Union and Money Remitters
- Association of members of the Athens Stock Exchange
- Association of Greek Institutional Investors

V. DNFBPs

- Casino Oversight Committee
- Athens Bar Association
- Association of Real Estate Agents
- Association of Greek Notaries
- Accounting and Auditing Supervisory Board
- Association of High Value Goods

List of laws, regulations and other material used for the evaluation

Codes

- The Greek Criminal Code
- The Greek Criminal Procedure Code
- The Greek Civil Code

Laws

- Law 3440/2005 for the protection of the capital market from insider dealing and market manipulation
- Law 2331/1995 as amended by Law 3424/2005 - AML Law
- Law 3251/2004 - European Arrest Warrant
- Law 3103/2003 - Passport issuance by the Hellenic Police Authorities and other provisions
- Law 3213/2003 - Declaration and audit of the assets of members of Parliament
- Law 3148/2003 - Accounting Standardisation and Audit Committee, replacement and supplementation of the provisions on electronic money institutions, and other provisions
- Law 3126/2003 - Ministers' Criminal Responsibility
- Law 3074/2002 - Public Administration General Inspector. Upgrading the Public Administration Inspection-Audit Corps and the Inspection and Auditing Steering Body
- Law 3016/2002 - Special Issues relating to the Administration and Function of Incorporated Firms Listed in an Organised market in Greece
- Law 2802/2000 - Ratification of the Convention on the Fight Against Corruption involving Officials of the EC or Officials of the Member States of the EU
- Law 2713/1999 - Hellenic Police Internal Affairs Division
- Law 2656/1998 - Ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- Law 2515/1997 - Authorisation of bureaux de change
- Law 2396/1996 - Investment Services in the Securities Field, capital adequacy
- Law 2296/95 - Control of monopolies and oligopolies and protection of free competition
- Law 2343/1995 - Reorganisation of the Services of the Ministry of Finance and other provisions
- Law 2331/1995 - Unfair competition prevention law

- Law 2234/1994 that amends Emergency Law 89/67- Foreign Shipping Companies (summary)
- Law 2206/1994 - Establishment, organization, operation, control of casinos and other provisions
- Law 2076/1992 - Co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions
- Law 1969/1991 - Portfolio investment companies, mutual funds, provisions for the modernisation and improvement of the capital market and other provisions
- Law 1059/1971 - Bank Secrecy Law
- Law 400/1970 - authorisation of insurance companies and secrecy provisions

Regulations in relation to credit and financial institutions

- BoG Governor's Act 2577/2006 - Framework of operational principles and criteria for the evaluation of internal control systems
 - Annex 1 - Outsourcing activities to third parties
 - Annex 2 - Operational risk management principles for information systems in FIs
 - Annex 3 - Content of an internal control system report by independent external auditors
 - Annex 4 - Prevention of the use of the financial system for the purpose of ML and TF
 - Table III - Examples of suspicious transactions in relation to ML and TF
- Bank of Greece Governor' Act No. 2541/27.2.2004 - Establishment and operation of bureaux de change in Greece by sociétés anonymes other than credit institutions
- Administrative Circular 16
- Bank of Greece Governor's Act 2526/2003
- Bank of Greece Statute
- Bank of Greece Governor's Act 2438/1998
- Code of Conduct for Financial Institutions
- Act of the Governor No. 2536/4.2.2004 - Requirements for granting authorisation to, and rules for the supervision of, money transfer intermediaries by the Bank of Greece (Bank of Greece Governor's Act 2536/4.2.2004)
- Article 15 of Law 2515/1997 - Bureaux de change
- Legislative Decree 1059 dated 20/23.12.1971 on bank deposit secrecy

Regulations in relation to securities

- HCMC Rule 108/27.5.1997
- HCMC Rule B 1008/1996 - Licensing Criteria for Investment Services Firms
- Circular N°8 - HCMC - Prevention and suppression of legalisation of illegal income. Transactions that should be examined with particular attention
- Circular N°13 - HCMC
- Circular N°14- HCMC
- Circular N°16 - HCMC
- Circular N°17- HCMC
- Circular N°27- HCMC

Regulations in relation to insurance complies

- Circular K3-6955 - Insurance Companies - Transactions that have to be examined with special care

- Circular K3-9563 - Insurance Companies - Application of Law 2331/1995 regarding the prevention and restraint of the legalisation of incomes out of the criminal activities"

Others

- Casino Regulation
- Establishment of a Special Control Service (YP.E.E.)
- Presidential Decree NO. 85 - Organization of the Special Control Service (YP.E.E.)
- FIU Annual Report 2004
- FIU Annual Report 2005

Copy of the AML law

LAW 2331/1995 - Government Gazette A' 173/1995

Prevention and suppression of money laundering and other penal provisions – Plenary Session of the Supreme Court – Arbitration and other provisions

**THE PRESIDENT
OF THE HELLENIC REPUBLIC**

We issue the following law passed by Parliament:

SECTION I

Prevention and suppression of legalisation of illicit proceeds
(money laundering)

Article 1

For the purposes of Chapter I of this Law, the following definitions shall apply:

A. "Criminal activities" shall denote the following offences, identified as predicate offences:

- a) participation in a criminal group (paragraphs 1, 2, 4 and 5 of article 187 of the Penal Code);
- b) terrorist activities (article 187A of the Penal Code);
- c) financing of terrorism, as provided for in paragraph 6 of article 187A of the Penal Code;
- d) passive bribery (article 235 of the Penal Code);

- e) trafficking in human beings (article 323 of the Penal Code);
- f) computer fraud (article 386A of the Penal Code);
- g) exploitation of prostitution (article 351 of the Penal Code);
- h) the offences provided for in articles 4,5,6,7 and 8 of Law 1729/1987 re: "Combating illicit trade in narcotic drugs"(Government Gazette A 144);
- i) the offences provided for in articles 15 and 17 of Law 2168/1993 re: "Weapons, ammunition, explosives etc." (Government Gazette A 147)
- j) the offences provided for in articles 2, 53-55, 61 and 63 of Law 3028/2002 re: "Protection of antiquities and cultural heritage in general"(Government Gazette A 153);
- k) the offences provided for in article 8, paragraphs 1 and 3, of Legislative Decree 181/1974 re: "Protection from ionised radiation" (Government Gazette A 347);
- l) the offences provided for in article 87, paragraphs 5, 6, 7 and 8, and article 88 of Law 3386/2005 (illegal entrance etc.);
- m) the offences provided for in articles 2, 3, 4 and 6 of Law 2803/2000 re: "Protection of the interests of the European Communities"(Government Gazette A 48);
- n) bribery of a foreign civil servant, as provided for in article 2 of Law 2658/1998 re: "Combating bribery of foreign civil servants in the context of international business transactions"(Government Gazette A 265);
- o) bribery of employees of the European Communities or of European Union Member States, as provided for in articles 3 and 4 of Law 2802/2000 (Government Gazette A 47);
- p) market abuse (insider trading or market manipulation), as provided for in Law 3340/2005 (Government Gazette A 112);
- q) any offence punishable by deprivation of liberty, the minimum threshold of which is over six months and the commission of which generated a property of at least EUR 15.000 (fifteen thousand).

Note: Item A, as amended and complemented by article 2 of Law 2479/1997, article 6 of Law 2656/1998, article 9 of Law 2803/2000, article 1 of Law 2928/2001 and article 70 of Law 3028/2002, was replaced as above by paragraph 1 of article 2 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

B. "Money laundering" shall denote the following conduct when committed intentionally:

- the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of her action;
- the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;
- participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the actions mentioned in the foregoing indents.

Note: The original item B was repealed and replaced by the new item B above pursuant to paragraph 5 of article 2 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

C. "Property" shall denote assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interests in such assets.

D. "Credit institution" shall denote an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account or an electronic money institution as defined in paragraph 16 of article 2 of Law 2076/1992 (Government Gazette A 130), including any non-incorporated branch or representative office of non-resident credit institutions. Any number of branches in Greece of the same foreign credit institution shall be deemed a single credit institution. The Postal Savings Bank, the Deposits and Loans Fund and the Bank of Greece are included in the above definition.

Note: Item D was replaced as above by paragraph 2 of article 2 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

E. "Financial institution" shall denote an undertaking other than a credit institution, the principal activity of which is to acquire holdings of securities or to carry out one or more of the operations referred to in points b to ib of article 24 of Law 2076/1992, as well as the following entities:

- a) portfolio investment companies;

- b) mutual funds management companies;
- c) management companies of mutual funds investing in real estate;
- d) real estate investment companies;
- e) investment services companies;
- f) investment intermediation companies;
- g) bureaux de change;
- h) companies providing credit;
- i) funds transfer companies providing intermediate fund transfer services;
- j) branches in Greece of non-resident financial institutions;
- k) life insurance companies.

Note: Item E was replaced as above by paragraph 3 of article 2 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

F. "Competent authority" shall denote:

- for the persons referred to in points a, c, d and l of paragraph 1 of article 2a hereinafter and for the financial institutions referred to in g, h and i of item E of this article, the Bank of Greece;
- for the financial institutions referred to in points a to f of item E, the Hellenic Capital Market Commission;
- for the insurance companies (point k of item E), the Private Insurance Commission;
- for the persons referred to in point f of paragraph 1 of article 2a, the Accounting Standards and Audit Commission;
- for the persons referred to in points e, g, h, j and k of paragraph 1 of article 2a, the Ministry of Economy and Finance;
- for the persons referred to in point l of paragraph 1 of article 2a, the Ministry of Justice;
- among the persons referred to in point i of paragraph 1 of article 2a: for internet casinos, the Ministry of Economy and Finance; for regular casinos and other entities engaging in gaming activities, the **Gambling Control Committee**;
- for the persons referred to in point j of item E of this article, the competent authority for domestic financial institutions of a similar category to the non-resident financial institution.

Notes: Item F, as replaced by paragraph 4 of article 18 of Law 3148/2003 (Government Gazette A 136), was replaced as above by paragraph 4 of article 2 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

See also Decision No 7463/27.5-7.7.1997 of the Hellenic Capital Market Commission on the prevention of money laundering (Government Gazette B 557).

G. "Competent Body" shall denote the National Authority referred to in article 7 hereinbelow.

Note: the greek FIU

Note: See also article 8 of Law 2928/2001.

H. "Person" shall denote any natural or legal person.

I. "Electronic funds transfer" shall denote any transaction that is initiated by electronic means through a credit institution or financial organisation and includes an order to transfer an amount of money (cash or credit) to another credit institution or financial organisation; the initiator and the beneficiary may be the same natural or legal person.

J. "Cross-border funds transfer" shall denote a funds transfer where the credit institution or financial organisation receiving the order from the initiator is located in a jurisdiction other than the jurisdiction in which the credit institution or financial organisation paying the funds is located.

Note: Items B, H, I and J were inserted by paragraph 5 of article 1 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

Article 2

1.a. Any offender of money laundering acts shall be punished by imprisonment for five (5) to ten (10) years.

b. Anyone who is found guilty of any of the acts referred to in item A of article 1 hereof shall be punished by imprisonment for 5 to 25 years, if he/she has acted in his/her capacity as employee of the legal persons listed in article 2a, paragraph 1, and by imprisonment of at least ten (10) years if he/she has committed such acts by way of profession or is a recidivist or has acted within the context of a criminal or terrorist group or organisation.

c. Any employee of the legal persons listed in article 2a, paragraph 1, or any other person responsible for reporting suspicious transactions who intentionally fails to report suspicious or unusual transactions to the competent authorities or reports false or misleading information in violation of the relevant legislative, administrative and regulatory provisions and rules , shall be punished with imprisonment of up to two (2) years.

d. Criminal liability for a predicate offence shall not preclude the offender's punishment for the acts referred to in indent a, b and c hereinabove. However, in these cases, the offender shall be punished also as perpetrator or instigator of the acts referred to in indents a, b and c above, if the commission of such acts by him/her or by another person appertains to an overall criminal action plan. For predicate offences that are punishable by imprisonment for up to one (1) year, the penalty for the relevant money laundering offence shall be imprisonment of at least six (6) months. If an offender has already been convicted for a predicate offence, any penalty against him/her or against any third person for the crime of laundering the proceeds derived from such predicate offence cannot exceed the penalty imposed for the commission of such predicate offence. If several penalties are imposed on more than one person found guilty of the same predicate offence, the penalty to be imposed in each of them for the aim of laundering the proceeds of this predicate offence may not exceed the penalty imposed against him/her for the commission of the predicate offence. Any third party involved in money laundering shall be subject to a penalty not exceeding the highest of the penalties imposed on any offender of the predicate offence. The foregoing provisions of this paragraph shall be without prejudice to paragraph b of this article. In the event that charges of a predicate offence that is punished by imprisonment for up to one (1) year are withdrawn or the defendant is found not guilty, then punish ability is extinct or the defendant is released respectively also for charges of money laundering acts as listed in article 1, item B hereinabove.

Note: Paragraph 1 was replaced as above by paragraph 1 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

2. Any person who, upon testifying before or reporting to any judicial or other authority, in any capacity whatsoever, intentionally conceals or disguises the true nature, source, location, disposition or movement of property, knowing that such property was derived from criminal activity, shall be punished with imprisonment of at least six months, unless he/she is punishable by a heavier sentence. The court of law

may waive punishment if the person testifying or reporting is the spouse or relative of up to second degree or blood relation of the person engaging in the criminal activity.

3. Any person who establishes or acquires an undertaking or sets up an organisation for the purpose of committing any of the offences listed in the first paragraph of this article or participates in such undertaking or organisation, or counsels the commission of such offences, shall be punished with imprisonment of at least two years, unless he/she is punishable by a heavier sentence.

4. Punishment shall be imposed even if the predicate offences referred to in this article have been committed abroad and are not subject to the jurisdiction of the Greek criminal courts.

Note: Paragraph 4 was replaced as above by article 5 of Law 2655/1998 (Government Gazette A 264/1.12.1998). The provision replaced was the following:

5. The felonies referred to in this article shall be subject to the jurisdiction of the Three-Member Appellate Court of Felonies.

6. Any property which has resulted from criminal activity or has been acquired in any manner whatsoever through such activity or any property which has been used, in total or in part, for the purpose of committing such activity, shall be seized and, without prejudice to restitution to the owner under articles 310, paragraph 2 and 373 of the Code of Criminal Procedure, shall be compulsorily confiscated by virtue of the convicting decision. Seizure shall be imposed even where the property belongs to a third party who, at the time of acquisition, was aware of the criminal activity.

In the event that the property referred to in the previous subparagraph exceeds in value EUR 4.000 and cannot be confiscated, confiscation and seizure under the circumstances prescribed above shall be imposed on other assets of equal value.

Note: The last sentence of paragraph 6 was inserted by paragraph 2 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

7. Any property that a person convicted of attempt to commit any of the offences listed in article 1 of item A hereinabove intended to use for the purpose of committing such offence shall be seized and confiscated.

8. Confiscation shall be ordered even where prosecution has not commenced owing to the death of the perpetrator, or if prosecution has commenced but has subsequently ceased or been declared inadmissible. In these cases the confiscation shall be ordered by a decree of the court of judges or a decision of the court which ends or declares inadmissible the prosecution or, if prosecution has not commenced, by a decree of the judicial council of the relevant court of misdemeanors. The provisions of article 492 of the Code of Criminal Procedure shall apply by analogy, unless the decision or the decree has been issued by the Supreme Court (Areios Pagos) or other court of law or judicial council issuing a final ruling on the case (*res judicata*). The provisions of article 504 paragraph 3 of the Code of Criminal Procedure shall also apply by analogy, unless the decision has been issued by the Supreme Court.

9. Any third person, who is not a party to the criminal proceedings or has not been summoned thereto, shall be entitled to appeal against the court decision with regard to the part ordering the confiscation of his/her property as above, within three months of the date of service of such decision on him/her. Articles 492 and 504, paragraph 3 of the Code of Criminal Procedure shall apply by analogy.

10. If the property referred to in paragraph 6 of this article no longer exists or has not been found, a financial [pecuniary] penalty shall be imposed instead, equal to the value of the property at the time of the convicting decision, as assessed by the court.

Note: Article 8 of Law 2928/2001 states that:

1. If the proceeds from any of the criminal acts listed in articles 1 and 2 of Law 2331/1995 accrue to a legal person or undertaking and one or more persons with power to control, or manage the affairs of such legal person or undertaking knew that the proceeds were derived from such act, the legal person or undertaking in question shall be subject to any or all of the following sanctions, imposed by a joint decision of the Minister of Justice and the competent Minister as appropriate, following a proposal from the Authority referred to in article 7 of Law 2331/1995: (Note: The Greek FIU)
- a) an administrative fine equal to three to ten times the amount of the benefit derived from such acts;
 - b) withdrawal or suspension (for a period of one month to two years) of the authorisation of the legal person or undertaking or, if such authorisation is not applicable, prohibition of business operations;
 - c) permanent or provisional (for a period of one month to two years) disqualification from government subsidies or grants or from public procurement procedures (tenders).

Where, for any reason whatsoever, the exact amount of the proceeds cannot be specified, the fine shall be determined in an amount between GRD ten million (10,000,000) or EUR 29,347.0286 and GRD one billion (1,000,000,000) or EUR 2,934,702.8613. These limits may be adjusted by joint decisions of the Minister of Economy and Finance and the Minister of Justice.

2. Any of the persons referred to in the previous paragraph who ignored out of negligence the source of the proceeds, subject to the fulfillment of the remaining conditions, shall incur an administrative fine, equal to two times the amount of the benefit derived from such acts, and/or provisional disqualification for up to six months from government subsidies or grants or from public procurement procedures (tenders).

3. In determining the kind and extent of any or all of the penalties provided for in the foregoing paragraphs, account shall be taken of the gravity of the offence, the degree of intention or negligence on the part of the liable person or persons, the financial strength of the legal person or undertaking and the relevant factual circumstances.

Article 2a

1. The obligations laid down in Section I of this law shall apply to the following persons and professions:

- a) credit institutions;
- b) financial institutions;
- c) leasing companies;
- d) factoring companies;
- e) venture capital companies;
- f) chartered accountants, auditors, independent accountants and audit firms;
- g) tax consultants, tax experts and related firms;
- h) real estate agents and companies;
- i) casinos (including internet casinos) and entities engaging in gaming activities;
- j) auction houses;
- k) dealers in high value goods and auctioneers, whenever the transaction value exceeds EUR 15,000 to be paid as a lump sum or in installments;
- l) notaries and lawyers when they participate, either in or arranging on behalf of their clients transactions involving: transfer of real estate or a business; management of cash, securities or other assets owned by their clients; opening and operation of bank accounts, savings accounts or securities accounts; establishment, operation or management of trusts or similar entities, or by acting on their own behalf or on behalf of their clients in the context of financial or real estate transactions. Legal advice remains subject to the obligation of professional secrecy, unless the legal counselor himself/herself is involved in money laundering or counsels the commission of money laundering or knows that the client is seeking legal advice for the purpose of committing money laundering.

m) postal companies, only to the extent they are acting as intermediaries in funds transfers. The Bank of Greece shall supervise these companies in cooperation with the Ministry of Transport and Communications and the National Telecommunications and Post Commission.

2. For the persons referred to in paragraph 1, the competent authorities, as appropriate, may decide to establish differentiated obligations than those laid down hereinabove, taking into account, in particular, the type and the financial strength of the persons liable, the nature of their business activities and the degree of money laundering risk entailed by such activities.

3. A joint decision of the Minister of Economy and Finance and the Minister of Development shall specify criteria for applying the concept of "traders of high value goods" referred to in point k of paragraph 1.

4. Joint decisions of the Minister of Economy and Finance and the Minister having competence in respect of the licensing, registration, subsidies provision or control of corporations, institutions, organisations, unions and other types of non-profit associations of persons, shall specify the means, measures and procedures aimed at preventing the use of such entities for the purpose of money laundering and terrorism financing. Such measures include in particular maintaining a register of the above entities by the competent authority for the respective type of entity, and the requirement that their main transactions be effected through credit institutions.

5. A decision of the Minister of Justice shall specify the procedure and technical details for the collection of statistical data regarding court decisions issued on cases of money laundering or terrorism financing, related orders or decrees and any property seized or confiscated in this respect.

6. The Ministry of Economy and Finance is hereby designated as the central coordinating authority with regard to the implementation of the provisions of Section I hereof, the assessment of the effectiveness of mechanisms against money laundering and terrorism financing, the coordination of activities of competent authorities and the international representation of Greece. Decisions of the Minister of Economy and Finance may specify procedures and measures for the implementation of the provision of the previous sentence, as well as for the exchange of non-confidential information between the

aforementioned Ministry, the Independent Authority of article 7 hereof and the individual competent authorities in order to ensure greater effectiveness in the fulfillment of their respective tasks.

7. Where the predicate offence consists in tax evasion, smuggling or other offence against tax or customs legislation, the following procedure shall apply:

- a) **The Special Control Service (S.C.S.) [YPEE - Financial Crimes Unit of the Ministry of Economy and Finance]** is authorised to bring to justice any cases of money laundering relating to smuggling, tax evasion and cases that fall within its other fields of responsibility, after having prepared a report. The report shall be submitted to the judicial authorities through the Public Prosecutor of the S.C.S. and shall be communicated to the Directorate of Special Economic Affairs of the Ministry of Economy and Finance and to the Independent Authority of article 7 hereof.
- b) For the aforementioned cases that have been referred to the Tax Local Offices or the Control Centers or Customs Offices, reports shall be submitted to the Independent Authority of article 7 hereof, through the relevant General Directorates of Tax and Customs Controls.
- c) The persons listed in article 2a, paragraph 1 shall report suspicious transactions, which are likely to be related to the aforementioned offences, to the Independent Authority of article 7 hereof, with the exception of lawyers who shall report to the special committee of article 4, paragraph 19 hereof.

Note: Article 2a was inserted by article 4 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

Article 3

1. The Greek State, following an official opinion of the Legal Council of the State, may initiate civil proceedings against any person who has been irrevocably sentenced to imprisonment for not less than three years, for any of the offences listed in article 1, item A, of this Law, claiming any property acquired by such person through any of the offences listed in the same paragraph, even if no criminal conviction has occurred for the specific offence. By the same procedure, confiscation shall be imposed on any property acquired by this person during the last five years before the commission of any of the offences listed in article 1, item A of this law for which he/she has been convicted and up to the date when the sentence became irrevocable. A rebuttable presumption for which he/she has been convicted, in favor of

the State is hereby established that such property has been acquired through one of the offences listed in the aforementioned provisions.

2. If the property has been transferred to a third person, the convicted person shall be liable to pay compensation to the State of an amount equal to the value of the property as at the time of the hearing of the case. The abovementioned claim can also be lodged against any third person who has acquired the property under a gratuitous transaction and at the time of the acquisition was spouse, lineal blood relation, brother or sister or adopted child of the convicted person, as well as against any third person who has acquired the property, mala fide (in bad faith), after prosecution for the relevant predicate offence has commenced, and at the time of the acquisition knew that such prosecution had commenced against the convicted person. The third person and the convicted person shall bear joint and several liability.

Article 4

1. Credit institutions and financial organisations, when entering into contracts in the context of any business relation, particularly when opening any type of deposit account, when concluding an agreement for offering safe-keeping services or safe custody facilities, as well as when entering into a mortgage loan contract, shall require the identification of their counterparties/customers. Identification shall be based on the presentation of the identity card, passport or any other official document, evidencing current home address, occupation, and business address of the counterparty. The identification requirement shall also apply to any transaction other than those referred to in the first subparagraph of this article, involving a sum amounting to the equivalent to European Currency Units (ECU) fifteen thousand (15,000) or more, whether the transaction is carried out in a single operation or in several operations which seem to be linked. Where the sum is not known at the time when the transaction is undertaken, the credit institution or financial organisation concerned shall proceed with identification as soon as it is apprised of the sum and establishes that the threshold of ECU fifteen thousand (15,000) has been reached.

With particular regard to electronic funds transfers, the competent authorities, as appropriate, may decide that a threshold lower than the amount of EUR fifteen thousand (15,000) is applicable and may also specify that in the case of transactions for amounts less than EUR fifteen thousand (15,000) credit institutions and financial- organisations will be subject to less strict requirements, such as simple verification, by cross-checking with supporting documents, of information contained in the relevant messages.

Note: The last sentence of paragraph 1 was added by paragraph 1 of article 5 of Law 3424/2005(Government Gazette A 305/13.12.2005).

2. If the customer is acting on behalf of another person, besides his own identification under paragraph 1 hereinabove, shall also prove the identification of the natural or legal person on whose behalf he is acting. The credit institution or financial organisation shall verify these data also if the customer does not state so but there is reasonable doubt as to whether he is acting on his own behalf or where it is certain he is not acting on his own behalf.

3. In the event of doubt as to whether the customer referred to in the previous paragraphs is acting on his own behalf or where it is certain that he is not acting on his own behalf, credit institutions and financial organisations shall take reasonable measures to obtain information as to the real identity of the persons on whose behalf that customer is acting.

4. By way of derogation from the previous paragraphs, the identification requirement shall not apply with regard to: (i) insurance policies written by insurance companies which are subjected to the obligations of this Law by virtue of article 1 hereof, where the periodic premium amount or amounts to be paid in any given year does or do not exceed the equivalent of ECU one thousand (1,000) or where a single premium is paid amounting to ECU two thousand five hundred (2,500) or less. If the periodic premium amount or amounts to be paid in any given year is or are increased so as to exceed the ECU 1,000 threshold, identification shall be required; and (ii) insurance policies in respect of pension schemes taken out by virtue of a contract of employment or the insured's occupation, provided that such policies contain no surrender clause and may not be used as collateral for a loan.

5. Credit institutions and financial organisations shall have the option, but not the obligation, to carry out such identification when the customer is also a credit or financial institution, a legal person governed by public law or an organisation which belongs by at least 51% to the public sector.

6. Identification shall be required also in all cases, irrespective of the amount involved, wherever there is serious suspicion of money laundering.

7. Information related to the aforementioned contracts and transactions and the respective supporting documents shall be kept by the credit institution or financial organisation for a period of at least five years, starting: a) in the case of contracts, from the end of the contractual relationship; and b) in the case of transactions, from the execution of the last transaction, unless, in either case, a longer period is required under another legislative provision.

Credit institutions and financial organisations which receive instructions for cross-border electronic funds transfers shall include in the respective messages the originator's full name, address and, in the case of a transfer of funds from a deposit account with the transferring credit institution, the account number.

A decision of the competent authority may specify the information that must be contained in messages related to domestic funds transfers. The aforementioned requirement to include personal data on the originator shall not apply to messages which concern funds transfers between credit institutions and/or financial organisations acting on their own behalf. Also, it shall not apply to funds transfers related to transactions through a credit/debit card, provided that the message contains the card number. However, if the credit or debit card is used for a funds transfer that is not linked to a business transaction, the above requirement shall apply.

Note: The last two subparagraphs of paragraph 7 were added by paragraph 2 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

8. In the case of culpable non-compliance with the obligations laid down in the preceding paragraphs, a fine of one thousand four hundred sixty seven euro and thirty five cents (1.467,35 €) to one hundred forty six thousands seven hundred thirty five euro and fourteen cents (146.735,14 €) may be imposed on the non-compliant credit institution or financial organisation, by a joint decision of the Minister of National Economy and the Minister of Commerce, issued following a proposal from the competent authority or the committee of article 7 hereof.

Note: Paragraph 8, which was replaced as above by paragraph 2 of article 6 of Law 2515/1997, was repealed by paragraph 6 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

9.a. Credit institutions and financial organisations shall:

- i) examine with special attention any transaction which, by its nature or based on evidence regarding the identity or status of the customer, is likely to be related to money laundering or terrorist financing; ii)
- establish adequate procedures of internal control and communication in order to forestall and prevent

operations related to money laundering or terrorist financing; iii) verify the consistence and compatibility of the transaction in question with the customer's overall profile, taking into account related records where available; iv) ensure that the provisions of this indent are also complied with by their subsidiaries and branches abroad unless such compliance is in part or in total prohibited by the law of the host country, in which case they should inform the relevant Public Prosecutor and the Authority of article 7 accordingly; and v) apply any other appropriate measure as decided by their respective supervisory authority for the prevention of money laundering and terrorist financing, including suspending the transaction until the customer identification requirements, as specified by the competent authorities, have been fulfilled.

b. Decisions of the supervisory authorities of credit institutions and financial organisations may specify details, including, but not limited to, the following: i) the criteria to be applied for determining whether a transaction is likely to be related to money laundering and terrorist financing, ii) more specific information and data to be required from customers for the purpose of identification or transaction verification; iii) additional responsibilities of such institutions or organisations for ensuring more effective compliance with the provisions of this law; and iv) who and how shall perform the relevant checks and controls.

c. The Bank of Greece, the Hellenic Capital Market Commission, the Private Insurance Commission and the Accounting Standards and Audit Committee shall each set up a special compliance unit comprising at least two full-time employees, with the task of checking compliance by the supervised entities with the requirements of Section I of this law. These units shall be assisted by the employees of the competent authorities, in particular by the persons controlling, directly or indirectly, the supervised undertakings. Each of the aforementioned authorities shall, on a biannual basis, submit a detailed report to the Ministry of Economy and Finance, on the evaluation of individual undertakings and any measures taken or sanctions imposed. In the case of credit institutions, the report of the Bank of Greece shall contain an overall evaluation of each credit institution and not its individual branches; the first such report shall be submitted after the end of the first half of the year 2006. Such reporting to the Ministry of Economy and Finance shall be exempted from any general or specific provision requiring banking, stock market or professional secrecy.

Note: Paragraph 9 was replaced as above by paragraph 3 of article 5 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

10. Credit institutions and financial organisation shall each designate an Anti-Money Laundering Officer, to whom their directors and employees shall report any suspicious transaction and any incident that comes to their knowledge in the performance of their duties and is likely to be related to criminal activity. For local branches of credit institutions and financial organisations such reporting shall be addressed directly to the manager of the branch, who shall promptly report to the Anti-Money Laundering Officer if he/she considers the suspicions to be plausible. If the manager of the branch office or his/her alternate is unable or unwilling or neglects to report or does not share the reporting employee's suspicions, the employee shall report to the Anti-Money Laundering Officer. The latter shall apprise thereof, by telephone and by confidential letter, the Authority of article 7, furnishing any useful information or evidence, if following examination of the case, he/she considers that the available data and information point to criminal activity.

Financial groups shall each designate an Anti-Money Laundering Officer, from the largest company in the group, as coordinator for ensuring compliance with the provisions of Section I of this law. To this end, this Officer cooperates and exchanges information with the respective Officers of individual companies of the group, receives communication of any reports by such Officers to the Authority of article 7 and may also submit his/her own report to it. Decisions of the Ministry of Economy and Finance may specify details and technical aspects of the previous two sentences, especially the legal definition of "group of companies" and the criteria for determining the largest company of a group. The authority responsible for the supervision of the largest company may issue decisions specifying procedures and requirements to be complied with by groups and constituent companies. Such decisions shall be communicated to the Ministry of Economy and Finance.

Note: The last subparagraph of paragraph 10 was added by paragraph 4 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

11. The requirement to report to the Authority of article 7 under the previous paragraph shall also be imposed on any employee of the Competent Authorities, as well as any other person entrusted with the auditing or prudential control of a credit institution or financial organisation, if in the exercise of his/her duties any fact which might be an indication of money laundering comes to his/her knowledge.

The requirement to report to the Authority of article 7 shall not be imposed on the persons of point 1 of paragraph 1 of article 2a in respect of information obtained from or concerning their client during the verification of the legal position of the client or when such persons are defending or representing a client in legal proceedings, including consultancy to initiate or omit any legal action, irrespective of whether the information is acquired before, during or after such legal proceedings.

Note: The last subparagraph of paragraph 11 was added by paragraph 5 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

12. Credit institutions or financial organisations shall refrain from carrying out transactions which they know or reasonably suspect to be related to money laundering, except where the case is urgent or where refraining the transaction is, by its nature, impossible or is likely to frustrate efforts to trace evidence or persons involved in money laundering. In that case, the report shall be submitted after the transaction.

13. Credit institutions and financial organisations shall, upon request, furnish the Authority of article 7, the Public Prosecutor, the investigating judge and the law court with the necessary information or evidence on any of the activities referred to in paragraphs 1 to 8 of this article or on the execution of other transactions which the Authority of article 7, the Public Prosecutor or the judicial authority consider as likely to be related to money laundering or where confiscation may be imposed under article 2 of this Law. The relevant correspondence shall be confidential. If, however, prosecution for criminal activity is initiated, such correspondence shall become part of the brief. Otherwise, it shall be filed in the archives and remain secret.

14. The information and data referred to in the foregoing paragraphs shall be used only in trials concerning criminal activity or money laundering.

14a. Without prejudice to any specific provisions of the legislation in force, in the event of non-compliance by a credit institution or financial organisation with the requirements arising from this Law or from regulatory provisions issued by competent authorities, sanctions shall be imposed on the non-compliant institution or organisation by a decision of the respective supervisory authority. In particular,

the Bank of Greece may impose on credit institutions and financial organisations the administrative sanctions laid down in its Statute (article 55A) and other legislation in force.

Note: Paragraph 14a was added by paragraph 6 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

15. The disclosure in good faith of information and data in accordance with the foregoing paragraphs shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not generate liability of any kind.

16. Credit institutions and financial organisations, their employees and the Officers referred to in paragraph 10, as well as the persons referred to in paragraph 11, shall be prohibited from disclosing to the customer concerned or to a third party that information has been transmitted or requested or that a money laundering investigation is being conducted. Any person who intentionally contravenes this confidentiality clause shall be punished by imprisonment for up to two years and a financial penalty.

17. The amount specified in this article may be adjusted by a Presidential Decree, issued on the proposal of the Ministers of Justice, Economy and Commerce.

Note: The Ministry of National Economy is now the Ministry of Economy and Finance and the Ministry of Commerce is now the Ministry of Development.

18. In the previous paragraphs of this article any reference to "credit institutions and financial organisations" shall be replaced by a reference to "the persons listed in article 2a", the provision of paragraph 2 of article 2a being applicable.

Note: Paragraph 18 was added by paragraph 7 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

19. In the context of the application of the provisions of Section I of this Law and the requirement on lawyers to report suspicious transactions, a committee shall be established with the task of receiving, reviewing, processing the relevant reports and forwarding them to the Authority of article 7. This committee shall comprise five members, appointed for a three-year term by the Plenary of the National Federation of Bar Associations and it will be located at the premises of the Athens Bar Association. A decision of the Minister of Justice, following consultation with the above Plenary, shall specify the

operating procedures of the committee, as well as the procedure for its cooperation and communication with the Authority of article 7.

Note: Paragraph 19 was added by paragraph 8 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

20. The legal persons managing stock markets, derivatives markets and foreign exchange markets put in place adequate mechanisms and procedures for the prevention and the earliest possible detection of possible cases of money laundering or terrorist financing, as well as for reporting of such cases to the Independent Authority of article 7 without delay; where they reasonably suspect that any of the above criminal offences are taking place, and shall provide all the relevant information and data and any assistance as necessary for the investigation of such cases. Included in the above markets are the Multilateral Systems for Trading in financial-instruments, as well as in-house markets for financial instruments operating within a credit institution or financial services company.

Note: Paragraph 20 was added by paragraph 9 of article 3 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

Article 5

1. During the regular investigation for money laundering, the investigating judge, with the concurrent opinion of the Public Prosecutor, may place a freeze on any accounts and safe-deposit boxes that are held by the accused person with a credit institution or financial organisation, whether or not these are held jointly with a third person, if there are reasons to suspect that these contain money or other property resulting from money laundering. The same provision shall apply where investigation of criminal activity is carried out and there are reasons to suspect that the accounts and the safe-deposit boxes contain money or property subject to confiscation under article 2 of this Law. When a preliminary inquiry or preliminary investigation is being conducted, the freeze on the account and the safe-deposit boxes of the accused may be effected by an order of the judicial council. The order of the investigating judge or of the judicial council shall be deemed a seizure report; it shall be issued without a previous summons to the accused or to such third person; it shall not necessarily state a specific account or safe-deposit box; and it shall be served on the accused and the Officer of the credit institution or financial organisation or the manager of the branch of the credit institution or financial organisation which operates in the area where the office of the investigating judge or the Public Prosecutor is situated. In the case of a joint account or safe-deposit box, the order shall also be served on joint owners.

2. The prohibition referred to in the previous paragraph shall become effective as of the date when the order of the investigating judge or of the judicial council is communicated to the credit institutions or financial organisation concerned. From that time, the opening of the safe-deposit box shall be prohibited and any disbursement from the account shall be invalid against the State. Any director or employee of the credit institution or financial organisation who intentionally violates the provisions of this paragraph shall be punished by imprisonment for up to two years and a financial penalty.

3. In the circumstances prescribed in paragraph 1 of this article, the investigating judge or the judicial council may issue an order prohibiting any disposal of specified immovable property of the accused. Such order shall be deemed a seizure report, it shall be issued without a previous summons of the accused; and it shall be served on the accused and communicated to the competent registrar of real property transfers; the latter shall make a relevant entry in the appropriate register on the same day and shall file the document so communicated. Details related to the application of the provision of this paragraph shall be arranged by a decision of the Minister of Justice. All legal contracts, mortgages, seizures or other acts registered in the said register after the said entry, shall not be taken into account for the purposes of the provisions of paragraphs 6 *et seq.* of article 2 hereof.

4. The accused and the third person, by an application addressed to the judicial council and submitted to the investigating judge or the Public Prosecutor within ten days of the service of the order of the investigating judge or the judicial council, are entitled to request its revocation. The judicial council, in which the investigating judge shall not participate, shall within five days take an irrevocable decision regarding the application. The submission of the application shall not suspend the execution of the order. The order shall be revoked if new evidence comes up.

5. In cases where investigation for money laundering or for property associated to money laundering is carried out by the Independent Authority of article 7 hereof, the order for the prohibition of the operation of accounts or disposal of any other assets may, in emergency situations, be issued by the chairman of such authority on the same terms and conditions as prescribed above.

Note: Paragraph 5 was added by article 6 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

Article 6

1. The provisions of paragraphs 9 *et seq.* of article 4 of this law shall also apply by analogy as appropriate to members of the Stock Exchange, as well as to the other undertakings referred to in item E, indent b of article 1 hereinabove.

2. The Public Prosecutor, the investigating judge and the law court shall be allowed to have access to books and documents which members of the Stock Exchange and the other undertakings referred to in item E, indent b of article 1 hereinabove are required by law to keep. When a preliminary inquiry or preliminary or main investigation or trial is being carried out, only an excerpt of the books or documents containing the entries concerning the accused may be requested included in the brief. The accuracy of the excerpt shall be confirmed by the Stock Exchange member or the representative of the undertaking. The Public Prosecutor, the investigating judge and the law court shall be entitled to examine such books and documents in order to ascertain the accuracy of the contents of the excerpt or the existence of any other documents concerning the accused. The accused may ascertain only the existence of the entries that allegedly concern him/her.

3. Any member of the Stock Exchange and any representative of the undertakings referred to in the previous paragraph shall, by a confidential letter, report to the Authority of article 7 any transaction which he/she considers suspicious for money laundering.

4. Customs officials shall be deemed special preliminary investigation officials in respect of the offences provided for and punished by the provisions of Section I of this Law.

Article 7

An Independent Authority is hereby established, by the name of "National Authority for the Combating of Money-Laundering" [National Anti-Money Laundering Authority]. The Authority shall be based in Athens and shall enjoy administrative and economic autonomy. The place of its meetings shall be specified by a decision of the Minister of Economy and Finance.

2. The Authority shall comprise the Chairman and eleven Members, all serving for a renewable term of three years.

3. The Authority shall be chaired by a retired senior judge or Public Prosecutor or another person of recognised standing and prestige, broad common acceptance and expertise in the financial sector. The Chairman shall be selected and appointed by the Council of Ministers [Cabinet], following a proposal from the Minister of Economy and Finance and the Minister of Justice and the opinion of the Institutions and Transparency Committee of the Greek Parliament. The Chairman of the Authority shall be a full-time public servant, being suspended from any other public function during his/her term of office. The Chairman may not engage in any professional activity or assume other tasks, whether compensated or not, in the public sector or in the private sector, with the exception of any part-time teaching tasks as a member of the Teaching Personnel of Universities.

4. The Members of the Authority and their alternates shall be appointed by a joint decision of the Minister of Economy and Finance and the Minister of Justice, published in the Government Gazette. The Members and their respective alternates shall be appointed as follows: (a) two Members are proposed by the Minister of Economy with their alternates; (b) one Member is proposed by the Minister of National Defence, the Minister of Justice, the Minister of Public Order and the Minister of Merchant Marine with his/her alternate; (c) one Member is proposed by the Governor of the Bank of Greece with his/her alternate; d) one Member is proposed by the Board of Directors of the Hellenic Capital Market Commission with his/her alternate; (e) one Member is proposed by the Board of Directors of the Committee for the Supervision of Private Insurance with his/her alternate; (f) one Member is proposed by the Board of Directors of the Accounting Standards and Audit Committee with his/her alternate; and g) one Member is proposed by the President of the Hellenic Bank Association with his/her alternate. The Members of the Authority shall be selected from among persons of recognised competence and professional experience in the field of banking, finance or law.

5. Until the issuance of the joint decision of the Minister of Economy and Finance and the Minister of Development confirming the activation of the Commission of Private Insurance under article 3, paragraph 5, of Law 3229/2004 (Government Gazette A 38), the Member referred to in point (d) of the preceding paragraph and his/her alternate shall be appointed by the Minister of Development.

6. The Authority shall have the following tasks and powers:

- a) to collect, investigate and evaluate any information on money laundering and suspicious transactions as may be forwarded to it in accordance with articles 4 and 6 of this Law.
- b) to receive, investigate and evaluate any information on money laundering and suspicious transactions as may be forwarded to it by foreign authorities and bodies with which the Authority cooperates and provides any assistance required;
- c) to have access to any type of public documents, records and databases, including those of Teiresias S.A.; in respect of investigations carried out by the Authority, tax secrecy shall be waived;
- d) to carry out audits, in situations that it considers to be serious, at any section of public administration or at public entities and public enterprises, without prior notice to any other authority;
- e) to request, during the aforementioned audits, any information and data concerning movements in accounts held with banks or with other financial institutions;
- f) to request assistance and information from agencies, authorities and organisations of any type, even judicial authorities, in connection with any investigation into money laundering related to any of the offences listed in article 1 hereinabove.
- g) to acknowledge, in writing or by secure electronic means, receipt of reports sent to it and provide the sender of such information with any further input, without prejudice to the confidentiality of investigation or the performance of its own tasks;
- h) to evaluate and investigate information and reports that are forwarded to it by Greek or foreign agencies and bodies or by the international bodies responsible for combating the financing of terrorism in accordance with United Nations Security Council Resolution 1373/2002, Council Regulations (EU) Nos. 467/2001, 2580/2001 and 308/2002, as well as any other relevant regulation or act of an international organisation, and shall take the necessary measures for the implementation of such acts.

7. In performing their duties, the Chairman and the Members of the Authority shall adhere to the principles of objectivity and impartiality and, up to five years after the voluntary or involuntary ending of their term of office, shall be bound to secrecy in respect of any information obtained during the performance of their duties.

8. The Authority shall be supported by scientific, administrative and ancillary personnel seconded from the Ministries and the public bodies referred to in paragraph 4 hereinabove; eligible for such secondment shall also be the personnel of the Armed Forces, the Hellenic Police, the Fire Brigade and the Port Authorities, supervised by the Ministry of National Defence, the Ministry of Public Order and the

Ministry of Merchant Marine, respectively. To this end, a decision of the Minister of Economy and Finance following a proposal by the Chairman of the Authority, up to fifty (50) employment positions shall be created and allocated to persons seconded as above. With particular regard to positions of scientific personnel, persons with skills and expertise in dealing with money laundering and terrorist financing shall be seconded. The secondments referred to in the preceding sentences of this paragraph shall be effected by way of derogation from the provisions in force, by a joint decision of the Minister of Economy and Finance and the relevant Minister as appropriate, following a proposal by the Chairman of the Authority. The seconded employees in the Authority shall receive full wages and bonuses as those applying to their original position, apart from any compensation related to the active exercise of their duties at that position.

9. In respect of the offences provided for in and punishable under this Law and related offences, the staff of the Authority shall be deemed special preliminary investigation personnel. Their involvement in investigation into such offences shall not disqualify them from testifying as witnesses in court hearings. The Chairman and the Members of the Authority shall, by way of derogation from the provisions of article 243 of the Code of Penal Procedure, supervise such officials during the preliminary investigation and interrogation. This supervision shall include, without being limited to, the right to obtain information on and monitor developments in all the cases under examination, to give instructions and guidance and to attend the investigation or interrogation procedures. During the pre-trial investigation and where it is deemed necessary, witnesses or suspects may be brought to the Authority for questioning. The resulting brief, once completed, shall be forwarded to the competent Public Prosecutor of Misdemeanours who is competent to initiate penal prosecution.

10. When the Authority considers that a contract or transaction is suspicious of money laundering, it shall prepare a justified report and forward it, together with the file of the case, to the competent Public Prosecutor. Otherwise, it shall file the case in the archives, wherefrom it may subsequently be retrieved at any time in connection with the same or any other suspicious (in the above sense) contract or transaction.

11. Specific issues regarding the operation of the Authority shall be regulated by decisions of the Minister of Economy and Finance.

12. By way of derogation of any other provision, the emoluments of the Chairman and of the Members of the Authority and any additional compensation for the seconded employees shall be specified by a decision of the Minister of Economy and Finance and the relevant cost is covered by the budget of the Ministry of Economy and Finance.

13. The Chairman and the Members of the Authority shall each submit, on an annual basis, to the Supreme Court Public Prosecutor's Office the statement of property referred to in Law 3023/ 2002 (Government Gazette A 146), as in force at the time.

Notes: Article 7, as amended by article 6 of Law 2515/ 1997 and article 28 of Law 2733/1999, was replaced as above by article 7 of Law 3424/2005 (Government Gazette A 305/13.12.2005).

Article 11 of Law 3424/2005 states that: "Any reference in existing legislation to the Committee of article 7 of Law 2331/1995 shall henceforth be construed as a reference to the **National Authority for Combating Money Laundering**"

Article 8

The disclosure of information on money laundering to the authorities responsible for combating money laundering by an employee or director in accordance with articles 4 and 6 hereof shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not entail any kind of liability for the credit institutions or financial organisations referred to in items D and E of article 1 or for the employee or director in question, unless they have acted in bad faith. The same shall apply to the Members and the staff of the Authority of article 7 hereof.

Article 9

As from the entry into force of this Law, articles 5 and 6 of Section III ("Suppression of money laundering") of Law 2145/1993 (Government Gazette A 88) shall be repealed.

Athens, 23 August 1995

**Key provisions introduced by HCMC Rule 23/404 of 22 November 2006
which came into effect on 1 March 2007**

I. Due Diligence Obligation – requirements in relation to Recommendation 5

When CC is required

Article 3

1. Companies shall apply customer due diligence measures:

- (a) before establishing or amending business relationships and especially before entering into or amending an agreement for the provision of investment services;
- (b) when carrying out transactions amounting to EUR 15,000 or more, whether the transaction is carried out in a single act or in more acts that appear to be linked;
- (c) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or minimum threshold;
- (d) when there are doubts about the veracity or adequacy of previously obtained customer identification data;

2. Companies shall not keep accounts that do not mention the name of the customer who is the beneficiary of the account (anonymous accounts).

Required CDD measures and risk-based approach

Article 4

1. Customer due diligence measures comprise at least:

- (a) identifying the customer and verifying the customer's identity and verifying at least the data referred to in Annex I, on the basis of documents, data or information obtained from a reliable and independent source;
- (b) identifying, if applicable, the beneficial owner and taking risk-based and adequate measures to verify his identity so that it is ensured that the Companies know who the beneficial owner is; as regards legal entities and trusts, and taking risk-based and adequate measures to understand the ownership and control structure of the customer;
- (c) obtaining information on the purpose and intended nature of the business relationship;
- (d) conducting ongoing monitoring regarding the business relationship, by carefully scrutinising the transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the Companies' information about the customer, his business and risk profile and, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date.

2. Due diligence measures shall apply to all the beneficiaries in the case of a joint account.

3. Companies may determine the extent of the due diligence measures on a risk-sensitive basis as well as the frequency of scrutinising whether the transactions being conducted are consistent with the Companies' information about the customer. Risk assessment depends on:

- (a) the type of customer;
- (b) the business relationship with the customer, the purpose and planned of the business relationship with the customer;
- (c) the investment services provided;
- (d) the financial product involved in the provision of services or the particular transaction and
- (e) the source of funds.

4. Companies shall classify their customers into two (2) at least risk classes on the basis of criteria reflecting probable risk causes. This classification is done with written risk analysis by client.

5. Companies must be able to demonstrate that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing involved in each business relationship and transaction.

CDD requirements in relation to legal entities

Article 10

1. When the customer is a legal entity, other than the companies mentioned in paragraph (b) of article 6, the Companies take the appropriate measures in order to verify the way the legal entity operates and who essentially controls such entity.

2. When a company with non-registered shares is the customer, the Companies:

- (a) verify the true identity and the financial condition of the company's beneficial owners before the opening of the account, by means of reliable and independent sources or even a visit at the company's offices;
- (b) if there is a change in the beneficial owners, examine the continuation of the business relationship

3. When an offshore company is the customer, the Companies, except for the measures provided in the previous paragraph, also take, when establishing into business relationships and especially when entering into the agreement for the provision of services, a statement from the customer in relation to the identity of the beneficial owner and relation between the beneficial owner and the customer, pursuant to the attached Annex II. The countries where offshore companies are set up will be specified by a decision of the Minister of Finance (1108437/2565/DOS- Gover. Gazette B1590/16.11.2005). The Company shall also apply beneficial owner due diligence measures.

4. When a legal entity or a non-profitable association is the customer, the Companies:

- (a) verify that the business scope provided in their articles of association is lawful
- (b) ensure that the business relationship or the transactions fall within the business scope provided in the customer's articles of association.

Timing of verification/Failure to satisfactory complete CDD/ Existing customers

Article 5

1. The verification of the identity of the customer and the beneficial owner shall take place before the establishment of business relationships and, in any case, before the carrying-out the transactions.

2. By way of derogation from the previous paragraph, the verification of the identity of the customer and the beneficial owner may be completed during the establishment of business relationships, if this is necessary, in order to avoid interrupting the normal conduct of business and where there is little risk of money laundering or terrorist financing. In

such cases, such procedures shall be completed as soon as possible after the initial contact and in any case within 30 days at the latest.

3. Companies shall, in cases where they are unable to comply with the procedures of due diligence, be obliged not to carry out the transaction, to terminate the business relationship with the customer and to consider submitting a report to the competent authority for money laundering.

4. Companies shall also apply the due diligence procedures to existing customers, on a risk-sensitive customer basis, from time to time as well as extraordinarily at appropriate times. Appropriate times shall mean, *inter alia*, the following:

- (a) when the customer is carrying out an important, with regard to his status, transaction;
- (b) when an important change in the customer's data occurs;
- (c) when there are changes in the way the customer's account operates;
- (d) when the Company realizes that certain information about an existing customer is missing.

Simplified CDD

Article 6

1. Companies may not apply customer due diligence procedures, provided for in paragraphs 2(a), (b) and (c), 3 and 5 of article 4, where the customer is:

- (a) a credit or financial institution of a member state of the European Union or a credit or a financial institution situated in a third country which imposes requirements equivalent to those laid down in Community legislation and supervised for compliance with those requirements;
- (b) listed company whose securities are admitted to trading on a regulated market in a member state of the European Union or in a third country which is subject to disclosure requirements equivalent to those laid down by Community legislation;
- (c) national public authorities.

2. In the cases mentioned in the previous paragraph, the Companies shall in any case gather sufficient information and shall establish in writing by means of a justified report of a competent executive that the customer qualifies for an exemption.

Enhanced CDD

Article 7

Companies shall apply, on a risk-based approach, enhanced customer due diligence measures, in addition to the measures referred to in article 4, in situations which by their nature can present a higher risk of money laundering or terrorist financing. Companies apply enhanced customer due diligence measures in cases such as unusual transactions occurring without obvious purpose as well as where the use of certain financial products or the transactions carried out might favour anonymity.

In any case, Companies shall apply enhanced due diligence measures in the cases mentioned in articles 8 to 10.

II. Politically exposed persons – requirements in relation to Recommendation 6

Article 9

When Companies conduct transactions or establish business relationships with politically exposed persons who live in a third country outside the European Union, they are obligated to:

- (a) have appropriate risk-sensitive procedures in order to determine whether the customer is a politically exposed person;
- (b) demand the approval of the Companies' high-ranked executives for establishing business relationships with such customers;
- (c) take all adequate measures to determine the source of the funds, which are involved in the business relationship or the transaction;
- (d) carry out enhanced and ongoing monitoring of the business relationship.

III. Non face-to-face business – requirements in relation to Recommendation 8

Article 8

When the customer is not present in order for his identity to be verified, Companies shall apply special and appropriate measures to compensate for the higher risk and at least verify the identity of the customer with additional documents, data or information as indicatively:

- (i) (a) request additional evidence , verify the identity of the customer with additional written evidence,;
- (b) take additional measures for the verification or certification of the documents submitted;
- (c) confirm that the first payment of the transactions shall be made through an account, which has been opened in the name of the customer in a credit or financial institution
- (d) request that the first payment, as far as the business relationship is concerned, or every single payment in the context of one-off transactions, to be carried out through an account opened in the name of the customer and kept at credit institution operating in European Union Member State
- (e) confirm that the Company or the Foundation operate at the address that has been declared.

IV. Application of due diligence measures by third parties – requirements in relation to Recommendation 9

Article 11

1. Companies may rely on third parties for the fulfillment of the customer due diligence obligation of article 4. The ultimate responsibility for the fulfillment of the customer due diligence obligation shall remain, in any case, with the Companies which rely on the third party.

2. *'Third Parties'* shall mean other Companies or credit institutions having their legal seat in Greece or in another member state or equivalent legal entities having their legal seat in a third country, provided that:

- (a) they are subject to mandatory professional registration, recognised by law and;
- (b) they apply equivalent customer due diligence measures and record keeping requirements and they are supervised as far as their compliance with such requirements is concerned.

3. Companies may recognise and rely on the outcome of the customer due diligence procedures in accordance with paragraph 1, provided that third parties are bound to make immediately available to the Companies the information gathered pursuant to articles 4 to 10 as well as the copies of the customer or the beneficiary owner identification and identity verification data and other relevant documentation.

4. Companies are obligated to establish in writing when the conditions laid down in this article are met by means of a justified report of the relevant executive.

5. Natural persons or legal entities connected with the Companies with an outsourcing or agency relationship shall not be considered as third parties.

V. Record keeping – requirements in relation to Recommendation 10

Article 13

1. Companies are obliged to keep for a period of at least five years, unless a longer period is provided for in a legal provision, after the business relationship with the customers has ended, as far as agreements are concerned, and for a period of at least five years following the last transaction, as far as transactions are concerned, the data which are relevant with the abovementioned agreements and transactions, such as legalization documents, copies of documents on the basis of which the verification of the customer's identity took place and transaction evidence.

2. Within the framework of complying with the requirement of the previous paragraph, the Companies keep the following, at least, data:

- (a) the customer's identity, including his full name, address, phone number, profession, office address, tax reference number and signature sample;
- (b) the number of the provision of investment services accounts;
- (c) the identity of the beneficial owners;
- (d) the identity of the persons authorised to act on behalf of the customer;
- (e) data relating to the size and the transactions carried out;
- (f) the connected bank accounts of the customer;
- (g) the source of the funds;
- (h) the type and the amount of the transaction's currency;
- (i) the way in which the funds have been deposited or withdrawn, that is cash, checks, transfers etc.;
- (j) the identity of the person who gave an order for carrying-out of the transaction;
- (k) the purpose of the funds;
- (l) the type of instructions given by the customer.

3. Companies shall have information systems or procedures that will enable them to respond completely and promptly to a question submitted by the National Authority, as to whether they have or had during the period of the last five years a business relationship with particular natural persons or legal entities and as to the type of such business relationship.

4. Companies shall keep for a period of at least five years the data, either in hard copies or in electronic files, and the files, which prove their compliance with the obligations provided for in this decision. Record keeping may be also done in electronic form, on the condition that the relevant information systems follow controlled access procedures, user i.d. and date.

VI. Suspicious transactions reporting – requirements in relation to Recommendation 13 & SR IV

Article 14.2

2. The Compliance Officer has at least the following duties:

- (a) to receive from the Company's employees reports with information which create the strong belief or the suspicion for money laundering or terrorist financing, such as reporting for suspicious transactions. Employees' reports shall be registered in a special record and shall be dated and signed;
- (b) to assess and examine the information with reference to other sources. The assessment of the information included in the reports submitted to the compliance officer for the prevention of money laundering and terrorist financing shall be drafted in a special form, which shall also be kept in the relevant file. If, following the assessment, he decides reporting the information to the National Authority, then he must prepare a report to be submitted to the National Authority as soon as possible. If, as a result of his assessment, he decides not to proceed with a report to the National Authority, then he must provide explanations, in the relevant file, for the reasons of his decision;
- (c) to act as the first contact with the National Authority both in the beginning and during the investigation of the case under review following the submission of a written report; to respond to all enquiries or clarifications requested by the National Authority; and to decide whether the enquiries/clarifications are directly related to the report submitted and if so to provide all information requested and co-operate fully with the National Authority.

VII. Internal procedures – requirements in relation to Recommendation 15

Article 14.1

1. The Compliance Officer for the prevention of money laundering and terrorist financing shall be responsible for the general supervision of the Company's compliance with its obligations concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Article 15

1. Companies shall establish adequate and appropriate procedures in order to forestall and prevent transactions related to money laundering or terrorist financing.

2. The procedures shall at least include:

- (a) customer due diligence;
- (b) reporting suspicious transactions;
- (c) record keeping;
- (d) internal control;
- (e) customer, business relationship and transactions risk assessment;
- (f) risk management;
- (g) compliance management; and
- (h) allocation of duties and responsibilities.

3. Company's external auditors' submit a report every two years assessing the adequacy and efficiency of the operation of the system on prevention of money laundering and terrorist financing. A copy of the report will be submitted to the Capital Market Commission.

Article 17

The Companies shall take the appropriate measures in order that their employees become aware of the legislation in force, the decisions and interpretation bulletins as well as the internal procedures. Such measures shall, *inter alia*,

include the participation of the relevant employees in special ongoing training programmes, which will train them in recognising the activities that might be related to money laundering or terrorist financing and will teach them how to proceed properly in such cases.

VIII. Special attention for higher risk countries – requirements in relation to Recommendations 11 & 21

Article 12

1. Suspicious transaction is in general the transaction that may be considered as incompatible with the known and lawful operations of the customer or his personal activities or the usual business of the particular account.
2. Companies are obliged to pay special attention to any suspicious transaction. In any event, Companies monitor the business relationships and transactions with customers coming from countries characterized as non-co-operative by FATF.
3. The outcome of monitoring the suspicious transactions shall be kept in writing or in electronic form with the reservation for paragraph 4, article 13.
The relevant employees' reporting shall be justified, kept in a special file dated and signed by the employee.

IX. Foreign branches and subsidiaries - requirements in relation to Recommendation 22

Article 16.4

4. In addition to the obligations provided in paragraph 9 a dd)) of Article 4 of law 2331/1995, the Companies must inform the Hellenic Capital Market Commission of cases where their subsidiaries and their branches abroad are not fully or in part permitted according to the relevant foreign legislation to apply the policy, procedures and controlling of the group for the prevention of money laundering and terrorist financing.

X. Regulation, supervision and monitoring – requirements in relation to Recommendation 23

Article 16.1 to 3

1. Companies shall submit to the Hellenic Capital Market Commission, within a period of one month from the date this decision comes to force the following:
 - (a) The name and surname, the position and the date of the act of appointing the compliance officer as well the person acting as his substitute, appointed pursuant to the provision of paragraph 10 of article 4 of law 2331/1995;
 - (b) Copies of the internal control and communication procedures, established in writing, with the purpose of forestalling and preventing the carrying-out of transactions related to money laundering or terrorist financing.
2. Where the Compliance Officer changes or important alterations in the internal control and communication procedures occur, Companies are obligated to notify in writing the Hellenic Capital Market Commission of such changes within a period of 10 business days after they are in force.
3. Companies shall submit each year to the Hellenic Capital Market Commission within the month of March of each calendar year an Annual Report, which shall include the following information:
 - (a) Brief information on the important measures taken and the procedures adopted during the year;
 - (b) Inspections carried out for the assessment of due diligence procedures when identifying the customers, as well as the scope of such controls (procedures, transactions, level of employees' training etc);

- (c) Any important deficiency and weakness observed, especially as far as the procedures of internal reporting of suspicious and unusual transactions or transactions of non-evident financial or lawful purpose, the quality of the reports and their timely performance are concerned and the acts and recommendations made for taking reforming measures;
- (d) The number of reports of suspicious and unusual transactions submitted by employees of the Company to the Compliance Officer, as well as the approximate time lap between the transaction and sending-out the report to the Compliance Officer;
- (e) The number of reports of suspicious and unusual transactions submitted by the Compliance Officer to the National Authority, as well as the approximate time lap between the delivery of the report to the employees of the Company and sending-out the report to the Public Authority;
- (f) The training seminars the Compliance Officer has attended and their content;
- (g) Information concerning the education and training conducted for the staff during the year, referring to the number of seminars attended, their duration, the number and the position of the employees that participated.

Hierarchy of Legal Norms in Greece

English term	Greek term	Source and Procedure for Promulgation
Constitution	<i>Syntagma</i>	Constitution of 1975/1986/2001
Law	<i>Nomos</i>	Pursuant to the relevant constitutional provisions, the main Law making Bodies in the Greek Legal Order are the Parliament, the President of the Republic acting on a governmental proposal and the Government. The right to introduce Bills (right of initiative) belongs to the Parliament and Government. Every Bill, accompanied by an explanatory report, is introduced for debate and if accepted (passed), by Parliament, the President of the Republic shall promulgate and publish it as a statute (or act of Parliament).
Recognised rules of international law, as well as international conventions	-	Article 28.1 of the Constitution: "The generally recognised rules of international law, as well as international conventions as of the time they are sanctioned by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law".
Presidential Decree	<i>Proedriko Diatagma</i>	Article 43.1 of the Constitution: "The President of the Republic shall issue the decrees necessary for the execution of statutes; he may never suspend the application of laws nor exempt anyone from their execution". The Presidential Decree is based on specific authorisation provided by law. It is the most important form of delegated legislation. It has increased legal validity almost equal to the law (Acts of Parliament). It is proposed by the competent ministers acting jointly and then it is processed by the Conseil d' Etat and it is signed and issued by the President of the Republic. It is published in the Official Government Gazette. The Government uses this delegated presidential competence quite often, as they can pass new legislation in a speedier and simpler way compared to the passing of a statute by Parliament, involving complex procedures and debates.
Ministerial Decisions	-	Article 43.2 of the Constitution: "The issuance of general regulatory decrees, by virtue of special delegation granted by statute and within the limits of such delegation, shall be permitted on the proposal of the competent Minister". All Ministers have the right to issue regulatory acts Decisions by virtue of a statutory delegation in cases concerning regulation of specific matters or matters of local interest or of technical and detailed nature.
Regulatory acts	-	Article 43.2 of the Constitution: "Delegation for the purpose of issuing regulatory acts by other administrative organs shall be permitted in cases concerning the regulation of more specific matters or matters of local interest or of a technical and detailed nature". These Regulatory acts ⁵⁹ are issued by "administrative organs" such as the Governor of the BoG for matters of particular specialised and technical nature as well as for the transposition of the EU directives of Banking Legislation which pertain to the procedure of Level II of the Lamfaloussy procedure (implementing measures). Moreover those acts are published in the Official Government

⁵⁹ Not to be confused with the Acts of Parliament.

		Gazette. Relevant competence has the HCMC for similar matters as the aforementioned.
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