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Sweden: Report on the Observance of Standards and Codes— FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism

This Report on the Observance of Standards and Codes on the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism for Sweden was prepared by the Financial Action Task Force on Money Laundering (FATF), using the assessment methodology adopted by the Financial Action Task Force in February 2004 and endorsed by the Executive Board of the IMF in March 2004. The views expressed in this document, as well as in the full assessment report, are those of the FATF and do not necessarily reflect the views of the government of Sweden or the Executive Board of the IMF.

A copy of the full assessment report can be found on the website of the FATF at http://www.fatf-gafi.org/dataoecd/26/35/36461995.pdf

To assist the IMF in evaluating the publication policy, reader comments are invited and may be sent by e-mail to publicationpolicy@imf.org.

Financial Action Task Force
Groupe d'action financière

SWEDEN

Report on Observance of Standards and Codes
FATF Recommendations for Anti-Money Laundering
and Combating the Financing of Terrorism

September 2006

REPORT ON OBSERVANCE OF STANDARDS AND CODES

FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism

SWEDEN

1. Background Information

1. This Report on the Observance of Standards and Codes for the *FATF 40 + 9 Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism* was prepared by the Financial Action Task Force (FATF). This report provides a summary[1] of the AML/CFT measures in place in Sweden as of September 2005 (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. The views expressed in this document are the views of the FATF, but do not necessarily reflect the views of the Boards of the IMF or World Bank.

2. Overall, the Swedish legal requirements in place to combat money laundering and terrorist financing are generally comprehensive; however, the evaluation team had concerns about the system's effectiveness. Penalties for money laundering are low, generally charges for predicate offences are pursued (due to the fact that in Sweden self-laundering is co-punished with the predicate offence), and there have been a limited number of convictions for the money laundering offence. The terrorist financing offence is generally broad, although it does not specifically cover collecting/providing funds for a terrorist organisation or individual terrorist. Still, the legislation has been shown to be effective since it has been used to convict two individuals. The FIU functions, powers, and processes are generally satisfactory, but would be improved if additional resources were allocated, there were less reliance on manual processes, and limitations on the timeframes allowed to keep suspicious transaction reports were removed. Measures for international co-operation are generally comprehensive.

3. Basic customer identification measures are in place, but there is a need to adopt comprehensive customer due diligence requirements. Record-keeping measures are largely comprehensive. The scope of the suspicious transaction reporting requirements is generally sufficient; however, there were significant concerns regarding the effectiveness of the system. The supervisory powers including the power to issue sanctions are generally broad; however, powers should be expanded with regard to registered financial institutions (money exchange and remittance companies and deposit companies). At the time of the on-site visit, there were other concerns about the overall effectiveness of the supervisor system—i.e., the need for additional resources and the current focus on larger financial institutions. Basic AML/CFT measures apply to most DNFBPs; however, there are also concerns regarding how effectively they are implemented, and more comprehensive measures need to be adopted.

4. The Swedish National Economic Crimes Bureau has estimated that the yearly proceeds of crime in Sweden are approximately 130 billion SEK[2]. The information gained from suspicious transaction reports (STRs) and from investigations indicates that the main predicate offences are drug crimes, smuggling and illegal trade of alcohol and tobacco, theft, fraud, document forgery, receiving, human trafficking, violation of the Firearms Act, bribery, dishonesty to creditors, violation of the Companies Act, tax and VAT evasions crime and bookkeeping crimes.

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[1] A copy of the full Mutual Evaluation Report can be found on the FATF website: www.fatf-gafi.org.

[2] The National accountings PM2005:08. SEK = Swedish Krona. At the time of the on-site visit, 1 SEK = 0.11 EUR or 0.14 USD.

5. Money laundering operations are increasingly performed through more complex techniques, by individuals or groups that are connected to organised crime in Sweden and its international counterparts. Identified money laundering is mostly performed through banks, money exchange offices (bureaux de change) and money remitters. A relatively sophisticated method of money laundering technique involves the use of bank accounts abroad. Credit cards are connected to these accounts; the cards may be used in Sweden for cash withdrawals through ATMs and for credit card purchases.

6. Swedish authorities report that the financing of terrorism has not so far been a major problem in Sweden. The few active groups found use different methods for acquiring money. Intelligence indicates that the few groups and persons in Sweden that fit into the extremist category are largely self-supporting, i.e. do not receive funding from abroad. Intelligence also indicates that some of these groups engage in various types of fraud and also seem to acquire funds from theft or fraudulent behaviour in shops, as well as through fundraising through individual donors. Money collected from fundraising seems mostly to be deposited into accounts in the conventional banking system and forwarded in larger lots, making it more difficult to link money from a particular fundraising campaign to terrorism. In October 2005, two individuals were convicted under the Swedish counter terrorist financing legislation.

7. A wide range of financial institutions exists in Sweden, including credit institutions (banks and credit market undertakings), insurance companies and brokers, securities companies, investment companies, deposit companies, money exchange and money transfer businesses. A range of designated non-financial businesses and professions became subject to the AML Act as of 1 January 2005: casinos, real estate agents, dealers in precious metals and stones, lawyers and auditors. Company service providers exist in Sweden but are not subject to the AML Act. Sweden 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

8. Money laundering is criminalised through sections 6, 6a, 7 and 7a of Chapter 9 of the Swedish Penal Code on receiving and money receiving. The basic money receiving offence covers the mandatory physical elements required by the Vienna and Palermo Conventions. Sweden has adopted an "all crimes" approach to the criminalisation of money laundering, and the penal code and other criminal laws cover the designated categories of offences (as defined in the Glossary of the FATF 40 Recommendations), although participation in an organised criminal group is not a specific criminal offence. While conspiracy applies for the aggravated offences of many crimes in the Swedish Penal Code (e.g. murder, kidnapping, robbery), it is not clear if conspiracy applies to the full range of profit-generating activities in which criminal groups engage. Sweden's receiving/money receiving offence does not apply to persons who commit the predicate offence if the predicate offence can be proven (i.e. self-laundering). In such cases, receiving/money receiving is "co-punished" with the predicate offence in the way that the punishment for the predicate offence also covers the activity covered by the receiving/money receiving offences. Such activity might lead the predicate offence being considered to be an aggravated offence or could otherwise result in higher penalties. The Supreme Court has ruled that self-laundering is not separately punishable under current Swedish Law. However, it did not indicate whether self-laundering would be contrary to the Constitution or another fundamental principle of Swedish law. Therefore, the evaluation team could not confirm that this was a fundamental principle according to FATF standards. The principle does not prevent a perpetrator being convicted of money receiving when that person cannot, due to lack of evidence, be convicted of the predicate offence.

9. The ancillary offence of "complicity" (which covers investigation, aiding and abetting, facilitation, and counselling the commission) is applicable to the *money receiving* offences. However, conspiracy, attempt, and preparation apply only in the more serious cases of money laundering ("gross money receiving/money receiving") and not to the general offences. The evaluation team recommends that these minor technical weaknesses be remedied.

10. It appeared that there are limited numbers of convictions (for *money receiving*) since the inception of the anti-money laundering regime in 1999, and the assessment team was concerned about the limited focus on money laundering and proceeds of crime issues. One reason appears to be the understanding that the offence of money receiving is encompassed within and ancillary to the predicate offence. Penalties that have been provided for the money laundering convictions have also been low.

11. Sweden's criminalisation of terrorist financing is largely in line with international standards—in particular, with the Terrorist Financing Convention—yet it does not cover all the requirements of Special Recommendation II. Sweden should amend its legislation to ensure that the offence specifically covers collecting or providing of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist without the need to demonstrate intent to commit a terrorist act. The current penalty for the basic offence is a maximum of two years imprisonment. If an act that constitutes terrorist financing also constitutes another offence under the Penal Code or the Act on responsibility for Terrorist Offences subject to the same or more severe penalties, this offence should be applied, which could lead to penalties up to life imprisonment. Despite this, authorities should provide higher penalties for the specific offence of terrorist financing, which would more properly take into account the grave nature of the offence.

12. Rules on forfeiture are found in the Chapter 36 of the Penal Code and in special penal laws. The provisions provide for criminal confiscation of the proceeds of any crime with a penalty of at least one year (which covers money laundering offences), property of corresponding value, instrumentalities used in or intended for use in the commission of the offence, as well as property that is derived directly or indirectly from proceeds of crime.

13. There are also provisional measures to prevent dealing in property possibly subject to confiscation. "Provisional attachment" generally prevents such dealing, though the need to demonstrate a reasonable cause that the property will be removed is a limitation. Rules on seizure are comprehensive and can be applied explicitly for instrumentalities and implicitly for proceeds. No specific data on forfeiture from receiving and money receiving offences was available, nor on freezing/seizing property. However, general data on the total amount forfeited annually showed a declining amount forfeited over the past three years.

14. As in other European Union countries, Sweden's obligations to freeze terrorist assets are derived from Common Positions adopted by the European Union, and their resulting EU Council Regulations. The obligation to freeze under S/RES/1267(1999) has been implemented through Council Regulation (EC) No 881/2002. Annex I to the Regulation contains the same information as the list maintained by the Al-Qaida and Taliban Sanctions Committee; and the Annex is regularly and promptly updated. On 13 November 2001, the assets of the Swedish citizens and the entities listed under this mechanism were immediately frozen (an amount of 1,070,000 SEK), although two citizens were later de-listed, and their assets were returned.

15. Sweden's obligation to freeze under S/RES/1373(2001) is implemented through Council Regulation (EC) No. 2580/2001. Article 2 of this Regulation contains an obligation to freeze and a prohibition on making any funds available to the group targeted by the Regulation. The targeted group is determined by the Council acting by unanimity. The EU Regulation does not allow for the freezing of funds and other assets of EU internals. Sweden should implement a national mechanism to supplement the EU Regulation in order to give effect to requests for freezing assets and designations from other jurisdictions and to enable freezing the funds of European citizens/residents.

16. The Swedish financial intelligence unit (FIU), *Finanspolisen*, is one of the intelligence units of the National Criminal Police within the National Police Board. The FIU was established in 1994 and has been a member of the Egmont Group since 1995. The total number of the STRs received has been around 10,000 per year, with most of the STRs forwarded to the FIU by fax, although at the time of the on-site visit the government was developing a new electronic system for receiving and analysing STRs.

The FIU staff is well qualified and has a wide range of previous police experience; however, the current number of staff (16) is not adequate and should be increased.

17. The FIU submits two kinds of reports to investigative agencies: Operative Reports (ORs) indicate a specific crime conducted by specific natural persons; and Intelligence Reports (IRs) indicate an event or a possible crime performed by known or unknown natural persons. In 2004, the FIU sent 139 ORs and 846 IRs, to National Police, County Police Authorities, or the Economic Crimes Bureau.

18. The FIU provides reporting parties with specific reporting forms, although it does not provide other guidance. The FIU also publishes an annual report that includes statistics, recent money laundering trends and techniques, and information regarding the FIU's activities. The FIU informs reporting parties when a preliminary investigation based on an STR is opened and when a sentence based on one of these cases is pronounced.

19. There are significant limitations regarding the timeframe that the FIU may store the STRs. To retain STRs for more than six months, the FIU staff must first make a determination on every incoming STR that some suspicion of money laundering exists. After being stored, STRs must then be deleted after 3 years unless the FIU has received supplementary STRs and/or background information. These timeframes reduce the effectiveness of the FIU and should be remedied.

20. The National Police Board (NPB) is the central administrative and supervisory authority of the police service. The NBP is responsible for the development of new work methods and technological support. The NPB has two operative branches: The Swedish Security Service (*Säkerhetspolisen* – SÄPO) is responsible for protection of sensitive objects, counter-espionage, anti-terrorist activities and protection of the constitution. In the fight against threats to national security, the national Security Service conducts investigations, provides intelligence, resources and methodological know-how. The National Criminal Police (*Rikskriminalpolisen* – RKP) provides investigation and criminal intelligence support in cases involving crimes with worldwide or international ramifications, but also works at the local level of the police organisation, providing reinforcement for police authorities as required.

21. The National Economic Crimes Bureau (*Ekobrottsmyndigheten* – EBM) is both an investigative and prosecutorial authority and is dedicated to combating economic crime, mainly in metropolitan areas.

22. Authorities have comprehensive powers to compel production of, obtain access to, search premises for, and seize any documents needed during their investigations; as well as other investigative powers. However, there is little evidence that ML investigations are effectively pursued and ML prosecutions brought. Currently, charges are laid for predicate offences and not ML/FT offences, mainly due to the self laundering rule and the obligation to prosecute the predicate offence if the elements of that offence exist. Charges will be pursued only if it is believed the defendants cannot be prosecuted for predicate offences. Despite this, the limited number of investigations/prosecutions of third-party money launderers is a concern. The Swedish government should develop a more pro-active approach to pursuing money laundering charges. Training and education for law enforcement authorities in ML/FT offences should also be enhanced.

23. At present, there is no obligation to declare or disclose cash or bearer negotiable instruments while entering or leaving Swedish territory. However, the implementation of the EC Regulation on Cash Control in the near future will result in changes to the Swedish AML/CFT system in this regard.

3. Preventive Measures - Financial Institutions

24. Sweden in general is considered to be a safe country and not a major money laundering or terrorist financing centre. However, as for any developed financial centre, Sweden's financial sector is vulnerable to money laundering and terrorist financing. Sweden has not conducted a risk assessment of its financial sector for AML/CFT, though it does use risk factors for other purposes.

25. The Swedish *Act on Measures against Money Laundering* (1993:768 as amended by 2005:409) (hereafter "AML Act") contains customer identification as well as the other AML obligations that apply to a wide range of financial institutions. The *Act on Criminal Responsibility for Particularly Serious Crimes in some cases* (2002:444) (hereafter "CFT Act") also contains CFT measures for financial institutions. The only exceptions being that some credit card companies do not fall within the scope of the AML/CFT legislation and that the CFT Act does not apply to investment companies. Finansinspektionen (the Swedish financial supervisory authority) issued AML/CFT Regulations/Guidelines in June 2005. This publication contains elements (regulations) that are directly binding and enforceable, and other elements (general guidelines) that are indirectly enforceable and subject to sanctions where the institution is also failing to conduct its business in a sound manner.

26. Although Sweden has implemented customer identification obligations, it has not implemented full customer due diligence (CDD) requirements. The AML/CFT Acts require the financial institutions to conduct customer identification when: entering into a business relationship, for occasional transactions of 15,000 EUR or more, when there are doubts if the customer is acting on his/her own behalf, or when a financial institution has grounds to suspect that a transaction may constitute money laundering or terrorist financing. However, there are numerous exemptions to the requirements related to customer identification, which appear overly broad. There are insufficient requirements to ascertain the beneficial owner, e.g. no obligation to identify and verify the beneficial owner of a legal person. There are similarly no regulations to conduct ongoing CDD, enhanced CDD, or CDD on existing customers. Laws, regulations and other mechanisms should be amended to ensure that the full CDD requirements are implemented.

27. While the legal system regarding financial institution secrecy is mostly satisfactory, statutes dealing with a duty of confidentiality, both for domestic and international matters, allow for certain exceptions that result in a lack of fully effective implementation of the FATF requirements regarding financial institution secrecy laws. Sweden's record-keeping requirements are generally broad and require legal persons as well as natural persons conducting business operations to maintain comprehensive accounts and accounting records for 10 years.

28. Financial institutions are required by the AML/CFT Acts to examine any transaction where there are reasonable grounds for suspecting money laundering or terrorist financing, and there are indirectly enforceable obligations in guidance that require examination of all unusual transactions. There are also AML/CFT Regulations which require financial institutions to set forth any findings in writing. Moreover, financial institutions may keep records of STRs filed, but must generally delete them after one year if they are filed under the Money Laundering Registers Act.

29. The requirement to report suspicious transactions is a direct, mandatory obligation, which applies regardless of any threshold and includes tax matters and attempted transactions. The AML and CFT Acts require financial institutions to report any circumstances that may be indicative of money laundering or terrorist financing to the FIU. It should be noted however, that limitations on the terrorist financing offence may also limit the reporting obligation. The laws provide a "safe harbor" for complying with reporting obligations and criminalise tipping off.

30. Several factors indicate that the system is not being implemented effectively: the rules to delete STRs (after one year for financial institutions and six months/three years for the FIU) reduce the effectiveness of the STR system. While money exchange businesses are required to file STRs, in practice, these businesses file reports on the basis that the transaction involves a large amount of currency—i.e., above a threshold of 130,000 SEK (approximately 13,000 EUR) with little, if any, information as to what made the reported transactions suspicious.

31. Sweden should continue to work with the financial sector to improve the total number of reports, the sectors that are reporting, the percentage of reporting entities and improve the overall quality of the reports filed. Finansinspektionen and the FIU should continue to identify red flag indicators and

models of suspicious transactions that they can share with the private sector, along with examples of what constitutes helpful and informative suspicious transaction reports.

32. Financial institutions are obligated to establish internal procedures and policies to prevent money laundering and terrorist financing, which meet most of the FATF requirements. These internal procedures include *inter alia* CDD record retention, the detection of unusual and suspicious transactions and the reporting obligation. All financial institutions subject to Finansinspektionen's AML/CFT Regulations/Guidelines are obligated to designate an AML/CFT compliance officer. However, appropriate screening procedures for employees should be introduced.

33. Subsidiaries of Swedish institutions abroad are subject to the regulations of the host country; however, Finansinspektionen can take corrective measures against a Swedish credit institution if the competent authority of the host country notifies Finansinspektionen that the Swedish credit institution has breached any rule of the host country. Sweden should implement an obligation to require financial institutions to apply the higher standards in the event that the AML/CFT requirements of the home and host countries differ, and to notify Finansinspektionen if they are unable to apply such standards.

34. Finansinspektionen is responsible for licensing and supervising most financial institutions such as banks and other credit institutions, insurance companies, insurance intermediaries, securities companies, collective investment companies and e-money businesses. Finansinspektionen exercises prudential supervision regarding all these financial institutions and has stated that it looks to Core Principles (Basel, IOSCO, IAIS) in its supervision of banks, insurance companies, and the securities sector also with regard to AML/CFT purposes. Certain "other financial institutions" (including currency exchange businesses, money transfer businesses and other financial services such as financial leasing companies) and deposit companies have to register at Finansinspektionen.

35. For licensed financial institutions, Finansinspektionen conducts full supervision. It may do both off and on-site inspections and has the power to compel production and to obtain access to all records, documents or information. There are generally adequate powers of enforcement and sanction for failure to comply with or properly implement AML/CFT requirements. Criminal sanctions can apply for tipping-off and for failure to comply with STR requirements. The range of administrative sanctions is broad and includes the power to remove a license or remove a board member or managing director (but not other senior management). Adequate fit and proper tests apply for board members and managing directors but not other senior management.

36. For registered financial institutions (deposit companies, money exchange and money remittance), the supervision is more limited and should be expanded. Finansinspektionen has no power to conduct on-site inspections, and the range of sanctions is also more limited. In general, the only registration requirement refers to ownership and Board of Directors: a person who has significantly neglected business or financial obligations or who has committed a serious crime may not engage in such business operations.

37. The AML/CFT Regulations/Guidelines contain guidance on internal control systems, customer identification procedures, risk management, the principle of Know Your Customer, monitoring and reporting of suspicious transactions, record keeping and staff training. The guidelines are relatively complete based on the current legislation but would be improved if sector-specific guidance were provided, and will need further modification when the FATF recommendations are fully introduced. In addition, guidelines are not currently applicable to certain credit card companies.

38. Following the FATF on-site, the primary responsibility for AML/CFT issues was shifted to a new unit of Finansinspektionen which will have three staff. For AML/CFT on-site inspections, support has also been provided by the Prudential Supervision Department. The focus of supervision during the last years was on larger financial groups, and the number of on-site inspections solely devoted to AML/CFT is still quite low. The current staffing changes in the area of AML/CFT should result in a higher number of employees focusing on this issue and a higher number of inspections focussed on a range of financial institutions (taking into account AML/CFT risk).

39. Money or value transfer services must register with Finansinspektionen in Sweden. However, the full range of requirements for financial institutions will need to be applied to remitters in the same way as for other institutions, as noted above.

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

40. The AML Act, as revised in 2005, includes AML obligations for most categories of DNFBPs: casinos, real estate agents, dealers in precious metals and stones (part of a larger category of dealers in high value items), lawyers and other legal professionals, and auditors (but not other accountants). There are several concerns regarding the scope of the Act: company service providers exist in Sweden but are not covered by the AML Act; and the Act does not apply to accountants that are not auditors (unless they are also tax advisors). Sweden should also bring DNFBPs under the scope of the CFT Act and develop adequate AML/CFT regulations.

41. The requirements in the AML Act apply equally to DNFBPs as for financial institutions. Customer identification must be conducted upon establishing business relations, for occasional transactions above 15,000 EUR, where there is a suspicion of money laundering. Casinos should be required to identify customers conducting transactions of 3,000 EUR and keep records for at least five years. Similarly as with financial institutions, Sweden should create a mandatory, direct obligation for all DNFBPs to monitor all unusual, large transactions or transactions with no visible economic purpose, make out findings in writing and maintain them for at least five years.

42. Like financial institutions, DNFPBs must report any circumstances that may be indicative of money laundering to the FIU, with the same "safe harbour" provisions. However, advocates, associate lawyers at law firms and auditors may disclose any information ("tip off") 24 hours after the moment an investigation has been started, information has been handed over to the police or the police have started a formal preliminary investigation. This could hamper investigations heavily and should be amended.

43. From the time the new reporting obligation came into force (1 January 2005) up to August 2005, the FIU had received 35 STRs from casinos, but only 10 STRs from other DNFBPs. It is too early to assess the effectiveness of the system. However, parts of the DNFBP sector pointed out that problems could arise: on the one hand, they feel obliged to terminate a relationship after filing an STR; on the other they may be obliged by other laws to inform their supervisory authority and the client when the resign from a contract.

44. The Swedish government has not yet designated any authority(ies) or SROs to monitor DNFBPs for compliance with AML/CFT requirements. Dealers in precious metals and stones are not monitored by any authority for any purpose; trust and company service providers are not subject to AML/CFT Acts or monitored by any authority. There are no administrative sanctions available specifically dealing with DNFBPs for breaches of AML/CFT obligations. For certain DNFBP, such as real estate agents, auditors, and members of the Bar Association, sanctions might be applied for breaches of their relevant legislation.

45. Licenses to arrange casino gaming shall only be issued to companies that wholly, directly or indirectly, are owned by the state. No further requirements to grant a license are defined. The Gaming Board (Lotteriinspektionen) supervises casinos, lotteries and other gaming for compliance with the Lotteries Act although only the Government itself may decide upon a sanction.

46. The Board of Supervision of Real Estate Agents is responsible for registration, supervision and guidance pursuant to the Estate Agents Act. The Board viewed AML compliance as a necessary condition to be in accordance with sound estate agency practice (as mentioned in Section 12 of the Estate Agents Act) and the integrity criteria mentioned above. The Board also prepared guidelines to assist the sector with its AML obligations. The Bar Association registers advocates and also sees itself as responsible for the supervision of advocates' compliance with the obligations according to the AML

Act and indicated that an advocate who fails to fulfil his or her AML obligations could be subject to disciplinary action including being expelled from the Bar. Approved or authorized auditors have to be registered at the Supervisory Board of Public Auditors. FAR – the professional institute for authorized public accountants – was working on AML guidelines at the time of the on-site visit, and these were adopted in October 2005.

47. In addition to the non-financial businesses and professions that are designated according to the FATF Recommendations, the obligations of the AML Act also apply to tax advisors and natural and legal persons who conduct professional commerce with, or sales by auction of, antiques, art, scrap metal or means of transport in cases where cash payment is made in an amount corresponding to 15,000 EUR or more.

5. Legal Persons and Arrangements & Non-Profit Organisations

48. Sweden's national system of registering companies—the vast majority of legal persons in Sweden—provides that comprehensive and accurate information on directors shall be collected and made available publicly. Information regarding shareholders is required to be kept at the company's registered office and be made available to the public. Although there is no time period specified to update changes in shareholdings for private companies, shareholders cannot formally exercise shareholder rights until they are registered. Information is collected and made available on a public registry for registered partnerships and economic associations. However, the provisions do not require that information on beneficial ownership be collected or made available, and do not provide adequate access to information on beneficial ownership in a timely manner.

49. Certain foundations—foundations that conduct business activities, parent foundations, foundations set up with participation of the state, charitable foundations—are subject to broad disclosure requirements and monitoring by the County Administrative Board (CAB). While much information is public, the system would be improved if the information collected were centralized, possibly at the Companies Registration Office. In addition, a majority of foundations (those of smaller size, family foundations, and foundations for the benefit of one person) do not need to be registered, and therefore relevant information is not collected on these entities. Also, since they are not registered, the CAB's ability to effectively monitor these entities is limited. Sweden should consider broadening the registration and/or recordkeeping requirements for foundations to ensure that adequate information on ownership and control is available to competent authorities.

50. Several forms of non-profit organisations exist in Sweden with different requirements for registering and record-keeping. The legal forms include non-profit associations, religious communities, foundations including family foundations, and economic associations established before 1951. No specific review of the adequacy of laws and regulations that relate to non-profit organisations that can be abused for FT had been completed at the time of the evaluation visit.

51. There are no specific measures in place to ensure that terrorist organisations cannot pose as legitimate non-profit organisations, although some are subject to significant oversight on a voluntary basis through membership in the Swedish Foundation for Fundraising Monitoring (SFI). It is unclear how much of the sector this actually covers in terms of size and risk, although SFI indicates that it has approximately 400 members, through which it believes the vast majority of charitable donations which are provided in Sweden are channelled. SFI monitoring includes the vetting of potential members, annual audits, and a special account number which helps to assure potential donors as to the foundation's credibility.

6. National and International Co-operation

52. Sweden has a generally comprehensive system for national and international co-operation. National co-operation and co-ordination at the operational level is coordinated by the FIU and is generally strong, especially as the FIU is part of the National Police and engages in numerous projects to combat crime. The FIU co-operates with at least 51 other law enforcement bodies (including units

within the National Police, county police authorities, the EBM, and the Customs Service) through information sharing and through participation in intelligence or co-operation projects. However, co-operative projects could more specifically target money laundering and terrorist financing issues.

53. There is also some co-ordination and co-operation at the policy level; however, a more pro-active approach to policy co-ordination on AML/CFT issues is recommended. Sweden should also review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis.

54. Sweden has signed and ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (Vienna Convention), the Convention against Transnational Organized Crime 2000 (Palermo Convention), and the Convention on the Suppression of the Financing of Terrorism 1999 and has implemented the vast majority of the three Conventions provisions relevant to the FATF recommendations. However, as noted above, certain aspects of the ML offence should be strengthened, as could measures for customer due diligence.

55. The Swedish authorities are able to provide a wide range of mutual legal assistance. Swedish authorities are able to assist foreign states with all the powers available for Swedish authorities in domestic investigations or proceedings. Requests from Nordic and European countries can be handled expeditiously as they are channelled directly between judicial authorities. Sweden should keep a more complete set of statistics, thus enabling it to better track the mutual legal assistance requests it receives and makes, and ensuring they are handled in a timely way. Dual criminality is not required for non-coercive measures or for search or seizure requests from EU countries, Norway, or Iceland.

56. Requests made under the Act on International Co-operation in the Enforcement of Criminal Judgements 1972 are sent to the Ministry of Justice. The process for executing an order from an EU state is more efficient and can be sent directly to the prosecutor, without the need for a separate Swedish decision on the matter. At this time Swedish authorities are not considering establishing an asset forfeiture fund.

57. Both ML/FT (as criminalised) are extraditable offences in Sweden; however, there are differences among the principles applied for extradition in Nordic countries, countries with which Sweden signed a bi-lateral agreement, EU countries, and non-EU countries. Within the EU, the procedure for extradition has in general been replaced by surrender according to the European Arrest Warrant. Dual criminality is not required as long as the offences are punishable by at least three years imprisonment in the requesting state. For a non-Nordic State, dual criminality is required, and the act for which extradition is requested must be equivalent to a crime that is punishable under Swedish law by imprisonment for at least one year. In these cases, Swedish nationals may not generally be extradited.

58. Where Swedish nationals are not extradited, the government may submit the case to its competent authorities for the purpose of prosecution of the offences set forth in the request. The Central Authority at the Ministry of Justice, informs the prosecuting authorities who are able to decide whether investigation or prosecution should take place. However, there were no statistics available to indicate whether this system was working effectively.

59. For extradition to another Nordic state, it is only required that the act is punishable by law in the requesting state. There is therefore no general requirement of "dual criminality", and a Swedish national can be extradited if the offender was domiciled in the other country for at least two years or if the act committed is punishable in Swedish by more than four years imprisonment.

60. In general, other forms of international co-operation appear satisfactory. Exchanges of information are not made subject to disproportionate or unduly restrictive conditions, and there appears to be a range of mechanisms or channels that can be used to co-operate with other countries. There are a series of bi-lateral agreements on police co-operation, and Finansinspektionen has the statutory power to share prudential information with other supervisory authorities, including banking, insurance and

securities supervisors. Finansinspektionen has not received any foreign supervisory requests relating to AML/CFT. There are no indications that co-operation is ineffective; however, comprehensive statistics should be maintained in order to evaluate properly the effectiveness of the systems for information exchange.

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).

Forty Recommendations	Rating	Summary of factors underlying rating
Legal systems		
1. ML offence	LC	• Self-laundering is not covered, and the evaluation team could not confirm that this was due to fundamental principles as defined by the FATF. • The ancillary offences of conspiracy to commit and attempt are not available for the basic offence of money laundering. • The evaluation team concluded that the offence is not effectively implemented; generally, only charges for predicate offences are pursued, and there are a limited number of convictions for money receiving.
2. ML offence – mental element and corporate liability	LC	• The evaluation team concluded that the offence is not effectively implemented; generally, only charges for predicate offences are pursued, and there are a limited number of convictions for money receiving and petty money receiving. Moreover, penalties imposed in these cases were low.
3. Confiscation and provisional measures	LC	• Confiscation and related provisions need to be used more effectively, and there should be a greater focus on taking action to seize and confiscate the proceeds of crime.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	LC	• Sweden's statutes generally do not inhibit the implementation of the FATF Recommendations, but the varying interpretations within the private sector of the duty of confidentiality as defined in the many statutes has lead, in practice, to less information sharing than would be optimal.
5. Customer due diligence	PC	• Although Sweden has implemented customer identification obligations, it has not implemented full customer due diligence (CDD) requirements. • The CFT Act does not cover within its scope investment companies, and the AML/CFT legislation does not cover certain credit card companies. • As the existing regulations were implemented in July 2005, there is little evidence of their effectiveness. • Guidance relating to KYC is only indirectly enforceable for financial institutions. • There are numerous exemptions to the requirements related to customer identification, which appear overly broad. • There is no specific requirement to check customer identity when there are doubts as to the veracity or adequacy of previously obtained customer identification data nor when the preconditions of SR VII are met. • There are similarly insufficient requirements to ascertain the beneficial owner, including: no general requirement to identify and verify the identity of the beneficial owner; no direct requirement for financial institutions to determine whether the customer is acting on behalf of another person (only when doubts arise as to whether the customer is acting on his/her own behalf), and if so, identify that other person; no requirements to take reasonable measures to determine the natural person with ownership or control over a legal person. • There are only to a limited extent and in indirectly enforceable guidance recommendations regarding the purpose and nature of the business relationship, ongoing CDD, enhanced CDD or conducting CDD on existing customers. • There are no regulations that clearly address the timing of verification, even if the

		Swedish practice may reflect the FATF recommendations in this area. • Financial institutions have indicated that they face significant obstacles both not to open accounts when satisfactory CDD cannot be completed and to terminate a business relationship with a customer.
6. Politically exposed persons	NC	• Sweden has not implemented any AML/CFT measures concerning the establishment of customer relationships with politically exposed persons (PEPs).
7. Correspondent banking	NC	• Sweden has not implemented any AML/CFT measures concerning establishment of cross-border correspondent banking relationships.
8. New technologies & non face-to-face business	LC	• Sweden has legislation and regulation concerning non-face to face business relationships, but no specific requirement that financial institutions have policies in place to deal with the misuse of technological developments. However, it is implied in the risk analysis and assessments that this should be done according to the AML/CFT General Guidelines.
9. Third parties and introducers	N/A	• Although financial institutions do rely on outside agencies to perform CDD for them, this is only done in the context of outsourcing agreements that must be performed under contract, and thus this falls outside the scope of Recommendation 9.
10. Record keeping	LC	• There is no requirement in law or regulation that customer identification records must be made available on a timely basis; however, indirectly enforceable guidelines generally cover this area.
11. Unusual transactions	LC	• Sweden does not require that the findings regarding the scrutiny of certain transactions be kept for five years: Under the Money Laundering Registers Act, financial institutions *may* keep records of STRs filed, but they must delete them after one year if there is no further investigation of money laundering, an investigation has been discontinued, or there has been a preliminary hearing which did not result in a prosecution (section 6).
12. DNFBP – R.5, 6, 8-11	PC	• The scope of the DNFBPs that are subject to the AML Act is not adequate: it does not apply to company service providers and some accountants. • As the DNFBPs are not subject to Finansinspektionen's regulations or the CFT Act, many of the requirements that Swedish financial institutions are subject to that correspond to criteria under Recommendation 5 do not correspond to this sector. • There is no direct obligation to monitor all unusual, large transactions or transactions with no visible economic purpose, and make out findings in writing. Records of reported suspicious transactions must be deleted after one year. • For these sectors, the effectiveness of the implementation of Sweden's current laws can be improved. The effectiveness is further reduced by the fact that there is no designated authority to monitor or impose sanctions for non-compliance.
13. Suspicious transaction reporting	PC	• The obligation to report suspicious transactions related to terrorist financing does not extend to investment funds and the AML/CFT obligation does not cover certain credit card companies. • The scope of the terrorist financing offence (which does not specifically include funds to be used by a terrorist organisation or an individual terrorist for any purpose) could limit the scope of the reporting requirement for terrorist financing STRs. • The large majority of STRs have been filed by a small number of financial institutions; only approximately half of the banks reported suspicious transactions in 2004. • The assessors had several concerns regarding the lack of effective implementation of this Recommendation.
14. Protection & no tipping-off	C	This Recommendation is fully observed.
15. Internal controls, compliance & audit	LC	• Certain details (access to information for the compliance officer and establishment of an independent audit function), which are laid in indirectly enforceable guidelines for licensed institutions, are not currently enforceable for registered financial institutions (money remittance and exchange companies, deposit companies). • There is no legal obligation on reporting financial institutions to establish screening procedures to ensure high standards when hiring employees.
16. DNFBP – R.13-15 &	PC	• There are concerns about the scope of application of AML obligations: measures do

21		not apply to company service providers, and the non-regulated sector of accountants. • CFT obligations (including an obligation to report an STR related to FT) do not apply to any DNFBP. • It is not required that STRs must be filed to the FIU "promptly." • The possibility for advocates, associate lawyers at law firms and auditors to disclose any information 24 hours after the moment an investigation has been started, information has been handed over to the police or the police has started a formal preliminary investigation does not comply with the requirements of Recommendation 14. • There are also some concerns with regard to the compliance with Recommendation 15 and 21, since there is no requirement to designate a person responsible for implementing the AML/CFT obligations and there are no rules with regard to NCCTs or other countries which have not implemented an effective AML/CFT system.
17. Sanctions	LC	• The range of administrative sanctions that can be imposed on registered financial institutions is limited; it is currently limited to rectification orders and de-registration. • For investment companies, securities companies, deposit companies, money exchange and money remittance businesses, there are no sanctions that can apply to directors or senior managers. • For banks/credit institutions and insurance companies, board members and managing directors may be removed from office. However, there are not sanctions for other senior management, and there are no other administrative penalties (fines) or criminal sanctions available.
18. Shell banks	PC	• There is no legally binding prohibition on financial institutions to enter or continue correspondent banking relationship with shell banks nor is there any obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used by shell banks.
19. Other forms of reporting	PC	• Sweden has not adequately considered the feasibility and utility of implementing a system whereby financial institutions report all transactions in currency above a fixed threshold to a centralised agency with a computerised database.
20. Other NFBP & secure transaction techniques	C	This Recommendation is fully observed.
21. Special attention for higher risk countries	PC	• There are currently no measures to ensure that institutions are advised about concerns about weaknesses in the AML/CFT systems of other countries. • Sweden issues advisories regarding countries against which appropriate countermeasures would apply due to the countries continuing not to apply or insufficiently applying the FATF Recommendations. These advisories do not constitute a legally binding requirement.
22. Foreign branches & subsidiaries	PC	• There is no direct obligation for foreign branches and subsidiaries to observe AML/CFT measures consistent with Swedish requirements and the FATF recommendations to the extent that host country's laws and regulations permit; there is an indirectly enforceable obligation to "endeavour" to establish common group policies. • There is no requirement that particular attention be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations and that the higher standard be applied in the event that the AML/CFT requirements of the home and host countries differ. • It is only indirectly binding that Finansinspektionen be informed if the financial institution's internal regulation regarding AML/CFT can not be applied because of deficiencies in the host country's laws and regulations.
23. Regulation, supervision and monitoring	PC	• It is currently not possible to apply the provisions of the CFT Act to investment companies, and certain credit card companies are not subject to the legislation or supervised. • There is no fit and proper test for the senior management (other than the board of directors and managing director) of licensed financial institutions or for to registered financial institutions in order to prevent criminals from gaining control or significant influence. • The limited resources and the focus Finansinspektionen has on larger financial

		groups with regard to AML/CFT issues may be negatively influencing the effectiveness of the overall AML/CFT supervision. • Natural and legal persons providing money exchange or money remittance services are not subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. On-site inspections to verify compliance are not allowed. In addition, it is unclear if all informal money value transfer systems are currently within the scope of the Swedish legislation and supervision • The quality of supervision of MVTS providers and money or currency exchange services is not sufficient due to limited on-going monitoring powers for these entities.
24. DNFBP - regulation, supervision and monitoring	NC	• Overall, the supervisory bodies of the different sectors are not designated as authorities, which have any responsibility for the AML/CFT regulatory and supervisory regime. • There are no administrative sanctions available specifically dealing with DNFBPs for breaches of AML/CFT obligations. • Dealers in precious metals and stones are not monitored by any authority; trust and company service providers are not subject to AML/CFT Acts nor monitored by any authority. • Legal professionals who are not members of the Bar Association, and accountants who are not registered by the Supervisory Board of Public Auditors are not monitored or supervised for compliance with AML/CFT obligations and are not subject to administrative sanctions. There is no indication that Sweden has considered this issue following a risk-based approach. • The supervisory powers of the Gaming Board (Casinos) are too limited. • The supervisory authorities of the DNFBPs should initiate a more proactive and consequent supervision with regard to compliance with AML obligations.
25. Guidelines & Feedback	LC	<u>Financial institutions: Guidelines and feedback on STRs</u> • The FIU and Finansinspektionen have not given adequate guidance to assist entities in implementing and complying with STR requirements, although efforts area already underway to improve this. • General feedback given by the FIU and Finansinspektionen would be more helpful if it were industry-specific. <u>Financial Institutions: Guidelines on AML/CFT other than STRs:</u> • The guidelines issued by Finansinspektionen are relatively complete in terms of current Swedish legislation but would be improved if sector-specific guidance were provided, and will need to be further supplemented if they are to set out full guidance that comprehensively meets the new FATF Recommendations. <u>DNFBPs</u> • AML guidelines have not been issued for casinos, real estate agents, or company service providers. • Appropriate CFT guidelines also need to be issued for DNFBPs.
Institutional and other measures		
26. The FIU	LC	• The time limits for storing data in the money laundering database (6 months/3 years) cause serious concerns and impede the overall effectiveness of Sweden's FIU and AML/CFT system. • The FIU does not currently give adequate guidance to reporting parties on the manner and procures for reporting, which reduces the quality of the reports. • The FIU is overburdened by the large number of threshold reports which contain no other suspicion. • The reliance on manual processes and the shortage of resources diminish the effectiveness of the FIU.
27. Law enforcement authorities	LC	• Legal measures appear comprehensive; however, insufficient attention is paid to pursuing money laundering offences, and there is little evidence of the effectiveness of the regime for investigating or prosecuting ML.
28. Powers of competent authorities	C	This Recommendation is fully observed.

29. Supervisors	LC	• The powers of the supervisory authority to monitor and ensure compliance by registered financial institutions (deposit companies, money remittance and money exchange) are too limited; it should be possible to conduct on-site inspections of these institutions. • The number of on-site inspections solely devoted to AML/CFT should be increased. • Investment companies are not within the scope of the CFT Act and certain credit card companies are not subject to the legislation or supervised. • For certain financial institutions meeting the FATF definition but not under the supervision of Finansinspektionen (i.e., certain credit card companies if they offer less than a 45-day credit extension), there is no supervisor and no enforcement powers or sanctions available.
30. Resources, integrity and training	PC	<u>FIU</u> • There is a need for more staff in general, and in particular, analysts within the FIU. • Improved tools and resources to enhance analysis are needed. <u>Police/Prosecution</u> • More education and training of law enforcement authorities in ML/FT offences is needed. • The total resources for ML/FT investigation need to be reviewed. <u>Supervisors</u> • Finansinspektionen does not seem to have sufficient resources to supervise compliance with AML/CFT obligations.
31. National co-operation	LC	• It is unclear how effective coordination is at targeting money laundering or terrorist financing specifically, as these types of cases are only pursued on a limited basis. • While some policy co-ordination exists, it appears mainly reactive and could be improved.
32. Statistics	PC	• Sweden does not review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis. • No statistical information is available concerning the ML/FT investigations and prosecutions. • No statistics available for the number or amount of property frozen or seized. Although there is a total amount indicated of the value of property confiscated, there is no indication of the underlying predicate offences. Data is generally limited. • Sweden should be able to breakdown ML/FT suspicions and offences. In addition, there should be separate statistics for FI and DNFBP. • There were no statistics available on mutual legal assistance and extradition requests (including requests relating to freezing, seizing and confiscation) that are made or received, relating to ML, the predicate offences and FT, including the nature of the request, whether the request was granted or refused, and the time that was required to respond. • Sweden does not maintain adequate statistics concerning the number of formal requests for assistance made to or received by the FIU from foreign counterparts; only the FIU has statistics on so called support cases. No statistics are maintained on spontaneous referrals made by the FIU to foreign authorities. There are no statistics available on law enforcement requests relating to AML/CFT.
33. Legal persons – beneficial owners	PC	• The law does not require that information on beneficial ownership be collected or made available; the system does not provide adequate access to up-to-date information on beneficial ownership in a timely manner. • The majority of foundations do not need to be registered, and therefore relevant information is not collected on those entities.
34. Legal arrangements – beneficial owners	N/A	Trusts are not recognised under Swedish law. There are no other legal arrangements similar to trusts that exist in Sweden
International Co-operation		
35. Conventions	LC	• **Implementation of the Palermo Convention:** Article 6(2)(e) of the Convention obligates countries to make self-laundering an offence unless it is contrary to fundamental principles of domestic law. Self-laundering is not an offence in Sweden, but this cannot be justified on the basis of its being contrary to the Swedish

		fundamental law. • **Implementation of the Terrorist Financing Convention**: Article 18(1)(b) of the Convention, which requires countries to implement efficient measures to identify customers in whose interest accounts are opened is insufficiently implemented. Sweden's implementation of Recommendation 5 does not include adequate measures to ascertain the identity of beneficial owners.
36. Mutual legal assistance (MLA)	LC	• Since dual criminality is required, it is not clear how effectively Sweden could execute coercive measures relating to requests involving conspiracy to commit basic money laundering and collecting/providing funds/assets to be used by a terrorist organisation or individual terrorist.
37. Dual criminality	C	This recommendation is fully observed.
38. MLA on confiscation and freezing	LC	• Sweden has not considered establishing an asset forfeiture 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. • The requirement for a treaty or agreement could limit the number of countries for which Sweden could execute a confiscation order, although as most requesting states are parties to international conventions, this does not appear to be a problem in practice. • Relating to requests from European countries not parties to certain international agreements, foreign judgments cannot be executed for someone not domiciled in Sweden, although this does not appear to be a problem in practice.
39. Extradition	C	This Recommendation is fully observed.
40. Other forms of international co-operation	C	This Recommendation is fully observed.
Nine Special Recommendations	**Rating**	**Summary of factors underlying rating**
SR.I Implement UN instruments	LC	• **Implementation of the Terrorist Financing Convention:** Article 18(1)(b) of the Convention, which requires countries to implement efficient measures to identify customers in whose interest accounts are opened is insufficiently implemented. Sweden's implementation of Recommendation 5 does not include adequate measures to ascertain the identity of beneficial owners. • **Implementation of S/RES/1267 (1999) and S/RES/1373(2001):** Sweden has implemented both resolutions mainly through EU Regulations; however the regulations do not cover EU internals, and there is not a national system for listing procedures under S/RES/1373.
SR.II Criminalise terrorist financing	LC	• Current law does not specifically criminalise the collection or provision of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. • Sanctions for the terrorist financing offence are not effective, dissuasive and proportionate.
SR.III Freeze and confiscate terrorist assets	PC	• Within the context of S/RES/1373, Sweden does not have a national mechanism to consider requests for freezing from other countries (outside the EU mechanism) or to freeze the funds of EU internals (citizens/residents); • At the time of the on-site visit, very little guidance had been issued to financial institutions and other persons/entities that may be holding targeted funds/assets. • Due to some concerns about the scope of the terrorist financing offence, it is unclear how Sweden would be able to freeze funds or other assets where the suspect is an individual terrorist or belongs to a terrorist organisation (where that person or organisation is not already a designated person by the UN or the EU). • At the time of the on-site visit, the definition of funds in the EU Regulations did not fully cover the terms in SR.III. (It does not explicitly cover funds owned, *directly or indirectly*, by designated persons, or those controlled (but not owned) directly or indirectly, by designated persons), although in practice this did not present a problem and any potential loophole has been clarified.

SR.IV Suspicious transaction reporting	LC	• The scope of offences in the CFT Act does not specifically include funds to be used by individual terrorists or terrorist organisations; so transactions involving such funds would not be reportable under the CFT Act's STR provisions. • The obligation to report suspicious transactions related to terrorist financing does not extend to either investment funds or certain credit card companies. • The assessors had several concerns regarding the lack of effective implementation of this Recommendation.
SR.V International co-operation	LC	• Since dual criminality is required, it is not clear how effectively Sweden could execute coercive measures relating to requests, either for mutual legal assistance or for extradition involving collecting/providing funds/assets (for any purpose) to be used by a terrorist organisation or individual terrorist.
SR.VI AML requirements for money/value transfer services	PC	• There is no requirement for MVT service operators to maintain a current list of their agents and to make this available to the designated competent authority. • In general, Sweden should take immediate steps to properly implement Recommendations 5-7, SR VII, and other relevant FATF recommendations, and to apply them also to MVTS providers. • There are also specific problems in the MVTS sector relating to the effectiveness of supervision and sanctions. There is no authority to conduct on-site inspections, and the range of sanctions is too limited.
SR VII Wire transfer rules	NC	• Sweden has not implemented SR VII.
SR.VIII Non-profit organisations	PC	• Sweden has not yet finished a review of the laws and regulations that relate to non-profit organisations (NPOs) that may be abused for the financing of terrorism. • Sweden has not implemented measures to ensure that terrorist organisations cannot pose as legitimate NPOs, or comprehensive measures (outside of the voluntary membership in SFI) to ensure that funds/assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations. • The system is further weakened by the fact that Recommendation 5 has not been implemented with regards to beneficial ownership.
SR.IX Cross Border Declaration & Disclosure	NC	• Currently, there is no obligation to declare or disclose cash or bearer negotiable instruments while entering or leaving Swedish territory.

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 & 32)	• Swedish authorities should criminalise *self-laundering*. • Another potential challenge to prosecution is the requirement to prove a purpose of intent to conceal the origin of the assets in Sections 6a (1) (2). Authorities should consider removing this purpose element, insofar as this is not contrary to the constitutional principles or basic concepts of the legal system. • The authorities should extend the ancillary offences for basic instances of the criminal offence of money laundering, including conspiracy to commit and attempt. • Sweden should ensure that the ancillary offence of conspiracy covers the full range of profit-generating activities in which criminal groups engage, or Sweden should specifically criminalise participation in an organised criminal group. • The authorities should institute higher penalties for the criminal offence of money laundering and develop a more pro-active approach to prosecuting money receiving offences. • Currently the mental element of suspicion is generally covered in the provisions for "petty receiving", since it covers situations where the defended suspected the illicit origin of the proceeds. (This is also stated in the preparatory works of the legislation.) However, Swedish authorities could also consider applying these elements to the basic offence and/or increasing the penalties for petty receiving. The authorities of Sweden should expand the system to be able to more effectively apply a "corporate fine" to legal persons.

Criminalisation of Terrorist Financing (SR.II, R.32)	• Sweden should amend its legislation to specifically cover collecting or providing of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. • Authorities should also provide higher penalties, which would take into account the grave nature of the offences.
Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	• The authorities should consider providing stronger provisional measures of freezing of property to prevent any dealing, transfer or disposal of property subject to confiscation. For example, the system could be strengthened by the removal of the need to demonstrate a reasonable cause to anticipate flight or removal of property. • Sweden should also consider whether a specific, focussed multi-disciplinary body should be created that focuses on confiscation and related measures. • The authorities should consider providing additional training and encourage focus of the law enforcement authorities to trace and look for assets when investigating any type of crime and seize funds and other property on a regular basis whenever possible, with the emphasis in cases of ML and FT.
Freezing of funds used for terrorist financing (SR.III, R.32)	• Sweden should implement a national mechanism to give effect to requests for freezing assets and designations from other jurisdictions and to enable freezing funds of European citizens/residents. • The Swedish authorities should also enact measures that would allow for the possibility of freezing funds or other assets where the suspect is an individual terrorist or belongs to a terrorist organisation, where that person or organisation is not already a designated person. • The Swedish authorities should establish an effective system for communication among governmental institutions and with the private sector (and the like) to facilitate every aspect of the freezing/unfreezing regime within Sweden. • The Swedish authorities should consider providing more clear and practical guidance to financial institutions that may hold terrorist funds concerning their responsibilities under the freezing regime and clarify the procedure for authorising access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S/RES/1452(2002). Clear communication channels for providing feedback between the government and financial sector may be considered.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	• It is recommended that Sweden allocate more staff to the FIU as soon as possible. When hiring staff to the FIU, there is a need to review composition of the specialists in the FIU; for instance, for the provision of more analysts. • Sweden should make the changes needed in the legislation to remove the time limits and allow for automatic storing for at least five years of all STRs from reporting entities. • Sweden should follow through on its project of a new register in order to enable larger electronic reporting for the reporting parties. • In general, it is recommended that the FIU take a more active role in guiding reporting parties to improve the quality of reporting and reduce the high number of threshold reports. The FIU should also broaden its attention beyond the scope of examining mainly tax matters and devote itself to the whole scale of ML/FT offences. Therefore, more training in these areas is recommended, and co-operation with investigative and law enforcement authorities can be enhanced. • Sweden should also be able to breakdown the number STRs by ML/FT suspicions and offences. In addition, there should be separate statistics for FI and DNFBPs, as at least for 2005 the statistics do not separate between these two sectors.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	• The Swedish government should develop a more pro-active approach to pursuing money laundering and terrorist financing charges. • A stronger focus on proceeds of crime and understanding of ML process by investigators is needed. Education and training of law enforcement authorities in ML/FT offences should be improved. Changes to allow for prosecution of self-laundering and to allow prosecutors more flexibility to pursue ML and FT charges are also recommended. • It is recommended that Swedish authorities review the adequacy of total resources allocated to ML investigation. The resources for different investigative methods should also be reviewed; for example, the lack of people in e.g. surveillance teams was said to be a problem. • Sweden should collect statistics on a systematic basis concerning the ML/FT investigations, prosecutions, convictions and types of sanctions (criminal and administrative) imposed for ML/FT as well as on property frozen, seized or confiscated.

Cross Border declaration or disclosure (SR.IX)	• Sweden should adopt legislation and implement measures conforming to the requirements of SR.IX
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	• Sweden should conduct a risk assessment of the financial sector in order to identify areas of higher and lower AML risk.
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	• Sweden should engage with the private sector to promote full compliance with its existing regulations. • Sweden should implement as mandatory requirements (some of them by law or regulation) the following missing elements of Recommendation 5 as a matter of priority: o Financial institutions should be required to undertake full CDD measures; o Financial institutions should be required to perform customer identification when there are doubts as the veracity of the previously obtained customer or when required under SR VII; o Financial institutions should be required to extend the identification and verification measures regarding the identity of the beneficial owner; o Financial institutions should be required to inquire as to the purpose and intended nature of the business relationship in extension to what is said in the AML/CFT general guidelines on KYC; o Ongoing due diligence on the business relationship should be required in extension to what is said in the AML/CFT general guidelines on KYC; o Enhanced due diligence for higher risk categories of customer, business relationship or transaction should be required in extension to what is said in the AML/CFT general guidelines on KYC; o The timing of verification should be regulated; o Financial institutions should not be permitted to open an account when adequate CDD has not been conducted; o Extension of what is said in the AML/CFT general guidelines concerning rules governing the CDD treatment of existing customers on the basis of materiality and risk. • Sweden should also include investment fund companies within the scope of the CFT Act and all means of payment, including the credit card companies like American Express that are not currently covered, should also be placed within the scope of the AML and CFT Acts and regulations. • Where guidelines may be enforced for licensed financial institutions, Sweden should introduce corresponding, enforceable obligations for registered financial institutions (money exchange, remittance, and deposit companies). • It is recommended that Sweden engage all aspects of the private sector to develop regulations and guidance that are responsive to the unique realities and vulnerabilities of each part of the financial sector. • Sweden should address whether or not financial institutions should be permitted to apply simplified or reduced CDD measures, and issue appropriate guidance. • Sweden should require financial institutions to refuse to open accounts either when it is not possible for the financial institution to complete CDD. • Measures should be mandated to fully implement Recommendations 6 and 7. • Sweden has a regulation that addresses the issue of non-face to face transactions, but there is no clear general guidance regarding emerging technological developments. Sweden should continue addressing this issue.
Third parties and introduced business (R.9)	
Financial institution secrecy or confidentiality (R.4)	• Sweden should consider explicitly allowing for the sharing of information within a business operation, like a business conglomerate offering multiple financial services to its customers, in order to provide the clarity needed for the private sector that would promote free information exchange for commercial purposes.
Record keeping and wire transfer rules (R.10 & SR.VII)	• Sweden should create an obligation in law or regulation to require that customer identification records must be made available on a timely basis. • Finansinspektionen should also ensure through on-site examinations or another regulatory tool that the record keeping requirements of the AML Act and Finansinspektionen regulations are being fully complied with by the private sector. • Sweden should implement SR VII.
Monitoring of transactions and	• Since guidance is not enforceable for registered financial institutions (money exchange and

relationships (R.11 & 21)	remittance companies, deposit companies), Sweden should create enforceable obligations for these institutions to implement the specific requirements of Recommendations 11 and 21. • Sweden should consider implementing more directly enforceable obligations that would explicitly require financial institutions to pay attention to all complex, unusually large transactions and transactions with no visible economic purpose and make the findings out in writing. • Sweden should create an obligation to keep the findings of these examinations available for at least five years and make them available to competent authorities. • Sweden should also make more mandatory the specific obligations of Recommendation 21. • Finansinspektionen should continue to promote effective implementation of that guidance within the private sector.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	• *Recommendation 13 and Special Recommendation IV:* o Sweden should extend the scope of its reporting requirement to the remaining financial institutions in the FATF definition not currently covered by the AML Act (i.e., other means of payment including services like American Express) and the CFT Act (investment companies). o Sweden should also amend the CFT Act to ensure that the reporting obligation would not exclude transactions related to funds to be used by a terrorist organisation or an individual terrorist. o Sweden should continue to work with the financial sector to improve the total percentage of reporting entities and improve the overall quality of the reports filed. o Finansinspektionen and the FIU should continue outreach to the private sector and provide better general and specific guidance. • *Recommendation 19*: Sweden should give further consideration to the feasibility of a system whereby financial institutions report all transactions in currency above a fixed threshold to a central agency with a computerised database. • *Recommendation 25:* o Sweden should consider providing sector-specific feedback, which might make the STR system more effective. o Finansinspektionen and the FIU should continue to identify red flag indicators and models of suspicious transactions that they can share with the private sector, along with examples of what constitutes helpful and informative suspicious transaction reports, to aide the private sector in complying with the obligation to file STRs.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	• *Recommendation 15:* o Sweden should expand the coverage of AML Act and Finansinspektionen regulations to all issuers of means of payment. o Furthermore, it should be made a more direct obligation to allow the compliance officer timely access to all relevant information and to establish an independent audit function. o An obligation should be introduced to require financial institutions to establish screening procedures to ensure high standards when hiring employees. o Finally, where enforceable measures are created in guidance (access to information for the compliance officer and establishment of an independent audit function) for licensed financial institutions, corresponding obligations should be created for registered financial institutions (money exchange and remittance companies, and deposit companies). • *Recommendation 22:* o Sweden should consider implementing a more direct obligation to require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the Swedish requirements and the FATF recommendations. o Sweden should add provisions to clarify that particular attention has to be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations and that the higher standards have to be applied in the event that the AML/CFT requirements of the home and host countries differ.
Shell banks (R.18)	• Sweden should implement provisions with regard to a prohibition on financial institutions to enter or continue correspondent banking relationship with shell banks. • There should be an obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used

	by shell banks.
The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	• *Recommendation 17:* The range of administrative sanctions available for licensed institutions is generally broad but should be broadened to include a wider range of sanctions that could apply for senior management across the various financial categories. • The range of sanctions which can be imposed on registered financial institutions is limited and should be expanded. • It should also be noted that the different laws for registered institutions do not foresee any sanctions in case of a violation of the CFT Act. • *Recommendation 23:* It would be useful to clarify the need for a natural or legal person who conducts as a business the issuing or managing of means of payment (such as American Express) to apply for a license or a registration. The same concerns apply to the area of economic associations which have not yet been registered as deposit companies. • For licensing financial institutions, the fit and proper test should also apply to senior management. With regard to registered financial institutions it is recommended to have the ability to apply sanctions in case Finansinspektionen is not informed of changes regarding qualified holding and to introduce also a broader fit and proper test for the management. • It should be made possible to apply the provisions of the CFT Act to investment companies and to enforce guidelines in the AML/CFT Regulations/Guidelines to registered financial institutions. • The quality of supervision of MVTS providers and money or currency exchange services should be improved through an increased authority for on-going monitoring and increased resources of Finansinspektionen to allow focus on entities other than the larger financial groups. • *Recommendation 25:* Sweden should consider more sector-specific AML/CFT guidance, as well as other enhancements to the guidelines. • *Recommendation 29:* The powers of Finansinspektionen with regard to registered financial institutions are limited, and it could be more difficult to ensure full compliance. Finansinspektionen should be given the authority to conduct onsite inspections of deposit companies, money transfer service, money or currency changing service or other registered financial institutions • With regard to licensed institutions the sanction regime is limited to directors; a liability of the senior management should be introduced. • In general, the supervision with regard to the compliance with AML/CFT obligations should be founded on a risk-based approach. • Especially MVTS providers and foreign exchange offices which are deemed to be of a particular high risk in Sweden should be supervised more closely. • In general, the number of onsite inspections solely devoted to AML/CFT should be increased. • *Recommendation 30:* Finansinspektionen should increase the number of staff devoted to AML/CFT compliance. The current review of the staffing in the area of AML/CFT should lead to a higher number of employees focusing on this issue.
Money value transfer services (SR.VI)	• Sweden should review its legislation to ensure it adequately covers the full range of MVT service operators. • Sweden should also require all MVT service operators to maintain a current list of their agents which must be made available to the designated competent authority. • Sweden should broaden the inspection powers of these institutions and broaden the range of sanctions available for failure to comply with AML/CFT provisions. It should consider placing MVTS providers under the full supervision of Finansinspektionen. This could be deemed useful since Swedish authorities confirmed that these are high risk activities from an AML/CFT perspective. • In general, Sweden should also take immediate steps to properly implement Recommendations 5-7, SR VII, and other relevant FATF recommendations, and to apply them also to MVTS providers.
4. Preventive Measures – Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	• Company service providers and those accountants not currently subject to the AML Act should be brought into the AML regime. • Sweden should bring all DNFBPs into the scope of the CFT Act and adequate AML/CFT regulations.

	• *Applying Recommendation 5:* Casinos should be required to identify customers conducting transactions of 3,000 EUR (down from the current 15,000 EUR threshold) and keep records for at least five years. • *Applying Recommendations 6, 8, and 9*: Sweden should adopt measures to implement Recommendations 6, 8, and 9 and also apply them to all DNFBPs. • *Applying Recommendation 11:* Sweden should create a mandatory, direct obligation for DNFBPs to monitor all unusual, large transactions or transactions with no visible economic purpose, and make out findings in writing. These findings should be kept for at least five years.
Suspicious transaction reporting (R.16)	• *Applying Recommendation 13*: The AML Act should be amended to also cover company service providers and the non-regulated sector of accountants accordingly. • A main priority for the Swedish authorities should be to apply the requirements of the CFT Act to the DNFBPs as soon as possible. • It should be added to the AML Act that a report to the FIU has to be submitted promptly. It should also be considered to introduce an obligation for all supervisory bodies to report a STR to the FIU in the event that they become aware of any facts that may be indicative of money laundering or terrorist financing. • The Swedish authorities should also ensure that there are no open questions left with regard to the interpretation of the AML Act. • It should be avoided that the concept of self-incrimination in Article 6 in the European Convention for the Protection of Human Rights and Fundamental Freedoms becomes an excuse for not reporting a suspicion. This problem could be solved by introducing into the Swedish law the concept of active repentance. • *Applying Recommendation 14*: The allowance for advocates, associate lawyers at law firms and auditors to tip off (disclose any information 24 hours after the moment an investigation has been started, information has been handed over to the police or the police have started a formal preliminary investigation) should be amended. • *Applying Recommendation 15*: DNFBPs should be required to designate a person responsible for implementing the AML/CFT obligations. Such an obligation (at least in the case of larger structures) and more detailed rules with regard to internal control mechanism might seem appropriate. • *Applying Recommendation 21*: DNFBPs should also be required to give special attention to businesses with non-cooperative countries and other countries with weaknesses in their AML/CFT systems. • The Swedish authorities should continue to undertake information campaigns directed at the DNFBPs to clarify their obligations especially with regard to the duty to make suspicious transaction reports.
Regulation, supervision and monitoring (R.24-25)	• The Swedish government should formally designate authorities to have responsibility for the AML/CFT regulatory and supervisory regime and allow the full range of administrative sanctions to be applied for AML/CFT breaches. • These authorities should also be allowed to issue binding guidelines since these sectors would need more guidance concerning how to properly implement the AML. • The DNFBPs sectors should be brought into the scope of the CFT Act so that compliance with these obligations will be mandatory and monitored. • With regard to casinos, the Gaming Board or another authority should be provided adequate powers to enforce sanctions. • An authority should be designated to monitor and supervise dealers in precious metals and stones for compliance with AML/CFT obligations. • Trust and company service providers should be brought within the scope of the AML Act and properly monitored for AML/CFT obligations. Furthermore, it should be considered how legal professionals who are not members of the Bar Association and accountants who are not registered by the Supervisory Board of Public Accountants may be monitored with regard to AML/CFT. • *R.25:* For sectors where AML guidelines do not yet exist, the appropriate SRO or other authority should issue appropriate AML guidelines as soon as possible. Appropriate CFT guidelines also need to be issued for DNFBPs
Other designated non-financial businesses and professions (R.20)	• Sweden should continue to take measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering especially with regard to the increase of cash withdrawals which has

	been observed by the FIU.
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	• Sweden should broaden the system to require information on beneficial ownership/control to be supplied to the CRO and/or recorded by the legal entity itself to ensure that it is made readily available on a more timely basis, and to require the information to be kept up to date. • The system for registering foundations would be improved if the information collected were centralized, possibly at the Companies Registration Office. • Sweden should consider broadening the registration and/or recordkeeping requirements for foundations (to also apply to those of a smaller size, family foundations, and foundations for the benefit of one person) to ensure that adequate information on ownership and control is available to competent authorities.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	
Non-profit organisations (SR.VIII)	• Swedish authorities should also consider strengthening coordination between non-profit sector oversight/regulatory bodies, law enforcement and security agencies, the FIU, and financial system regulators. • Sweden should implement measures to ensure that terrorist organisations cannot pose as legitimate NPOs. Sweden should implement broader measures to ensure that funds or other assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations. • Swedish authorities should consider providing guidance to financial institutions with regard to CDD and suspicious transaction reporting where the client is an NPO.
6. National and International Co-operation	
National co-operation and coordination (R.31 & 32)	• Co-operative projects could more specifically target money laundering and terrorist financing issues. There is also some co-ordination and co-operation at the policy level; however, a more pro-active approach to policy co-ordination on AML/CFT issues is recommended. • Sweden should review the effectiveness of its systems for combating money laundering and terrorist financing on a regular basis.
The Conventions and UN Special Resolutions (R.35 & SR.I)	• Sweden should strengthen its money laundering offence by including self-laundering as required by the Palermo Convention. • Sweden should enact more effective, proportionate and dissuasive sanctions, and review its conspiracy provisions to ensure that conspiracy applies to the range of criminal acts in which criminal groups engage. • Sweden should enact stronger measures for customer identification so as to be more fully compliant with Article 18 of the CFT Convention.
Mutual Legal Assistance (R.36-38, SR.V, and R.32)	• In order to ensure that coercive measures could consistently be applied, Sweden should specifically criminalise the following types of ML/FT activities: (i) conspiracy for basic money laundering offences; and (ii) collecting or providing funds/asset where the funds/assets are to be used by a terrorist organisation or individual terrorist. • Although there does not currently appear to be any difficulty enforcing foreign criminal judgements in practice, in order to avoid any future difficulties, Sweden should consider broadening the provisions of the 1972 Act on International Co-operation in the Enforcement of Criminal Judgments so that a treaty or other agreement with a foreign country is not needed and that would allow for a European confiscation order to be enforced, absent an international agreement, for someone not domiciled in Sweden. Sweden could also consider streamlining the system so that a Swedish court decision is not required before beginning proceedings. • Sweden should consider establishing an asset forfeiture 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. • Sweden should keep statistics concerning: (i) the nature of mutual legal assistance requests; (ii) whether the mutual legal assistance request was granted or refused; (iii) what crime the request was related to; and (iv) how much time was required to respond to the request.

Extradition (R.39, 37, SR.V & R.32)	• Sweden should ensure that the execution of the declaration of Sweden when signing the 1957 Convention on Extradition does not impede the processes of extradition of other nationals especially aliens who are residents of Sweden, to other countries. • To ensure that dual criminality does not impede extradition when the case involves FT activities, Sweden should specifically criminalise the collecting/providing funds to be used (for any purpose) by a terrorist organisation or individual terrorist. • Sweden should also collect and maintain statistics on: (i) the number of requests for extradition; (ii) the nature of the request; (iii) whether the request was granted or refused; (iv) what crime the request was related to; or (v) how much time was required to respond.
Other Forms of Co-operation (R.40, SR.V & R.32)	• Sweden should collect and maintain statistics concerning the number of requests made and received by the FIU and the law enforcement authorities, including the nature of the request, whether it was granted or refused and the time required to respond.