

**Austria: Report on 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 Austria was prepared by a staff team of the International Monetary Fund using the assessment methodology adopted by the FATF 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 staff team and do not necessarily reflect the views of the Government of Austria or the Executive Board of the IMF.

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**AUSTRIA**

**Report on Observance of Standards and Codes (ROSC)—FATF Recommendations for  
Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)**

Prepared by the Legal Department

Approved by Sean Hagan

June 2009

**ACRONYMS**

A-FIU	Austrian Financial Investigation Unit
AML	Anti-Money Laundering
BVT	Federal Agency for State Protection and Counter-Terrorism
CDD	Customer Due Diligence
CESE	Central, Eastern and Southeastern Europe
CFT	Combating the Financing of Terrorism
DNFBP	Designated Non-Financial Businesses and Professions
EEA	European Economic Area
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FMA	Financial Market Authority
FT	Financing of terrorism
GewO	Trade Act ( <i>Gewerbeordnung</i> )
IT	Information Technology
LEG	Legal Department of the IMF
ML	Money Laundering
NPO	Nonprofit organization
OeNB	Austrian National Bank ( <i>Oesterreichische Nationalbank</i> )
PEP	Politically Exposed Person
SR	Special Recommendation
STR	Suspicious Transaction Report

## A. Introduction

This Report on the Observance of Standards and Codes for the FATF 40 Recommendations for Anti-Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by the Legal Department of the IMF<sup>1</sup>. The report provides a summary of the AML/CFT measures in place in Austria and of the level of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the mission from September 15 through 30, 2008 and was conducted using the 2004 Assessment Methodology. The Detailed Assessment Report (DAR) on which this document is based was adopted by the FATF plenary on June 25, 2009. The views expressed here, as well as in the full assessment report, are those of the staff team, and do not necessarily reflect the views of the Government of Austria or the Executive Board of the IMF.

## B. Key Findings

1. The crime level in Austria is among the lowest in European Union (EU) Member States, and the authorities consider that the country's exposure to money laundering (ML) and financing of terrorism (FT) risks is limited. However, due to its geographical location and its historical ties with Central, Eastern and Southeastern Europe (CESE) countries, Austria may be used by foreign criminal organizations as a transit point for drugs and other trafficking, as well as a destination for criminal money, attracted by its reputation for political stability, tradition of banking secrecy, and attractive tax regime.
2. The authorities have designed and are implementing a comprehensive AML/CFT system, supported by well-developed federal administrative and supervisory bodies, and active professional organizations.
3. Criminalization of ML is generally in line with the FATF standards, and the legal framework provides for a wide range of confiscation and provisional measures. However, the low number of convictions for ML, low legal penalties and low amounts confiscated raise questions about the overall effectiveness of the system. Criminal provisions for the FT, although largely consistent with the 1999 United Nations (UN) Terrorist Financing Convention, do not cover the full range of activities covered by the FATF standard.
4. The transposition of the Third EU AML Directive resulted in a large overhaul, expansion and strengthening of the Austrian AML/CFT regime which now covers the broadest range of financial activities and designated non-financial businesses and professions (DNFBPs), except certain casinos. However, some provisions have to be brought more closely into line with the FATF standards, and overall, more time is needed before all requirements are fully implemented.

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<sup>1</sup> The assessment team consisted of: Alain Védrenne-Lacombe (team leader), Nadine Schwarz (co-team leader), Giuseppe Lombardo and Emmanuel Mathias (all of LEG); and Helen Hatton (Expert, Deputy Director General of the Jersey Financial Services Commission).

5. The supervisory system for financial institutions is generally sound and efficient. Licensing requirements and the regime of sanctions need to be strengthened, and additional resources should be allocated to supervisory bodies.
6. The Austrian Financial Investigation Unit (A-FIU) is an effective police unit, but it does not fulfill the suspicious transaction report (STR) analysis and dissemination functions of an FIU. Possible disclosure of information to the defendant, pursuant to the criminal procedure, may contribute to the overall low level of reporting.
7. Legal provisions and jurisprudence provide gateways for the authorities to obtain data protected by banking secrecy, but requests by public prosecutors are subject to restrictive conditions that financial institutions and legal professions may exploit to decline to supply information.
8. While the registration system is generally well-developed, access to beneficial ownership data of some non-profit organizations (NPOs), legal arrangements (*Treuhand*) and some legal persons, notably foundations and companies issuing bearer shares, is hindered.
9. Various *fora* have been established to ensure national cooperation and coordination. The deficiencies noted in the domestic legal framework slow down the provision of mutual legal assistance.
10. Key recommendations include: conduct a ML/FT risk assessment; align the criminalization of ML/FT with the standards; widen the scope of customer due diligence (CDD) obligations; ease legal requirements for authorities to have access to information held by financial institutions and legal professions; extend the functions of the A-FIU to analysis and dissemination; broaden the STR provisions; strengthen licensing requirements and available sanctions for financial institutions; align preventive measures for DNFBPs with the FATF standards; ensure adequate transparency of beneficial ownership of legal persons and legal arrangements.

### **C. Legal Systems and Related Institutional Measures**

11. The provisions which criminalize ML in Austria closely follow the Vienna and Palermo Conventions. The offense of ML extends to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime, and irrespective of the place where the predicate offense was committed. Predicate offenses include all serious offenses under Austrian criminal law, which cover all categories of offenses designated by the FATF, as well as a wide range of misdemeanors, with the exception of counterfeiting and piracy of products. It was not established that the non-criminalization of self-laundering is supported by fundamental principles according to the FATF standard.
12. The liability of natural persons is broader than required by the Conventions, and the general criminal liability has been enlarged to include legal persons and entities for all penal offenses.
13. The criminalization of the FT is consistent with the 1999 UN Terrorist Financing Convention, and addresses all activities, without considering the place where the offense was committed. However, it needs to be extended further to include in full the financing of terrorist organizations and individual terrorists, regardless of the use of the funds provided.

14. Prosecutorial units specialized in financial crime prosecution have been set up, and investigations are generally conducted by specific police units, the A-FIU for ML cases, and the Federal Agency for State Protection and Counter-Terrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung*; BVT) for FT cases.

15. The overall legal framework is fairly comprehensive, but questions remain regarding its effective implementation. Few convictions for ML have been obtained compared to the number of convictions for predicate offenses, in particular drug-related offenses, which are subject to investigations and convictions. Elements contributing to a smaller number of ML cases appear to be the non-criminalization of self-laundering, practical difficulties in establishing a link with a predicate offense, especially when those offenses are committed abroad, and prosecutors' practice of indicting ML under "participation" in the predicate offense. There were no convictions for FT between 2004 and 2007. Moreover, the AML/CFT sanction regime applicable to natural and legal persons needs to be strengthened further.

16. The legislation provides for a wide range of confiscation and provisional measures which apply to property that has been laundered or constitutes proceeds of any ML, FT or other predicate offenses. The mechanism applies to all property items in Austria, as well as to property of corresponding value. However, restrictive conditions to law enforcement's access to information and documents held by financial institutions and some DNFBPs limit its overall effectiveness. The legal regime for non-conviction based forfeiture of assets held by a criminal organization or a terrorist group is extensive, but has not been applied yet.

17. Measures to freeze funds or other assets of terrorists, those who finance terrorism and terrorist organizations are mainly implemented in Austria by European Council Regulations, which are directly applicable, and Council Common Positions which are enacted through Official Announcements of the Austrian National Bank (*Oesterreichische Nationalbank*, OeNB). However, the execution of directly applicable EU regulations presents some difficulties in regard to the freezing of non-financial assets, and there is also a need for additional guidance to the private sector on the freezing obligation.

18. Pursuant to their relevant laws and regulations, financial institutions and DNFBPs report suspicious activities to the A-FIU. STRs from reporting entities are dealt with in the same way as criminal complaints. The A-FIU conducts criminal investigations with full investigative powers and access to information. It does not perform two major functions required for an FIU by the international standard, i.e. analysis and dissemination of information. Moreover, the A-FIU is not responsible for FT cases, which fall within the responsibility of the BVT. The A-FIU maintains regular contact with reporting entities, providing general guidance and specific advice and feedback. This approach offers opportunities for efficient exchange of information.

19. The banking legislation sets out strict banking secrecy provisions, but legal provisions and jurisprudence provide gateways for the authorities to access protected information. Requests for information made to the financial institutions by the A-FIU acting on the basis of STRs are usually complied with, but court orders requested by the office of public prosecution are rejected if requests, in the view of financial institutions, do not provide substantive, material and adequate evidence that the legal conditions for disclosure are met, thus delaying access to information.

#### **D. Preventive Measures – Financial Institutions**

20. Since Austria's last evaluation, several measures have been taken to improve the overall AML/CFT framework: legislative and regulatory revisions and the implementation of the Third EU ML Directive resulted in a large overhaul, expansion and strengthening of the AML/CFT regime.

21. All persons and entities who conduct as a business in Austria one or more of the financial activities listed in the FATF definition of "financial institution" are subject to AML/CFT measures, which are set out in sector-specific laws. Following the transposition of the Third EU ML Directive, additional or new obligations have been incorporated into the Austrian legal framework relating to customer identification, the definition of beneficial ownership and the identification and monitoring of politically exposed persons (PEPs) and cross-border correspondent banks. A good level of effectiveness has been found not only in large international financial firms, but also in smaller financial institutions, in particular with respect to AML/CFT measures that have been in place for some years. However, the effective implementation of some new provisions, which came into force on January 1, 2008, could not be fully established, and some operational circulars are still pending.

22. Overall, the measures set out in the financial sector laws are generally in line with the FATF Recommendations. CDD requirements have been expanded and cover all customers and beneficial owners, whether natural or legal persons. They should nevertheless be expanded further by removing three exemptions, requiring additional CDD for beneficiaries of some smaller savings deposit accounts, and broadening the definition of a PEP. Financial institutions have developed and implemented strict selection procedures at the inception of business relationships, notably when they rely on intermediaries or third-parties to perform elements of the CDD process.

23. The revised legislation introduces a risk-based approach to CDD modeled on the provisions of the EU Directive. It requires financial institutions to conduct a risk-analysis of their business, apply risk-based CDD, and take appropriate measures to address higher risk situations. Financial institutions have initiated important programs to acquire and develop IT tools which are required to implement risk-sensitive monitoring. The authorities should consider conducting a ML/FT risk assessment to establish whether additional legal provisions are required to mitigate risks specific to Austria, such as bearer shares, personal asset holding vehicles, and private banking.

24. The legislation also calls for enhanced due diligence for specific risks singled out by the FATF standard, in particular non-face-to-face business, cross-border correspondent banking, and business with PEPs. However, the nature and scope of monitoring measures are not defined, but rather fall within the ambit of the risk-based approach, and are thus left to the discretion of financial institutions. Moreover, financial institutions should be specifically required to examine the background and purpose of transactions they view as unusual and record their findings in writing. The general requirement to maintain CDD records is fully in line with the standard.

25. Most of the STRs originate from "credit institutions" (which, in Austria, covers a number of financial institutions as defined in the standard in addition to banks), especially money transfer services. Pursuant to the criminal procedure, information may be disclosed to the defendant, after criminal proceedings have been initiated. Such disclosure may be a contributing factor to the overall level of reporting which, in Austria, is low. In November 2008, the authorities initiated an action plan for better protecting the anonymity of reporting entities and persons filing STRs.

26. Most categories of financial institutions are subject to broad obligations regarding the compliance management and internal audit functions, but these requirements need better focus to ensure adequate and comprehensive coverage of exposure to ML/FT risks. The compliance officer's seniority, independence and right to access CDD data and information, transaction records and other relevant information should be set out in the law.

27. The Financial Market Authority (FMA) has the overall responsibility for regulation, supervision and enforcement in the financial sector, but since January 2008, the OeNB has been entrusted with conducting offsite monitoring and onsite examinations of banks. The broad definition of banking activities subject a wide range of institutions to supervision, notably money or value transfers that can only be conducted by credit institutions. The licensing requirements and supervisory process would prohibit the establishment and operation of shell banks. However, there are concerns about the adequacy of the licensing process, especially in regard to the assessment of significant or controlling interests when the capital of a financial institution is in form of bearer shares. Fit and proper tests should also be applied to senior managers and all supervisory board members.

28. The increasing number of examinations, as well as meetings with senior management of supervised entities demonstrate that the FMA and the OeNB are taking steps to ensure closer AML/CFT supervision. Both authorities rely on external auditors to examine regularly all financial institutions, and confirm that AML/CFT controls are in place and operational. The capacity of both the FMA and the OeNB needs further strengthening and additional resources are required to enable their respective supervisory divisions to step up the number of onsite examinations and to cover all areas of ML/FT risk. The sanctioning regime does not appear to be sufficiently proportionate and dissuasive. In addition, the application of sanctions should be extended to all members of supervisory boards and senior management.

29. Local district authorities supervise domestic financial institutions that carry out limited specialized financial business. The legal provisions, that regulate the licensing, business, supervision and sanctioning of these institutions, are not sufficiently adapted to their activity and ML/FT risks.

#### **E. Preventive Measures – Designated Non-Financial Businesses and Professions**

30. Further to the Third EU AML Directive, all DNFBPs are covered in laws and regulations, and the range of covered activities goes beyond the FATF standard, to include all types of dealers, auctioneers and accounting professions. However, the preventive measures applicable to these businesses and professions need to be expanded and better tailored to their specificities. CDD requirements should be defined for all casinos operating in Austria, including internet casinos, while some legal ambiguities in the coverage of transactions performed by notaries, lawyers and accountants should be removed. The requirements for enhanced monitoring of higher risk categories or transactions called for by the FATF should be extended to the sector.

31. Although there is some level of awareness and effectiveness within the sector, implementation generally needs to be strengthened, especially for trust and company service providers (TCSPs), and new or revised guidelines need to be issued. In addition to the shortcomings identified for the financial sector, heightened professional secrecy provisions for lawyers, notaries and accountants may be contributing to the low level of reporting of suspicious transactions.



32. The supervisory system is generally in place for the sector, but it mostly lacks resources and expertise. The sanctioning regime, which appears to be proportionate and dissuasive for the lawyers and notaries, needs to be developed for the other professions.

33. Measures to reduce the reliance on cash appear insufficient, considering the important quantity of large denomination banknotes issued by the OeNB.

#### **F. Legal Persons and Arrangements & Non-Profit Organizations**

34. Austria mainly relies on a central registration of all types of legal persons, including foundations. However, access to relevant ownership information is hampered by several features of the system, notably limited requirements to register changes in ownership, the possibility for companies to issue bearer shares, and the option for private foundations to record beneficiaries' names in non-public appendixes to founding deeds.

35. The *Treuhand* is a very common feature of the Austrian economy. A partial registration system is in place which is limited to financial assets and is mandatory only for some of the trust service providers, i.e. lawyers and notaries. There are no measures to ensure the transparency of foreign trusts operated in Austria.

36. Obligations for NPOs to ascertain and maintain information about their ownership structure and transactions should be expanded.

#### **G. National and International Co-operation**

37. Mechanisms for domestic cooperation and coordination are institutionalized and embedded in the Federal Constitution. Various policy and operational *fora* have been established under the lead of the Ministry of Finance where national competent authorities exchange information on AML/CFT issues and coordinate their respective activities.

38. Austria has enacted legislation that encompasses all key requirements of the international conventions regarding mutual legal assistance, signed several bilateral treaties with neighboring states, and shortened domestic procedures to improve the processing of information requests. The country may provide a range of measures of mutual legal assistance in AML/CFT investigations, prosecutions and related proceedings initiated by other countries. The legal regime which applies to foreign requests for confiscation is comprehensive. The extradition framework is not entirely in line with the FATF standard and its effectiveness was not established. The provision of mutual legal assistance nevertheless suffers from some shortcomings. In particular, the strict requirements for lifting bank secrecy and the extensive scope of the legal privilege slow down the provision of mutual legal assistance.

39. Supervisory authorities have a fairly comprehensive regime for international cooperation on AML. Weaknesses have been identified regarding international cooperation on combating terrorism financing, with the A-FIU not being legally empowered to exchange information, and concerning international cooperation by law enforcement authorities, which lacks effectiveness.

## Summary Table of Observance and Key Recommendations

FATF 40+9 Recommendations <sup>2</sup>	Key Assessor Recommendations
<b>1. Legal System and Related Institutional Measures</b>	
<b>Criminalization of Money Laundering</b> <b>R.1: LC</b> <b>R.2: LC</b>	<ul style="list-style-type: none"> <li>- Criminalize self-laundering.</li> <li>- Make counterfeiting and piracy of products predicate offense to ML.</li> <li>- Undertake actions (awareness raising or training) that would alter the kind of proof currently deemed necessary to show that property is proceeds or that conduct resulted in proceeds so that it will not be necessary for a successful prosecution that the prosecutor provides evidence that a specific offence occurred or a specific perpetrator engaged in the conduct.</li> <li>- Increase the penalties set forth for natural persons by Article 165 of the Criminal Code and the minimum sanctions applicable in the case of legal persons.</li> </ul>
<b>Criminalization of Terrorist Financing</b> <b>SR.II: PC</b>	<ul style="list-style-type: none"> <li>- Extend the criminalization of FT in all instances envisaged in SR.II with reference to the financing of terrorist organizations and the individual terrorist, regardless of whether that financing is for criminal activities, legal activities or general support.</li> <li>- Extend the criminalization to the whole range of activities envisaged by Article 2, paragraph 5 (b) &amp; (c) of the 1999 International Convention for the Suppression of the Financing of Terrorism.</li> <li>- Increase the penalties set forth for FT</li> </ul>
<b>Confiscation, freezing, and seizing of proceeds of crime</b> <b>R.3: PC</b>	<ul style="list-style-type: none"> <li>- Ease the requirements for law enforcement authorities to obtain access to information held by financial institutions and lawyers and notaries.</li> <li>- Consider the changes that need to be made in order to ease the burden in establishing that an organization is a “criminal organization” or otherwise change provisions so that Article 20b of the Criminal Code, when applied in the case of property at the disposal of such organizations, is more readily enforceable.</li> <li>- Improve the effectiveness of the provisions by using them more frequently to restrain and confiscate criminal assets for ML, FT and predicate crimes, especially by making more use of forfeiture.</li> <li>- Maintain more precise statistics on amounts restrained and confiscated in each instance</li> </ul>
<b>Freezing of funds used for terrorist financing</b> <b>SR.III: PC</b>	<ul style="list-style-type: none"> <li>- Set up procedures within Austria that will ensure freezing without delay of assets other than funds (such as immovable goods, companies and businesses and vehicles).</li> <li>- Modify the OeNB regulations adopted pursuant to the Foreign Exchange Act in order to make possible freezing of funds and assets held by EU-internals in all instances set forth by SR.III.</li> <li>- Provide more guidance to the private sector, especially the non banking financial industry and DNFbps, on the freezing obligations stemming from the international standard.</li> </ul>
<b>The Financial Intelligence Unit and its functions</b>	<ul style="list-style-type: none"> <li>- Review the legal framework in order to clearly establish a Financial Intelligence Unit that serves as a national center for receiving, analyzing and disseminating</li> </ul>

<sup>2</sup> **Compliant (C)**: the Recommendation is fully observed with respect to all essential criteria.

**Largely compliant (LC)**: there are only minor shortcomings, with a large majority of the essential criteria being fully met.

**Partially compliant (PC)**: the country has taken some substantive action and complies with some of the essential criteria.

**Non-compliant (NC)**: there are major shortcomings, with a large majority of the essential criteria not being met.

**Not applicable (NA)**: a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country.

<p><b>R.26: PC</b></p>	<p>disclosures of STRs and other relevant information concerning suspected ML or FT activities.</p> <ul style="list-style-type: none"> <li>- Empower this FIU to analyze STRs, prior to any police or criminal investigation, with access to the financial, administrative and law enforcement information and authorization to obtain additional information from reporting parties.</li> </ul>
<p><b>Law enforcement, prosecution and other competent authorities</b> <b>R.27: C</b> <b>R. 28: LC</b></p>	<ul style="list-style-type: none"> <li>- Ease the requirements for law enforcement authorities to obtain access to information held by financial institutions and by lawyers and notaries.</li> </ul>
<p><b>Cross Border Declaration or disclosure</b> <b>SR IX: PC</b></p>	<ul style="list-style-type: none"> <li>- Subject to disclosure or declaration obligations the transportation of cash or other bearer negotiable instruments into/out of the municipalities of Jungholz and Mittelberg<sup>3</sup>.</li> <li>- Develop a computerized database for the storage of the information gathered through the declaration/disclosure process which should be used to build up intelligence to target cash couriers and to fight against ML/FT.</li> <li>- Assess the risk and develop a strategy for containing the ML/FT risk associated to the transportation of cash or other bearer negotiable instruments into/out the municipalities of Jungholz and Mittelberg<sup>4</sup>.</li> <li>- Enhance cooperation between the customs and the A-FIU and develop a system to enhance the reporting of cases of cross-border transportation to the A-FIU.</li> </ul>
<p><b>2. Preventive Measures: Financial Institutions</b></p>	
<p><b>Risk of money laundering or terrorist financing</b></p>	
<p><b>Customer due diligence, including enhanced or reduced measures</b> <b>R.5: PC</b> <b>R.6: LC</b> <b>R.7: LC</b> <b>R.8: LC</b></p>	<ul style="list-style-type: none"> <li>- Require that holders of savings documents for savings deposit accounts which balance is lower than EUR 15,000 and are not registered in the customer's name, be considered as beneficial owners and be subject to corresponding identification and verification obligations.</li> <li>- Extend CDD measures to customers that are credit and financial institutions established in EU member countries.</li> <li>- Remove the blanket exemption for fiduciary accounts below EUR 15,000.</li> <li>- Conduct ML/FT risk assessment and require enhanced due diligence measures with respect to business relationships and transactions that are of higher risk.</li> <li>- Issue guidelines on the extent of the CDD measures on a risk sensitive basis.</li> <li>- Request financial institutions to apply enhanced due diligence when a customer becomes a PEP after the establishment of the business relationship.</li> <li>- Apply the measures listed under 40b Paragraph. 1 no. 2 of the Banking Act to all correspondent banking, i.e. also with respect to European Economic Area (EEA) Member States.</li> <li>- Require financial institutions to have policies in place or to take measures to prevent the misuse of technological developments in ML/FT schemes.</li> <li>- Consider requiring banks to remove the fee charged for closing a savings deposit account.</li> </ul>

<sup>3</sup> The FATF recognizes the EU as a supranational jurisdiction for the purposes of SR.IX, and that physical cross-border transportations of currency/BNI within the borders of the EU are to be considered domestic.

<sup>4</sup> See footnote 3.

<p><b>Third parties and introduced business</b> R.9: LC</p>	<ul style="list-style-type: none"> <li>- Determine whether EU and EEA countries where third parties are based adequately apply the FATF Recommendations.</li> </ul>
<p><b>Financial institution secrecy or confidentiality</b> R.4: PC</p>	<ul style="list-style-type: none"> <li>- Lighten the conditions set out in Article 116 of the Code of Criminal Procedure for disclosure of banking information in order to facilitate access by the police to banking records.</li> </ul>
<p><b>Record keeping and wire transfer rules</b> R.10: C SR.VII: C</p>	<p>The recommendations are fully observed.</p>
<p><b>Monitoring of transactions and relationships</b> R.11: PC R.21: PC</p>	<ul style="list-style-type: none"> <li>- Define a requirement for financial institutions to examine the background and purpose of all complex, unusual large transactions, or patterns of transactions, that have no apparent or visible economic or lawful purpose, and to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations, to examine the background and the purpose of those transactions which have no apparent economic or visible lawful purpose.</li> </ul>
<p><b>Suspicious transaction reports and other reporting</b> R.13: PC R.14: LC R.19: C R.25: LC SR.IV: LC</p>	<ul style="list-style-type: none"> <li>- Extend financial institutions' requirement to report to the FIU in order to cover all situations when there is a suspicion that funds are the proceeds of a criminal activity, and not only when there is a suspicion that a transaction serves the purpose of money laundering.</li> <li>- Apply the obligation to make a STR to funds that are the proceeds of piracy and counterfeiting, and require professions under the Trade Act (<i>Gewerbeordnung</i>; GewO) to report STRs in case of self-laundering.</li> <li>- Supervisors should issue guidance to clarify that the reporting obligations extend to situations where persons are suspected of being a terrorist or belonging to a terrorist organization.</li> <li>- Increase effectiveness of the reporting system and mitigate the current self-limitation of reporting entities due to the criminal procedure rules.</li> <li>- Apply the protection for STR reporting only in case of good faith for insurance intermediaries.</li> <li>- Prohibit a financial institution to refer a customer to the police when a transaction has been suspended following an STR.</li> <li>- Require financial institutions to report transactions suspected of being related to terrorism, to terrorist organizations, or to those who finance terrorism, in situations where there is no link to a terrorist act.</li> <li>- Update FMA guidance on reporting.</li> </ul>
<p><b>Internal controls, compliance, audit and foreign branches</b> R.15: PC R.22: LC</p>	<ul style="list-style-type: none"> <li>- Establish the compliance officer function as a management position.</li> <li>- Give the AML/CFT compliance officer the right to access CDD data and information, transaction records and other relevant information.</li> <li>- Integrate AML/CFT compliance into internal audit work, notably for securities and insurance businesses.</li> </ul>
<p><b>Shell banks</b> R.18: C</p>	<p>The recommendation is fully observed.</p>
<p><b>Supervisory and oversight system-competent authorities and SROs</b> <b>Role, functions, duties and powers (including sanctions)</b> R.17: PC</p>	<ul style="list-style-type: none"> <li>- Make sanctions sufficiently proportionate and dissuasive.</li> <li>- Extend sanctions under administrative criminal procedure to supervisory board and senior management members.</li> <li>- Ensure that capital held in form of bearer shares does not undermine the assessment of significant or controlling interest in a financial institution.</li> </ul>

<p><b>R.23: PC</b> <b>R.25: LC</b> <b>R.29: LC</b></p>	<ul style="list-style-type: none"> <li>- Increase onsite examinations and supervisory oversight within branches and subsidiaries abroad.</li> <li>- Carry out fit and proper tests of senior managers and supervisory board members.</li> <li>- Develop additional guidance available to industry on the new legal requirements.</li> <li>- Establish a regime of supervisory sanctions for domestic financial institutions.</li> <li>- Provide resources, training and support sufficient to enable supervisory divisions to increase AML/CFT oversight.</li> </ul>
<p><b>Money value transfer services</b> <b>SR.VI: LC</b></p>	<ul style="list-style-type: none"> <li>- Revise the framework for preventive measures to address all deficiencies.</li> </ul>
<p><b>3. Preventive Measures: Non-Financial Businesses and Professions</b></p>	
<p><b>Customer due diligence and record-keeping</b> <b>R.12: PC</b></p>	<p><i>All DNFBPs</i></p> <ul style="list-style-type: none"> <li>- Review the requirements concerning PEPs.</li> </ul> <p><i>Casinos</i></p> <ul style="list-style-type: none"> <li>- Extend the legal framework in order to cover all casinos operating in Austria. refine the CDD requirements, and require casinos to keep record of transactions.</li> </ul> <p><i>Real estate agents, dealers in precious stones and metals, and TCSPs</i></p> <ul style="list-style-type: none"> <li>- Review and effectively implement the CDD requirements, with a particular attention to TCSP activities.</li> <li>- Require to set forth and keep findings of examination of complex and unusual transactions.</li> </ul> <p><i>Lawyers, notaries and accountants</i></p> <ul style="list-style-type: none"> <li>- Refine and clarify the scope of the CDD requirements.</li> <li>- Review the disposition regarding the legal privilege in order not to hamper CDD measures.</li> <li>- Require lawyers and notaries to pay special attention to all complex and unusual transactions.</li> <li>- Issue guidance for lawyers in order to facilitate effective implementation.</li> <li>- Effectively implement the CDD requirements, in particular for accountants.</li> </ul>
<p><b>Suspicious transaction reporting</b> <b>R.16: PC</b></p>	<p><i>All DNFBPs</i></p> <ul style="list-style-type: none"> <li>- Align the grounds for reporting on the standard.</li> <li>- Give special attention to business relationships and transactions with persons from countries insufficiently applying the FATF recommendations.</li> </ul> <p><i>Casinos</i></p> <ul style="list-style-type: none"> <li>- Require Internet casinos to report STRs and specify AML/CFT internal controls.</li> </ul> <p><i>Real estate agents, dealers and TCSPs</i></p> <ul style="list-style-type: none"> <li>- Effectively extend the legal obligation to report STRs and have internal control in place to all businesses and professions conducting TCSP activities.</li> </ul> <p><i>Lawyers, notaries and accountants</i></p> <ul style="list-style-type: none"> <li>- Consider reviewing the matters that fall under legal professional secrecy of notaries and lawyer, that currently appear very broad.</li> </ul>
<p><b>Regulation, supervision, monitoring, and sanctions</b> <b>R.24: PC</b> <b>R.25: LC</b></p>	<ul style="list-style-type: none"> <li>- Give the Ministry of Finance adequate powers to perform AML/CFT supervision of internet casinos.</li> <li>- Empower the Ministry of Finance to perform controls on the beneficial owners of a significant or controlling interest in casinos, and to prevent actions by associates of criminals.</li> <li>- Put in place a system for monitoring and ensuring compliance with AML/CFT</li> </ul>

	<p>requirements to cover accountants and all the companies active in the TCSP sector.</p> <ul style="list-style-type: none"> <li>- Give trade authorities the necessary technical and budgetary resources to perform effectively their functions.</li> <li>- Review the amount of the fines permissible under the GewO.</li> <li>- Establish guidelines tailored to the specific needs of each DNFBP, as these currently exist only for notaries, and partially for casinos.</li> <li>- Provide information on current techniques, methods and trend tailored to each DNFBP, as well as systematic case by case feedback on STRs</li> </ul>
<p><b>Other designated non-financial businesses and professions</b> R.20: LC</p>	<ul style="list-style-type: none"> <li>- Take additional measures to reduce the relative importance of use of cash and large denomination banknotes.</li> </ul>
<b>4. Legal Persons and Arrangements &amp; Nonprofit Organizations</b>	
<p><b>Legal Persons—Access to beneficial ownership and control information</b> R.33: PC</p>	<ul style="list-style-type: none"> <li>- Make the regime of private foundations more transparent on beneficial ownership, for example by requiring that the appendix/supplementary declaration be available in the Commercial Register, to reduce the risk that these foundations may be used for ML.</li> <li>- Establish a legal mechanism to trade shares in the Stock exchange in nominative form or adopt legal provisions to make “de-materialization” mandatory.</li> <li>- Conduct an assessment to determine the ML risk potentially associated to the use of bearer shares.</li> </ul>
<p><b>Legal Arrangements—Access to beneficial ownership and control information</b> R.34: PC</p>	<ul style="list-style-type: none"> <li>- Ensure transparency where the property held in <i>Treuhand</i> is composed of assets other than funds (regardless of the <i>Treuhänder</i>), where the <i>Treuhänder</i> is someone other than a lawyer, notary or registered TSP, where funds held under <i>Treuhand</i> by lawyers amount to less than the federal state threshold (i.e. between EUR 15,000 and EUR 40,000).</li> <li>- Ensure transparency over foreign trusts operated from Austria.</li> <li>- Implement AML/CFT oversight to ensure TSPs properly obtain, verify and record details of the <i>Treuhand</i> and its beneficial ownership.</li> <li>- Develop effective means by which bodies charged with the oversight of TSPs for AML/CFT purposes can share information with their national or foreign counterparts.</li> </ul>
<p><b>Nonprofit organizations</b> SR.VIII: PC</p>	<ul style="list-style-type: none"> <li>- Require NPOs operating under the legal form of private foundations to make information on the identity of persons who own, control or direct their activities, publicly available.</li> <li>- Strengthen requirements for NPOs to maintain and make available to appropriate authorities records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization.</li> <li>- Strengthen outreach to the NPO sector.</li> </ul>
<b>5. National and International Cooperation</b>	
<p><b>National cooperation and coordination</b> R.31: C</p>	<p>The recommendation is fully observed</p>
<p><b>The Conventions and UN Special Resolutions</b> R.35: LC SR.I: PC</p>	<ul style="list-style-type: none"> <li>- Criminalize self-laundering.</li> <li>- Soften the requirements for law enforcement authorities to obtain access to information subject to secrecy.</li> <li>- Extend the criminalization to the whole range of activities envisaged by Article 2, Paragraph 5 (b) and (c) of the 1999 International Convention for the Suppression of</li> </ul>

	<p>the Financing of Terrorism.</p> <ul style="list-style-type: none"> <li>- Set up procedures within Austria that will ensure freezing without delay of assets other than funds (such as immovable goods, companies and businesses and vehicles).</li> <li>- Modify the OeNB regulations adopted pursuant to the Foreign Exchange Act (for EU-internal terrorists) in order to make possible freezing of funds and assets held by EU-internals in all instances set forth by UNSCR 1373 and SR.III.</li> </ul>
<p><b>Mutual Legal Assistance</b></p> <p><b>R.36: PC</b>  <b>R.37: LC</b>  <b>R.38: PC</b>  <b>SR.V: PC</b></p>	<ul style="list-style-type: none"> <li>- Ensure that MLA is granted in a timely, constructive and effective manner.</li> <li>- Conclude arrangements for coordinating seizing and confiscation actions with other countries.</li> <li>- Remove from banking secrecy provisions all requirements which may slow down effective cooperation.</li> <li>- Ensure that extensive scope of legal privilege does not slow down effective cooperation.</li> <li>- Consider sharing of confiscated assets with countries other than EU members and the United States.</li> </ul>
<p><b>Extradition</b></p> <p><b>R.39: LC</b>  <b>R.37: LC</b>  <b>SR.V: PC</b></p>	<ul style="list-style-type: none"> <li>- Take steps to improve the overall effectiveness of the extradition framework</li> </ul>
<p><b>Other Forms of Cooperation</b></p> <p><b>R.40: LC</b>  <b>SR.V: PC</b></p>	<ul style="list-style-type: none"> <li>- Grant the A-FIU sufficient resources to respond to foreign FIU requests in a timely way.</li> <li>- Enable the A-FIU to exchange information on FT.</li> <li>- Establish provisions which allow competent authorities to conduct inquiries on behalf of securities supervisors from third countries.</li> </ul>
<b>6. Other Issues</b>	
<p><b>Resources &amp; Statistics</b></p> <p><b>R.30: LC</b>  <b>R.32: PC</b></p>	<ul style="list-style-type: none"> <li>- Improve the statistical apparatus.</li> <li>- Provide for additional resources for the police and supervisory bodies.</li> </ul>