ITALY

REPORT ON THE OBSERVANCE OF STANDARDS AND CODES—FATF RECOMMENDATIONS FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM (AML/CFT)

This Report on the Observance of Standards and Codes on FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) for Italy was prepared by a staff team of the International Monetary Fund. It is based on the information available at the time it was completed in January 2016.

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ITALY

REPORT ON THE OBSERVANCE OF STANDARDS AND
CODES (ROSC)

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FATF RECOMMENDATIONS FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM (AML/CFT)

Anti-Money Laundering/Combating the Financing of Terrorism: This Report on the Observance of Standards and Codes for the FATF 40 Recommendations—International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (AML/CFT) was prepared by IMF. [1] The report provides a summary of the AML/CFT measures in place in Italy and of the level of compliance with the FATF 40 Recommendations and the level of effectiveness, 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 January 14–30, 2015 and other verifiable information subsequently provided by the authorities. It was conducted using the 2013 assessment methodology. The Detailed Assessment Report (DAR) on which this document is based was adopted by the FATF Plenary on October 22, 2015. The views expressed here, as well as in the full assessment report, are those of the staff team and the FATF and do not necessarily reflect the views of the Government of Italy or the Executive Board of the IMF.

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This Report on the Observance of Standards and Codes (ROSC) for the FATF 40 Recommendations – International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (AML/CFT) was prepared by IMF staff using the 2013 assessment methodology. Further information on ROSCs can be found at
http://www.imf.org/external/NP/rosc/rosc.aspx

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GLOSSARY

AML/CFT	Anti-money laundering and combating the financing of terrorism
BoI	Bank of Italy
DIA	Anti-mafia Investigative Directorate (*Direzione Investigativa Anti-Mafia*)
DNFBP	Designated NonFinancial Businesses and Professions
EU	European Union
FATF	Financial Action Task Force
FI	Financial institution
FSC	Financial Security Committee
GdF	*Guardia di Finanza*
LEA	Law enforcement agency
ML	Money Laundering
NPO	Non-Profit Organization
NRA	National Risk Assessment
OAM	*Organismo Agenti e Mediatori*
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UIF	Financial Intelligence Unit (*Unità di Informazione Finanziaria*)

KEY FINDINGS

- Italy has a mature and sophisticated AML/CFT regime, with a correspondingly well-developed legal and institutional framework. It is nonetheless confronted with a significant risk of money laundering (ML) stemming principally from tax crimes and activities most often associated with organized crime, such as corruption, drug trafficking, and loan sharking.

- All the main authorities have a good understanding of the ML and terrorist financing (TF) risks, and generally good policy cooperation and coordination. Italy is now developing a nationally coordinated AML/CFT strategy informed by its 2014 national risk assessment (NRA).

- Law enforcement agencies (LEAs) access, use, and develop good quality financial intelligence. The authorities are able to successfully undertake large and complex financial investigations and prosecutions, and have confiscated very large amounts of proceeds of crime.

- Nevertheless, current results are not fully commensurate with the scale of ML risks. This is partly due to the insufficient focus on standalone ML cases and other cases, generated by foreign predicate and/or involving legal persons offenses, as well as to the length of the judicial process.

- The risk of TF in Italy appears to be relatively low, and Italy has effectively implemented targeted financial sanctions (TFS). It also actively mitigates the proliferation financing (PF) risk, but additional outreach to the private sector would be beneficial.

- Financial institutions (FIs) generally have a good understanding of ML threats that they face, and the larger banks appear to be strongest in their mitigation efforts. The nonfinancial sector, with some exceptions, is far less attuned to ML/TF risk, and is hampered by the absence of detailed secondary legislation.

- Customer due diligence (CDD) measures are well embedded in the financial sector, but there appears to be an over-reliance on the due diligence undertaken by the banks when accepting business through agency arrangements, and the processes for identifying beneficial owners are not consistent. Reporting by the nonfinancial sector is generally poor, especially among the lawyers and accountants, but on the rise.

- Financial sector supervisors have been using a risk-based approach (RBA) to varying degrees, but their supervisory tools could be improved. Cooperation among domestic supervisory authorities, and with home country supervisors notably needs to be enhanced in regards to agents acting on behalf of remittance companies that have benefited from the EU passporting arrangements.

- While the framework governing the supervision of EU payment institutions (PIs) operating in Italy under the EU framework is in place, there is very limited cooperation between *Organismo*

> *Agenti e Mediatori* (OAM) and the home country supervisor of the EU PI in the context of on-going supervision of these persons.
>
> • The sanctions regimes for ML and non-compliance with preventive measures need to be strengthened.
>
> • Information on beneficial ownership of legal persons is generally accessible in a timely fashion, but cross-checking is necessary to ensure its reliability. Companies are misused to some extent, in particular by organized crime groups, and foreign legal arrangements operating in Italy pose a minor but growing challenge.

RISKS AND GENERAL SITUATION

1.   Italy has a strong legal and institutional framework to fight ML and TF, but faces a particularly high amount of illegal proceeds—as acknowledged in the national risk assessment (NRA)—most of which are domestically generated. Available estimates vary widely, ranging from 1.7–12 percent of GDP, with most pointing to the upper end of the range. The main proceeds-generating crimes are (i) tax and excise evasion (around 75 percent of total proceeds); (ii) drug trafficking and loan sharking (around 15 percent of the total); and (iii) corruption, fraud, counterfeiting, environmental crime, robbery, smuggling extortion, and illegal gambling (around 10 percent of the total). Categories of crime (ii) and (iii) are most closely associated with the activities of organized crime, a historically pervasive problem in Italy.

2.   The channel most vulnerable to ML activity appears to be the banks due to their dominance of the financial sector, the range of products they offer, the transaction volumes they handle, and the interconnectedness of the banking sector with the international financial system. Lawyers, notaries, and accountants are in some cases involved in creating and managing structures that lack transparency and used to launder money. The high use of cash and relatively large informal economy very significantly increases the risk that illicit proceeds may be rechanneled into the regulated formal economy.

3.   The risk of TF appears to be relatively low. While domestic extremist groups exist, they are very fragmented and do not, at present, seem to pose a significant risk. The risk is mainly connected to independent individuals who are devoted to Jihad, operating through small cells that are primarily self-funded.

FINDINGS ON COMPLIANCE AND EFFECTIVENESS

4.   Since the last assessment in 2005, Italy's level of technical compliance has markedly improved in several areas–notably in preventive measures and supervision of financial institutions—but not in some others—such as sanctions for noncompliance with preventive measures. Italy has a strong legal and institutional framework for combating ML, TF, and PF. Measures are particularly strong regarding the assessment of risks, law enforcement, confiscation,

targeted financial sanctions, preventive measures for and the supervision of FIs, and transparency of legal persons and arrangements, but less so regarding sanctions for ML and non-compliance, and preventive measures for designated nonfinancial businesses and professions (DNFBPs).

5. **In terms of effectiveness, Italy achieves substantial results in risk assessment and national policies, international cooperation, collection and use of financial intelligence, ML and TF investigation, prosecution, confiscation, and transparency of legal persons and arrangements.** Only moderate improvements are needed in these areas. More significant improvements are needed in the other areas as indicated below.

A. Assessment of risk, coordination, and policy setting

6. **Italy has a good understanding of its ML/TF risks, and generally good policy cooperation and coordination to address these risks. It completed a robust NRA in 2014.**

7. **Operationally, national AML/CFT coordination under the auspices of the Financial Security Committee (FSC) is quite good.** Although Italian authorities have for some time been applying an RBA to varying degrees based on their individual understanding of risk, and several initiatives have been launched in the wake of the NRA, Italy has not yet developed a nationally coordinated AML/CFT strategy that is fully informed by the ML/TF risks in the NRA.

8. **Notwithstanding their awareness of ML/TF risks, supervisors have not fully adapted their tools and operational practices to reflect the identified risks.** The Financial Intelligence Unit (*Unità di Informazione Finanziaria*—UIF) could further improve its policies and activities, and better use its resources to focus more on high-risk areas. Although LEAs and prosecutors have the skills to take down ML networks, current efforts are mainly aimed at sanctioning the predicate offenses and some related third-party ML offenses, and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalization of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent. Although the new provision is a significant step forward, it is too soon to tell how it will work out in practice.

9. **The FSC has proven to be a useful platform for coordinating action for the prevention of the use of the financial system and of the economy for ML/TF and PF purposes.** It is currently in the process of updating its assessment of the TF risk as a result of the global rise in the threat of terrorism. It will now also need to ensure that policies and activities are fully aligned with and prioritized according to the identified risks.

10. **The authorities have shared the results of the NRA with FIs and DNFBPs which as a result are generally aware of the main ML risks and to a lesser extent TF risks, and how the identified risks relate to their institutions in the context of their business models.** The financial sector, in general, and the banks, in particular, has a good understanding of the ML risks in Italy. The understanding of ML/TF risks within the DNFBP sectors is very mixed, but, overall, is clearly not as sound as within the financial sector.

B. Financial intelligence, and ML investigations, prosecutions and confiscation

11.   Italy has a comprehensive institutional framework of LEAs responsible for ensuring that ML, TF and predicate offenses are properly investigated. Their powers to obtain information are comprehensive, and they collect and use a wide variety of intelligence to investigate crimes. They have the expertise to identify and investigate ML, and financial investigations are launched in every investigation involving proceeds-generating crimes. However, there is the potential for duplication of effort, particularly during the early stages of investigations, owing to the overlapping responsibilities of LEAs.

12.   The authorities have access to a very broad range of financial and other information. The UIF receives suspicious transaction reports (STRs) and other information, and has access to a range of administrative and financial information. The *Guardia di Finanza* (GdF, the financial police) and the *Direzione Investigativa Antimafia* (DIA, the anti-mafia investigative authority) can also access a wide range of financial information. The UIF produces good analysis for the GdF and DIA, but does not have access to LEA information and certain administrative information (e.g. the land registry) that could enrich its analysis.

13.   LEAs and prosecutors have proven that they are able to undertake large and complex financial investigations. They have been successful in a number of high-profile cases, and in some of them in disabling criminal enterprises. The Criminal and the Anti-Mafia Codes constitute a comprehensive and effective framework for seizing and confiscating proceeds of crime. However, as noted above, current efforts are mainly aimed at sanctioning the predicate offenses and some related ML activities, and confiscating related assets at the expense of standalone ML cases and those generated by foreign predicate offenses. The lack of criminalization of self-laundering until January 1, 2015 meant that the AML framework could not be used to its fullest extent notably in regard to tax evasion. The criminal judicial system appears to be complex and procedures, lengthy. Combined, these two elements, along with the complexity of ML cases, as well as insufficient resources, may undermine the effectiveness of the judicial system. The fact that, in many cases, ML and predicate offenses are committed by repeat offenders would tend to indicate that the sanctions applied are not sufficiently dissuasive.

14.   More granular statistics on investigations, prosecutions and convictions would better allow the authorities to gauge their performance.

C. Terrorist and proliferation financing

15.   The authorities demonstrated a good understanding of TF risk. The most significant emerging risk is the potential support of Italian self-financed residents travelling to conflict zones abroad to help foreign terrorist groups.

16.   Italy's anti-terrorism investigative activities are essentially focused on detecting and disrupting such cells, but include parallel financial investigations. While there have been some

convictions for terrorist activities in the last five years, none of the investigations carried out found evidence of TF activities.

17.   Italy has effectively implemented TFS. It has adopted a passive system of notification for FIs and DNFBPs for actions related to targeted financial sanctions: the UIF simply provides a link to the EU list on its website. It does not have a focused, interagency coordinated approach to supervising the non-profit organization (NPO) sector; however, LEAs have imposed administrative penalties. The main ministry in charge of NPOs (i.e., the Ministry of Labor and Social Policies (MLSP)) is not integrated into the FSC's work; therefore a key sector is excluded from the national coordination body for TFS. Limited outreach has been undertaken.

18.   Italy actively mitigates the PF risk through TFS and controls on dual-use goods under the relevant international agreements. In view of the volume of trade, efforts focus more on the risks emanating from Iran, but the authorities are also aware of the risk emanating from trade with North Korea. Although the authorities have conducted outreach to the export sector, additional outreach to the financial and nonfinancial sector would strengthen the system.

D.   Preventive measures and supervision

19.   FIs generally have a good understanding of ML threats that they face, and support the conclusions of the NRA. Although the banks are potentially most vulnerable to ML, the larger ones appear to be strongest in their defenses. The appreciation of TF risk is, however, much less developed. The DNFBP sectors are far less attuned to risk.

20.   CDD measures are well embedded in the financial sector, but there appears to be an over-reliance by some sectors (e.g., insurance, asset managers, and payment institutions) on the due diligence undertaken by the banks when accepting business through agency arrangements. While there is a general appreciation within the financial sector of the process for identifying beneficial ownership, there is a lack of consistency in the detailed processes, especially with respect to following the 25 percent threshold through a complex ownership chain. Reporting by DNFBPs is generally poor, especially among the lawyers and accountants.

21.   An area of major concern is the provision of remittance services by agents acting on behalf of companies that have benefited from the EU passporting arrangements under the Payment Services Directive. Investigations have revealed large scale abuses of the cash reporting requirements. The authorities understand the problems and have been instrumental in having them addressed within the EU's 4th Money Laundering Directive. However, cooperation among domestic supervisory authorities and with home country supervisors needs to be enhanced.

E.   Supervision

22.   Financial sector supervisors generally have a good understanding of the ML/TF risk associated with the range of FIs they oversee. However, their supervisory tools could be improved in order to provide them with comprehensive, timely and consistent data on the nature

and quantum of inherent risk at the level of individual institutions. A new risk-based supervisory methodology currently under development by the BoI will constitute an improvement over existing arrangements but it has some limitations. While the BoI, IVASS, and the MEF apply sanctions for violations of the AML Law and related regulations, there is room to strengthen the existing arrangements, including by better aligning sanctions with the institutions' size and financial capacity and reducing the time required to impose sanctions on insurance licensees. The authorities also need to determine if the BoI can apply sanctions available under the CLB to banks that come under the prudential supervision of the ECB.

F. Transparency and beneficial ownership

23.   Italian legal persons are used to a relatively large extent in ML schemes. The NRA highlights that most of these schemes are organized domestically, and usually involve relatively simple corporate structures. The authorities are well aware of the risk of misuse of legal persons by organized crime groups, but less so with respect to their misuse in other circumstances, although there are exceptions; the GdF in particular has a good understanding of the risk of misuse in the context of tax offenses.

24.   Basic information on legal persons is readily available. Information on beneficial ownership is generally accessible by competent authorities albeit to a lesser extent than basic information, and not consistent in terms of reliability. Although the authorities have usually been able to identify the ultimate beneficial owner, the process could be improved, including by strengthening due diligence by notaries.

25.   Foreign legal arrangements clearly pose a growing threat. Italian trustees increasingly provide trust services under other jurisdictions' legislation, including for domestic ML schemes. Domestic legal arrangements do not, however, appear to pose a significant ML or TF risk.

26.   Stronger enforcement of existing obligations would contribute to dissuading further the misuse of legal persons. Sanctions for failure to comply with the identification requirements are available but are not used to their full extent.

G. International cooperation

27.   Italy has a sound legal framework for international cooperation as well as a network of bilateral and multilateral agreements to facilitate cooperation. According to the feedback received from many countries, the authorities provide constructive and timely information or assistance when requested, including evidence, financial intelligence, and supervisory information related to ML, TF, or associated predicate offenses. They also assist with requests to locate and extradite criminals and to identify, freeze, seize, and confiscate assets. The lack of criminalization (until December 31, 2014) of self-laundering, and delays in referring requests to the competent authority have undermined the scope and level of the assistance requested and/or provided by Italy. However, the recent criminalization of self-laundering should have a positive effect on international

cooperation. More comprehensive statistics and the introduction of a case management system would better allow Italy to gauge its performance on international cooperation.

PRIORITY ACTIONS

- LEAs should place more efforts on pursuing ML investigations and prosecutions that focus on risks associated with self-laundering, standalone money laundering, and foreign predicate offenses, and the abuse of legal persons. Sanctions need to be strengthened.

- The UIF should be authorized to access law enforcement information, and additional administrative databases (e.g., real estate), and to disseminate analysis beyond DIA and GdF to other relevant LEAs and agencies, and more selective in its disseminations. The GDF and DIA should in turn provide better feedback to the UIF.

- A national coordination mechanism amongst Italian LEAs and customs should be established to identify travel routes, flights, ships, and concealment methods that are considered highly used by cash couriers. Customs should enhance its activities in targeting proceeds of crime, including tax offenses, transported by cash couriers and share suspicious cases with the UIF.

- More granular statistics should be collected and maintained on financial investigations and international cooperation in order to be better able to measure performance.

- Regulatory and supervisory authorities are recommended to:

  o Work with the financial sector and DNFBPs to improve the understanding and implementation of requirements to identify beneficial owners.

  o Work closely with the financial sector to help improve the latter's understanding of the typologies of tax crimes, and the reporting of related suspicious transactions.

  o Issue secondary legislation or encourage the development of enforceable guidance to ensure coverage of all the DNFBP sectors, and engage in an outreach.

- Financial sector supervisors and the GdF should improve supervisory tools, the inputs for which should include good quality and consistent data on the inherent risks to which entities/persons are exposed, and the type of risk management practices they have in place. Sanctions for noncompliance need to be strengthened.

- The OAM should strengthen cooperation with home country supervisors of PI agents who operate in Italy under an EU passport.

COMPLIANCE AND EFFECTIVENESS RATINGS

Compliance Ratings

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	LC	LC	C	C	LC	PC	LC	C	LC

R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	LC	PC	C	LC	PC	LC	LC	C	LC

R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
LC	LC	LC	LC	LC	LC	LC	LC	LC	C

R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	LC	LC	LC	PC	C	LC	LC	C	LC

Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
Sub	Sub.	Mod.	Mod.	Sub.	Sub.	Sub.	Subs.	Sub.	Mod.	Sub.

AUTHORITIES' RESPONSE

The report provides an assessment of the anti-money laundering and combating the financing of terrorism (AMLCFT) measures in place in Italy at the date of the on-site visit (end of January 2015), including the risk scenario identified at that time.

Since then, the terrorist threat has increased substantially, and Italy is more seriously exposed to religious terrorism. The terrorist financing threat has increased as well, although not with the same intensity.

As a consequence Italy has stepped up its action against TF and terrorism:

- In February 2015 new anti-terrorist regulations were adopted to tackle directly *foreign terrorist fighters* - FTFs and to strengthen the coordination in the Judiciary.

- The Italian Financial Intelligence Unit (FIU) and the *Guardia di Finanza* have created specific units and procedures to ensure swift and in-depth analysis and investigation of TF-related STRs, including effective coordination with the Judiciary.

- Information on individuals reported in TF-related STRs are timely shared by *Guardia di finanza* with the other LEAs in charge of counter terrorist activities, and the Strategic Counter-terrorism Analysis Committee (CASA) has established an ad-hoc working group aiming at monitoring FTFs and returnees (in October 2015 87 individuals, out of whom 18 deceased, and 12 returnees).

- The UIF has launched an ad-hoc initiative on the analysis of transfers – through the banking channel – from Italy towards ISIL-occupied or controlled territories, and more strategic TF analysis is being developed.

The private sector has a full understanding of the increased level of TF risks and is collaborating closely with the authorities: in 2015 the FIU received 197 TF-related STRs – i.e. almost 3 times the number of STRs received in 2014.