

**Kingdom of the Netherlands—Netherlands: 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 the Netherlands was prepared by a 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 IMF team and do not necessarily reflect the views of the Government of the Netherlands or the Executive Board of the IMF.

Copies of this report are available to the public from

International Monetary Fund • Publication Services  
700 19th Street, N.W. • Washington, D.C. 20431  
Telephone: (202) 623 7430 • Telefax: (202) 623 7201  
E-mail: [publications@imf.org](mailto:publications@imf.org) • Internet: <http://www.imf.org>

**International Monetary Fund  
Washington, D.C.**

INTERNATIONAL MONETARY FUND

KINGDOM OF THE NETHERLANDS—THE NETHERLANDS

**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

April 6, 2011

## ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BL	Banking Law
BCP	Basel Core Principles
CC	Criminal Code
CDD	Customer Due Diligence
CPC	Criminal Procedure Code
CSP	Company Service Provider
DNFBP	Designated Nonfinancial Businesses and Professions
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
FSRB	FATF-style Regional Body
FT	Financing of terrorism
IAIS	International Association of Insurance Supervisors
KYC	Know your customer/client
LEG	Legal Department of the IMF
MEF	Ministry of Economy and Finance
MFA	Ministry of Foreign Affairs
MOU	Memorandum of Understanding
ML	Money laundering
MLA	Mutual legal assistance
NPO	Nonprofit organization
PEP	Politically-exposed person
ROSC	Report on Observance of Standards and Codes
SRO	Self-regulatory organization
STR	Suspicious Transaction Report
UN	United Nations Organization
UNSCR	United Nations Security Council Resolution

## 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 IMF.<sup>1</sup> The report provides a summary of the AML/CFT measures in place in the Netherlands and of the level of compliance with the 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 June 28–July 13, 2010 and other verifiable information subsequently provided by the authorities. It was conducted using the 2004 Methodology as updated. The Detailed Assessment Report (DAR) on which this document is based was adopted by the FATF plenary on February 24, 2011. 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 the Netherlands or the Executive Board of the IMF.

## B. Key Findings of the Assessment

1. **Indicators suggest that the Netherlands is susceptible to money laundering (ML) owing to, among other things, the relative size of its financial sector, its openness to trade, and the amount of criminal proceeds.** The 16th economy in the world by nominal GDP, it ranks 7th in terms of the systemic importance of its financial sector. It has an excellent communications network, convenient transportation infrastructure, and Rotterdam is one of the world's busiest ports. Estimates indicate that substantial proceeds of crime are generated in the country, mostly stemming from fraud (including tax fraud) and illicit narcotics. Presently, the proceeds of domestic crime are estimated at approximately \$14 billion, or 1.8 percent of the GDP. In addition, work done by academics suggests that a significant amount of criminal proceeds originating from foreign countries flows into the Netherlands for laundering.

3. **There is terrorism and terrorist financing (TF) risk, but it appears limited based on available information.** The country has experience dealing with a variety of terrorist organizations; at present, the main threat seems to come from international Islamic extremists, but the risk is currently deemed to be limited.

4. **The Netherlands has criminalized ML fully in line with the requirements under the Vienna and Palermo Conventions.** The Criminal Code does not provide for an autonomous offense of “terrorism financing,” but criminalizes such conduct based on the offense of “preparation to commit a serious crime” and “participation in a terrorist organization,” which falls short of the FATF standard.

---

<sup>1</sup> The assessment team consisted of Richard Lalonde (team leader), Giuseppe Lombardo (deputy team leader), and Emanuel Mathias (all of LEG); Gabriele Dunker (consultant); Richard Pratt (consultant) and Sarah Runge (U.S. Treasury).

5. **The Netherlands has a long-standing financial intelligence unit (FIU) which is one of the founding members of the Egmont Group of FIUs and enjoys high trust for its professionalism, both domestically and internationally.** The delays in the completion of its reorganization as FIU-Netherlands have eroded its operational independence and affected its effectiveness.

6. **Financial investigations have been pursued through aggressive and effective approaches, as shown by the relatively high number of prosecutions for ML or ML and other offenses.** However, it has not been demonstrated that the analytical work of the FIU has significantly contributed to investigations and prosecutions of ML cases.

7. **The Netherlands has a long-standing system of preventive measures and, while the legal framework is modern and comprehensive for both financial and nonfinancial institutions, it falls short of the international standard in some areas, such as in the areas of the verification of the identity of beneficial owners and simplified due diligence.**

8. **Supervision of AML/CFT obligations is based on broadly comprehensive powers and is well regarded by most sections of the regulated financial sector.** However, some gaps in the legal framework and weaknesses in supervision of AML/CFT measures in some sectors should be addressed.

9. **The suspicious transaction reporting requirement needs to be strengthened to ensure that suspicious transactions are reported promptly to the FIU.** Measures should be taken to ensure quality reporting by all financial and nonfinancial institutions. In light of the risks identified in relation to corporate lawyers' activities, the authorities should address legal issues preventing the effective implementation of preventive measures and supervision.

10. **The Criminal Procedure Code (CPC) should be revised to enable the Netherlands to grant any foreign country assistance in searching and seizing evidence in ML cases, and to make ML an extraditable offense, regardless of the predicate offense involved.** Statistics should be maintained in a number of important areas to demonstrate that the AML/CFT legal framework is being implemented effectively.

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

11. **The Netherlands have criminalized ML fully in line with the requirements under the Vienna and Palermo Conventions.** The Dutch ML provisions cover all FATF-designated predicate offenses, extend to any type of property as defined in the FATF standard, and also apply to persons who commit the predicate offense. Appropriate ancillary offenses are provided for. Although a significant number of investigations, prosecutions, and convictions have been carried out, due to the lack of information on the types of predicate offenses involved, it could not be determined that the ML provisions are applied in a fully effective manner.

12. **The Dutch legal system does not provide for an autonomous offense of "terrorism financing," but criminalizes such conduct based on the offenses of "preparation to commit a serious crime" and "participation in a terrorist organization."** A number of serious

shortcomings have been identified in this regard.<sup>2</sup> Most notably, the current legal framework criminalizes the “collection” of funds to commit a terrorist act only if the perpetrator has acquired or actually possess the funds; the criminal provisions do not sufficiently apply to the financing of conduct covered by the offenses set forth in the nine Conventions and Protocols listed in the Annex to the FT Convention; and the financing of an individual terrorist is criminalized only in relation to persons designated under UNSCR 1267 or 1373, or the EC or Dutch Sanctions Regulations. In discussions with a number of different law enforcement authorities, it was indicated that the absence of an autonomous TF offense has a negative impact on the effective investigation of terrorism financing activities.

**13. The Netherlands have in place a strong and comprehensive legal framework for the seizing and confiscation of the proceeds of crime, the application of which has yielded some positive results.** However, in the absence of complete and more detailed statistics, it was not possible for the assessors to determine that the seizing and confiscation measures are applied in a fully effective manner with respect to ML, TF, and predicate offenses.

**14. The Netherlands have a strong and comprehensive framework in place to implement its obligations under UN Security Council Resolutions 1267 and 1373 and in a number of cases have effectively applied this framework to freeze the funds and assets of designated terrorists and terrorist organizations.** The most important financial sectors are effectively supervised for compliance with their obligations under the EC and Sanctions Regulations. Only a few technical deficiencies were identified. Concerns remain as to whether in practice the authorities make use of the possibility to circumvent the time delay on European level and freeze without delay the funds and assets of individuals, entities, and organizations designated under UN Resolutions 1267 and 1373.

**15. The Netherlands have a long-standing financial intelligence unit (FIU) responsible for receiving, analyzing, and disseminating information concerning ML or TF, which enjoys the trust of the financial community and law enforcement authorities (LEAs) alike.** The FIU, first established in 1994, underwent a restructuring process in 2006, but the legal framework governing the FIU is not yet complete. Moreover, the completion of the reorganization of the FIU has been delayed, which has hampered its effectiveness and eroded its operational independence. A new governance model was agreed in September 2010, but it is rather complex and should be streamlined by reducing the number of institutions to which the FIU is accountable and simplifying the reporting lines.

**16. The FIU has the potential for producing high-quality financial analysis, but it should reconsider the manner in which financial information is disseminated to LEAs, and place more emphasis on a case-by-case dissemination.** The number of ML criminal investigations

---

<sup>2</sup> A clear ministerial commitment to pursue the criminalization of terrorist financing (TF) in line with FATF Special Recommendation II (SR II) has been communicated by the Dutch authorities.

that is triggered by disseminated financial information could not be confirmed, but appears to be rather low. Analysis of financial information would also benefit from greater prioritization and pursuit of a red flag-based approach. The authorities should also ensure that the FIU has timely and full access to all the information that is necessary to properly undertake its functions.

17. **Financial investigations have been pursued through aggressive and effective approaches, as demonstrated by the relatively high number of prosecutions for ML or ML and other offenses.** The Dutch authorities encourage LEAs to prosecute ML and deprive offenders of the proceeds of crime for each case, even when the proceeds are low. LEAs have most powers necessary to carry out their investigations and are generally effective. The only caveat is the scope of legal privilege, which hinders the ability for law enforcement authorities to locate and trace assets and property, and may also negatively impact mutual legal assistance, freezing, seizure, and confiscation.

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

18. **The Netherlands have a long-standing legal framework concerning AML/CFT preventive measures, which dates back to 1993.** The latest Money Laundering and Terrorist Financing Prevention Act (WWFT), adopted in 2008, establishes CDD, record-keeping, and reporting requirements for a broad range of financial institutions and DNFBPs. The scope of the WWFT covers all financial activities covered by the FATF definition of ~~financial~~ institutions.”

19. **The legal framework for CDD is generally adequate; however, a number of provisions are problematic.** These include: issues with the definition of the beneficial owner which, inter alia, does not include the person that can exercise ultimate effective control over a legal arrangement; the very broad exemptions allowed for specified low-risk customers; the treatment of all the EU/European Economic Area (EEA) member states and jurisdictions, as well as certain other countries as a single-risk category when determining certain low-risk scenarios; the transitional regime envisaged by the WWFT in the case of existing customers, which relies on a de jure presumption of compliance with the CDD requirements and the limited scope and enforceability of countermeasures in the case of countries that do not or insufficiently apply the FATF Recommendations. Of particular concern is the requirement to verify the identity of the beneficial owner, which, along with the obligation to understand the ownership and control structure of the customer, is only applicable in high-risk scenarios. Furthermore, there is no obligation for financial institutions to determine whether a beneficial owner of a customer is a politically-exposed person.

20. **The Dutch system of preventive measures emphasizes the risk-based approach, complemented by a principles-based approach.** The latter relies on the financial institutions’ capacity and expertise to implement a particular obligation envisaged by the law, without prescribing in detail how the relevant obligation should be met, and it is aimed at providing financial institutions with the possibility to develop an individualized approach to CDD.

21. **The principles-based approach should be better supported with guidance for financial institutions.** Implementation of the principles-based approach was in some cases uneven, particularly in challenging areas such as identifying and verifying the identity of the beneficial owner of legal persons and PEP accounts. Despite limited guidance, the level of implementation of CDD measures is good overall, with larger, multinational banks best placed to meet the higher standard set out in the WWFT, and smaller, newly-formed banks finding it challenging to do so.
22. **Although most elements of the STR reporting requirements are in place, the reporting regime has one minor legal shortcoming and raises effectiveness concerns.** The 14-day period to report after a transaction has been established suspicious is not consistent with the standard's call for prompt reporting and raises an effectiveness issue in relation to the recovery of criminal assets. Reporting by insurance agents, life insurance companies, and bureau de change is particularly low, which raises concerns regarding the effectiveness of the reporting regime. Both the protection for reporting and the prohibition from tipping off also present shortcomings.
23. **The requirements for internal controls in the financial sector are found in the Act on Financial Supervision (Wft) and cover most of what is required by the standard but leave some gaps.** Although the assessors accept that the Wft can be interpreted as imposing an obligation on financial enterprises to have internal controls that implement the WWFT obligations, the legal position would be more robust if this obligation were made explicit, as it is in the Wgt Regulation. Even so, not all of the internal control, compliance and internal audit requirements apply to all categories of financial enterprise. The WWFT and Wgt requirements relating to employee training are limited and should be broadened. The obligations relating to the role and seniority of compliance officers also need strengthening. Record-keeping requirements in the tax law (AWR) and Civil Code (BW) are comprehensive.
24. **The WWFT obliges institutions to apply Dutch standards on customer due diligence to branches and subsidiaries in foreign countries,** but the requirement do not extend beyond CDD to other AML/CFT measures and do not apply to branches and subsidiaries in EU Member States.
25. **The supervisors generally have the powers and resources they require to ensure effective implementation of AML/CFT obligations, but the supervisory approach may not be equally effective in all sectors.** The Netherlands operates a "twin peaks" supervisory system, with the Dutch Central Bank (DNB) responsible for prudential supervision and the Authority for the Financial Markets (AFM) responsible for conduct of business. Both have responsibility for enforcing AML/CFT measures. Some institutions such as money transfer offices and small banks have found the DNB to be most helpful and effective. In other areas, such as insurance and the securities sector, there are some doubts about effectiveness, arising from the experience of specific institutions and the statements by the supervisors. Guidance to financial enterprises needs to be brought up to date and broadened to include monitoring obligations as well as CDD. There is scope for strengthening the training given as a matter of routine to supervisory staff. These



weaknesses should be addressed but, nevertheless, the maturity and sophistication of the Netherlands's risk-based supervisory approach is largely effective in implementing the AML/CFT obligations.

#### **E. Preventive Measures—Designated Nonfinancial Businesses and Professions**

26. **The preventive measures for DNFBPs mirror those for financial institutions, except for trust and company service providers (TCSPs) where they are more comprehensive.** The authorities have clearly put a lot of resources and political commitment in relation to DNFBPs and the regime in place is relatively comprehensive. The legal framework for TCSPs has only minor shortcomings and appears effectively implemented, but their STR reporting level is low in relation to both the importance of financial flows and risks. Regarding other DNFBPs, there are a few shortcomings in the scope of the customer due diligence requirements for real estate agents, lawyers, and notaries. The reporting system appears quite effective for notaries and accountants, and recent positive developments have been noted regarding real estate agents. However, reporting by precious metals dealers and lawyers is still very low, while significant risks are acknowledged by the authorities for the latter. In relation to supervision, the main shortcoming is that secrecy issues prevent the exercise of supervision of lawyers by the designated supervisor. Effectiveness issues have been identified in relation to the monitoring of precious metals dealers and accountants, but are likely to be addressed by the recent implementation of a risk-based supervisory framework.

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

27. **The Netherlands have a number of measures in place that contribute to the availability of beneficial ownership information in relation to legal entities and arrangements.** Among these measures are the obligation to register legal entities with the Chamber of Commerce, to involve licensed and, thus, supervised notaries and trust service providers in the establishment and/or management of certain legal entities, as well as the obligation under Dutch tax law to file annual returns. However, some gaps remain in relation to information on the ultimate beneficial owners of legal persons and legal arrangements and as such information may, thus, not be available, accessible, and/or up-to-date in all cases.

28. **At the time of the assessment, Dutch law still permitted the issuance and free transfer of bearer shares.** A dematerialization process has been put in place but will not be completed and, thus, fully effective until 2013. Based on estimates provided by the authorities, it seems that bearer shares are no longer widely used in the Netherlands.

29. **The measures in place in the Netherlands in relation to NPOs ensure a high level of transparency.** Information available with respect to NPOs is generally comprehensive, in particular, with respect to NPOs within the Central Bureau for Fundraising (CBF) seal

mechanism.<sup>3</sup> Information-sharing and cooperation mechanisms between competent authorities are in place but do not comprise the CBF, which is a private organization. This poses a limitation in that the CBF maintains detailed information on a significant share of the sector.

### **G. National and International Cooperation**

30. **The Netherlands has no overarching law dealing with Mutual Legal Assistance but cooperates internationally based on the provisions of the Criminal Procedure Code.** The authorities may provide a wide range of assistance in relation to ML and TF cases and the granting of such assistance is not subject to any unduly restrictive or unreasonable conditions. In relation to a large number of countries, however, assistance in searching and seizing of evidence can, with few exceptions, be provided only in ML cases involving corruption or transnational organized crime but not any other types of predicate offenses. In cases where dual criminality is required, the shortcomings identified in relation to the provisions criminalizing terrorist financing limit the Netherlands's ability to provide MLA. Furthermore, the scope of legal privilege may unduly hinder the possibility for law enforcement authorities to access information and documents held by notaries, lawyers, and tax accountants, including upon foreign request. Due to the lack of relevant statistics, the Netherlands did not establish that they effectively seize and confiscate funds based on foreign requests.

31. **ML is an extraditable offense in relation to Council of Europe Member States and countries with which the Netherlands has entered into a bilateral or multilateral extradition treaty.** In relation to all other countries, only ML cases involving transnational organized crime or corruption but not any other types of crimes are extraditable offenses. TF is an extraditable offense but based on the dual criminality requirement, the shortcomings identified under Special Recommendation II may limit the Netherlands's ability to extradite in certain TF cases.

---

<sup>3</sup> NPOs, to enhance their credibility and improve their fund-raising opportunities, may apply to the CBF for a "seabf approval," which subjects such NPOs to a relatively close supervision by the CBF.

### Summary Table of Observance and Key Recommendations

FATF 40+9 Recommendations <sup>4</sup>	Key Assessor Recommendations
1. Legal System and Related Institutional Measures	
Criminalization of Money Laundering R.1 – LC R.2 – LC	<ul style="list-style-type: none"> <li>• Review all information available with respect to the fines and prison sentence imposed in ML cases to determine whether the sanctions regime is applied in a fully effective and dissuasive manner, including in relation to legal persons.</li> <li>• Maintain accurate statistics on the number of ML investigations and predicate offenses in relation to which the ML provisions are applied.</li> </ul>
Criminalization of Terrorist Financing SR.II – PC	<ul style="list-style-type: none"> <li>• Criminalize terrorism financing fully in line with the FATF standard as per Ministerial Commitment.</li> <li>• Ensure that FT activities are investigated and prosecuted effectively in the Netherlands, for example by establishing TF as a separate criminal offense in line with the UN Convention for the Suppression of the Financing of Terrorism.</li> </ul>
Confiscation, freezing, and seizing of proceeds of crime R.3 – LC	<ul style="list-style-type: none"> <li>• Ensure that access to appropriate information and documents held by lawyers and other legal professionals is available in all cases.</li> </ul>
Freezing of funds used for terrorist financing SR.III – LC	<ul style="list-style-type: none"> <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, including the obligation to check client files and databases against those lists.</li> <li>• Ensure that all FIs, not only banks, are effectively monitored for compliance with the EC and Sanctions Regulations.</li> <li>• Extend the freezing obligations under UNSCR 1267 to funds and other assets owned or controlled “indirectly” by a designated individual, entity, or organization.</li> </ul>
The Financial Intelligence Unit and its functions R.26 – PC	<ul style="list-style-type: none"> <li>• Complete the legal framework concerning the FIU-Netherlands;</li> <li>• Implement a simplified governance model so that issues that affect the operational independence of the FIU are fully</li> </ul>

<sup>4</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>addressed;</p> <ul style="list-style-type: none"> <li>• Streamline financial analysis.</li> <li>• Reconsider the whole “dissemination” system, with a view to emphasize a more streamlined provision of information to law enforcement, on a case-by-case basis.</li> <li>• Ensure that the FIU has timely and full access to all data it requires to properly undertake its functions.</li> </ul>
<p>Law enforcement, prosecution and other competent authorities</p> <p>R.27 –C</p> <p>R.28 – LC</p>	<ul style="list-style-type: none"> <li>• The authorities should review the scope of professional secrecy and privilege obligations, and consider amending the CPP to improve the authorities’ ability to obtain documents and information, having regard to the possibilities enabled by the European treaties.</li> <li>• When conducting investigations of money laundering and underlying predicate offences, competent authorities should be able to obtain from lawyers, notaries, and tax accountants, documents and information for use in those investigations, and in prosecutions and related actions.</li> </ul>
<p>Cross Border Declaration or disclosure</p> <p>SR IX– LC</p>	<ul style="list-style-type: none"> <li>• Establish TF as an autonomous offence, and extend Customs’ responsibilities also in this area;</li> <li>• Extend the requirements to cases where currency is shipped through containerized cargo and where currency or bearer negotiable instruments are mailed by a natural or legal person; Consider enhancing Customs authorities powers to stop or restraint the currency, when there is a suspicion of ML and when the person has fulfilled the declaration requirements;</li> <li>• Improve the quality of the data shared with the FIU.</li> </ul>
2. Preventive Measures: Financial Institutions	
<p>Risk of money laundering or terrorist financing</p>	
<p>Customer due diligence, including enhanced or reduced measures</p> <p>R.5 – PC</p> <p>R.6 – PC</p> <p>R.7 – LC</p> <p>R.8 – LC</p>	<ul style="list-style-type: none"> <li>• Clarify the issues related to the applicability of the CDD requirements envisaged by the WWFT (in particular those concerning beneficial ownership) to protected accounts opened prior to the entry into force of the updated Regulation on protected accounts;</li> <li>• Bring the definition of beneficial owner in line with the FATF standard (by referring it to the customer and by providing a reference to “actual control” also in the case of trusts and other legal arrangements)</li> <li>• Clarify the obligations to identify and to take reasonable measures to verify the ultimate beneficial owner and to understand the ownership and control structure of the customer in all circumstances regardless of risk;</li> <li>• Obligate financial institutions to determine whether the customer is acting on behalf of another person and to verify that a person purporting to act on behalf of the legal entity so</li> </ul>

	<p>authorized;</p> <ul style="list-style-type: none"> <li>• Provide further guidance on all CDD measures to financial institutions;</li> <li>• Address the exemptions for low-risk customers as adopted from the Third EC Money Laundering.</li> <li>• Oblige financial institutions to ensure that data and information obtained under the CDD process, such as the client risk profile and contact information, are kept up-to-date.</li> <li>• Repeal the transitional provision of the WWFT that deems the identification and record keeping requirements under the previous AML/CFT law as if it were duly fulfilled under the WWFT.</li> <li>• Require institutions to ascertain source of wealth and funds in all circumstances and not limited to business relations/transactions;</li> <li>• Review the PEP- related requirements to include non-Dutch PEPs resident in the Netherlands;</li> <li>• Introduce a requirement to obtain senior management approval to continue business relationship when a customer/beneficial owner becomes a PEP or is found to be a PEP during the course of an already established business relationship.</li> <li>• Extend the obligation for financial institutions to have risk based procedure to determine whether a customer is a PEP, also to the case of the beneficial owner.</li> <li>• Extend enhanced due diligence required to all non face-to-face relationships;</li> <li>• Reconsider the option envisaged by Article 8, para 2 c) of the WWFT, as it may not ensure effective CDD procedures in the case of non face-to-face transactions.</li> </ul>
<p>Third parties and introduced business</p> <p>R.9 – NC</p>	<ul style="list-style-type: none"> <li>• Revise the obligation that is currently imposed on the third party to provide the information concerning the CDD process.</li> <li>• Introduce a requirement for financial institutions to satisfy themselves that a third party located within the EU and EEA is regulated and supervised (in accordance with Recommendation 23, 24 and 29), and has measures in place to comply with the CDD requirements set out in R.5 and 10. Alternatively, the authorities could consider conducting a thorough assessment of the supervisory framework and of the CDD measures in place in the concerned countries where the third parties are located and limit the location of third parties to those countries that have satisfactory supervisory framework and CDD measures.</li> <li>• Introduce enforceable requirements that place the ultimate responsibility for customer identification and verification with the financial institution relying on the third party.</li> </ul>
<p>Financial institution secrecy or confidentiality</p>	<ul style="list-style-type: none"> <li>• Amend the WWFT (Article 22) to make explicit that supervisory authorities may share information collected for the</li> </ul>

R.4 –C	purpose of Article 24 with other domestic authorities and foreign supervisors.
Record keeping and wire transfer rules R.10 – LC SR.VII – C	<ul style="list-style-type: none"> <li>• Remove the ambiguity created by the different and conflicting record-retention provisions in the AW, BWR, WWFT, and Wft and make explicit that the record-retention requirements (including those in the BW and AWR) necessarily apply to all transactions and to business correspondence, account files, customer identification on all legal persons and arrangements and beneficial owners;</li> <li>• Ensure that records of transactions are maintained in a way that permits reconstruction of transactions for the purpose of prosecution and give the authorities powers to extend record retention requirements in particular cases;</li> <li>• Extend the record keeping requirement in the BPR Wft and BGFO Wft to all financial services categories identified in the Wft.</li> </ul>
Monitoring of transactions and relationships R.11 – LC R.21 – PC	<ul style="list-style-type: none"> <li>• Streamline the legislative and regulatory framework, eventually by introducing a separate obligation for all financial institutions to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose, autonomous from the obligation to report suspicious transactions. Introduce an explicit obligation for financial institutions to examine as far as possible the background and purpose of unusual transactions.</li> <li>• Consider re-introducing the practice of issuing detailed circulars to financial institutions after each FATF Plenary;</li> <li>• Introduce an enforceable obligation for financial institutions to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations.</li> </ul>
Suspicious transaction reports and other reporting R.13 – LC R.14 – PC R.19 – C R.25 – C SR.IV – LC	<ul style="list-style-type: none"> <li>• Ensure that suspicious transactions are reported promptly to the FIU;</li> <li>• Enhance the effectiveness of the reporting system, including by raising awareness of financial institutions on the detection of suspicious transactions.</li> <li>• Ensure that protection from criminal liability only applies if suspicions are reported in good faith.</li> <li>• Extend the tipping-off prohibition to apply to directors, officers and employees and to cover cases where transactions are being reviewed internally to determine whether an STR should be filed.</li> <li>• The authorities are recommended to reconvene the Article 21 Committee or the Indicators Working Group to establish with the representatives of the reporting institutions how best to disseminate the analysis that is currently produced. They are</li> </ul>

	further recommended to consider issuing alerts to institutions when new information is available on the FIU web site.
Internal controls, compliance, audit and foreign branches R.15 – PC R.22 – PC	<p>The authorities are recommended to make the following amendments to the WWFT, Wft, and Wgt with the overall objective of ensuring that all of the relevant obligations apply to all of the relevant institutions:</p> <ul style="list-style-type: none"> <li>• amend the Wft to clarify that the policies, procedures and controls required by the Wft must apply to the implementation of the obligations in the WWFT;</li> <li>• amend the WWFT to include a direct requirement to train staff , on a regular basis;</li> <li>• amend the Wft and Wgt to create a requirement for all regulated entities to have a compliance officer with adequate seniority access to management and resources;</li> <li>• amend the Wft or implementing regulations to require screening of all employees to ensure high standards;</li> <li>• amend the Wft or implementing obligations to apply the ongoing obligations on internal controls, compliance units, internal audit, training, and employee screening to all regulated financial entities covered by the WWFT;</li> <li>• amend Article 2(1) of the WWFT (or provide in implementing regulations) to ensure that regulated entities with foreign branches and subsidiaries (in all countries, including EU and EEA Member States) should apply all AML/CFT measures (not just CDD) that are equivalent to Dutch standards or applying local standards where these are higher; and that apply Dutch standards in countries which do not or which insufficiently apply FATF Recommendations.</li> </ul>
Shell banks R.18 – C	<ul style="list-style-type: none"> <li>• The authorities are recommended to amend Article 8(3) of the WWFT so that it applies to all correspondent banks, including those in the EU and EEA.</li> </ul>
Supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions) R.17 – LC R.23 – LC R.25 – LC R.29 – LC	<ul style="list-style-type: none"> <li>• The authorities should collect more comprehensive and detailed data by sector and by year, on the use of their inspection and enforcement powers with respect to AML/CFT matters and on the nature of the weaknesses being identified, so as update their understanding of ML and TF risks and to satisfy themselves that appropriate and effective action is taken in this area;</li> <li>• the AFM should review their approach to AML/CFT and increase their focus on monitoring the procedures put in place by regulated entities to detect and deter ML and FT and should implement increased monitoring of CDD practices by the large number of smaller businesses that are brokers;</li> <li>• the staff training program should be reviewed to ensure that each member of staff receives adequate training on AML/CFT and comprehensive data should be maintained on this.</li> </ul>

Money value transfer services SR.VI – LC	<ul style="list-style-type: none"> <li>• The DNB is recommended to review its advice to the money transfer offices on reporting on the basis of the subjective indicator, in consultation with the FIU, so as to maximize the value of the reporting system and seek a level of reporting that accurately reflects the presumption of money laundering. The authorities are also recommended to apply the provisions of Article 3:99 Wft to payment services providers, so that the owners may be subject to fit and properness tests.</li> </ul>
3.Preventive Measures: Non-Financial Businesses and Professions	
Customer due diligence and record-keeping R.12 – PC	<p>Extend the scope of the CDD requirements to:</p> <ul style="list-style-type: none"> <li>• both the buyer and the seller of a transaction performed by a real estate agent;</li> <li>• the services designated by the WWFT for lawyers and notaries, when related to the first meeting with the client. This requirement should be set out in primary or secondary legislation;</li> <li>• TCSPs when providing a registered office; business address for a company, a partnership or any other legal person or arrangements, when this service is provided on a standalone basis.</li> </ul> <p>With respect to Recommendation 5</p> <ul style="list-style-type: none"> <li>• All DNFBPs: Provide further guidance on all CDD measures. All DNFBPs (except TCSPs): The recommendations made in section 3 for financial institutions also apply to TCSPs: Adopt measures consistent with the standards regarding the identification of the customer other than the beneficial owner and enhanced due diligence. With respect to Recommendation 6, 8, 9 and 11:</li> <li>• The recommendations made in section 3 for financial institutions also apply to DNFBPs.</li> </ul> <p>With respect to Recommendation 10</p> <ul style="list-style-type: none"> <li>• All DNFBPs (except TCSPs): Remove the ambiguity created by the different and conflicting record-retention provisions in the AW, BWR and the WWFT, and make explicit that the record-retention requirements necessarily apply to all transactions and to business correspondence, account files, customer identification on all legal persons and arrangements and beneficial owners.</li> <li>• TCSPs: Ensure that record keeping requirements on information on the customer (if different from the beneficial owner) and business correspondence, are kept for five years from the date the relationship with the customer ceases.</li> </ul>
Suspicious transaction reporting R.16 – PC	<p>With respect to Recommendation 13:</p> <ul style="list-style-type: none"> <li>• Extend the scope of the reporting requirement to : <ul style="list-style-type: none"> <li>○ both the buyer and the seller of a transaction performed by</li> </ul> </li> </ul>



	<p>a real estate agent;</p> <ul style="list-style-type: none"> <li>○ TCSPs for providing a registered office; business address for a company, a partnership or any other legal person or arrangements, when this service is provided on a standalone basis.</li> </ul> <ul style="list-style-type: none"> <li>• Ensure that suspicious transactions are reported promptly to the FIU;</li> <li>• Enhance the effectiveness of the reporting system.</li> </ul> <p>With respect to Recommendation 14: The recommendations made in section 3.7 for financial institutions also apply to DNFBPs.</p> <p>With respect to Recommendation 15:</p> <p>All DNFBPs (except TCSPs)</p> <ul style="list-style-type: none"> <li>• Require DNFBPs to develop internal policies, procedures and controls (except lawyers);</li> <li>• Require DNFBPs to establish an appropriate ongoing employee training;</li> <li>• Introduce the requirement of an independent audit function to test compliance with the procedures, policies and controls.</li> </ul> <p>TCSPs</p> <ul style="list-style-type: none"> <li>• Introduce the requirement of an independent audit function to test compliance with the procedures, policies and controls.</li> </ul> <p>With respect to Recommendation 21:</p> <ul style="list-style-type: none"> <li>• The recommendations made in section 3.6 for financial institutions also apply to DNFBPs.</li> </ul>
<p>Regulation, supervision, monitoring, and sanctions</p> <p>R.24 – PC</p> <p>R.25 – PC</p>	<ul style="list-style-type: none"> <li>• Ensure that lawyers are subject to an effective system for ensuring compliance with AML/CFT requirements;</li> <li>• Increase the effectiveness of the measures in place concerning illegal internet casinos that have their mind and management in the Netherlands.</li> <li>• Increase effectiveness in the monitoring of precious metals dealers, lawyers and accountants.</li> <li>• The FIU should provide DNFBPs with a more specific feedback on reported transactions.</li> </ul>
<p>Other designated non-financial businesses and professions</p> <p>R.20 –C</p>	<ul style="list-style-type: none"> <li>• There are no recommendations with regard to this Recommendation.</li> </ul>
4. Legal Persons and Arrangements & Nonprofit Organizations	
Legal Persons–Access to	<ul style="list-style-type: none"> <li>• Information on ultimate beneficial owners of Dutch legal persons should be accessible and up-to-date in all cases.</li> </ul>

beneficial ownership and control information R.33 – PC	<ul style="list-style-type: none"> <li>• The dematerialization process of bearer shares should be completed as soon as possible to ensure that such instruments issued by Dutch NVs are not abused for ML or TF purposes.</li> </ul>
Legal Arrangements–Access to beneficial ownership and control information R.34 – PC	<ul style="list-style-type: none"> <li>• The definition of the “beneficial owners” as contained in the WWFT should extend to —the natural person(s) who ultimately owns or controls a legal arrangement.”</li> <li>• For trusts not administered by a Dutch FI or DNFBP, put in place additional measures to ensure that timely, accurate, and complete beneficial ownership information is available in all cases.</li> </ul>
Nonprofit organizations SR.VIII – LC	<ul style="list-style-type: none"> <li>• For NPOs outside of the CBF’s seal mechanism undertake outreach initiatives to enhance NPO’s awareness about the risks of terrorist abuse.</li> <li>• Develop coordination and information exchange mechanisms that involve the CBF to facilitate the effectiveness of the supervisory framework.</li> </ul>
5. National and International Cooperation	
National cooperation and coordination R.31 – LC	<ul style="list-style-type: none"> <li>• Make greater use of existing coordination bodies and, if appropriate, combine some of the bodies so as to focus the resources of the participating parties;</li> <li>• Encourage the supervisors and the FIU to make greater use of the information on reporting patterns and to consider benchmarking the Dutch experience against that of other countries so as to establish a risk-based awareness program to tackle those sectors where reporting is minimal;</li> <li>• Make greater use of the private sector’s desire for greater feedback from the FIU so as to maximize the value of the reporting process.</li> </ul>
The Conventions and UN Special Resolutions R.35 – PC SR.I – PC	<ul style="list-style-type: none"> <li>• Implement fully the Vienna and Palermo Conventions.</li> <li>• Implement fully the CFT Convention, in particular by addressing the shortcomings identified in SR II.</li> <li>• Address the shortcomings identified in relation to the implementation of UNSCRs 1267 and 1373.</li> </ul>
Mutual Legal Assistance R.36 – PC R.37 – LC R.38 – PC SR.V – PC	<ul style="list-style-type: none"> <li>• Ensure that assistance in searching and seizing of evidence can be provided in all ML cases and in relation to any requesting country.</li> <li>• Address all shortcomings identified under Special Recommendation II.</li> <li>• Ensure that access to information held by notaries, lawyers and accountants can be granted in all cases, including in the context of MLA.</li> </ul>
Extradition R.39 – PC R.37 – LC	<ul style="list-style-type: none"> <li>• In relation to non-Council of Europe members and countries with which the Netherlands have not signed a multilateral or bilateral extradition treaty, ML should be an extraditable offense in all cases, including drug related cases.</li> </ul>

SR.V – PC	<ul style="list-style-type: none"> <li>• Address all shortcomings identified under Special Recommendation II.</li> <li>• Set out a legal obligation by Dutch authorities to prosecute a suspect domestically in cases where an extradition request for ML is denied purely on the basis of nationality.</li> </ul>
Other Forms of Cooperation R.40 – LC SR.V – PC	<ul style="list-style-type: none"> <li>• The authorities should review the scope of professional secrecy obligations and consider amending the CPP to make sure that it does not subject exchange of information to unduly restrictive conditions.</li> </ul>
6. Other Issues	
Resources & Statistics R.30 – LC R.32 – LC	<ul style="list-style-type: none"> <li>• Staff training should be required on an annual basis and sufficient data on the nature of training received by supervisory staff should be kept.</li> <li>• Accurate and complete statistics should be maintained on:               <ol style="list-style-type: none"> <li>(1) the number and types of predicate offenses committed in the Netherlands;</li> <li>(2) the number of investigations conducted for ML and FT;</li> <li>(3) the types of predicate offenses involved in ML prosecutions and convictions;</li> <li>(4) the number of ML and TF investigations in which assets were seized and the amounts seized in each case;</li> <li>(5) the total amounts requested to be seized and eventually realized in each case should be maintained;</li> <li>(6) the number of MLA requests received and granted in ML and TF cases in relation to the seizing and confiscation of assets and the total number of assets seized and confiscated based on foreign request;</li> <li>(7) the number of extradition requests received in ML and TF cases and the number of cases rejected and granted as well as the time required to complete extradition proceedings.</li> </ol> </li> </ul>