

## SELF-ASSESSMENT QUESTIONNAIRE: FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

### INSTRUCTIONS:

1. This questionnaire seeks to obtain information on the degree to which countries and territories have implemented measures relating to the FATF Special Recommendations on terrorist financing. The FATF Secretariat will compile responses to this questionnaire, and in the future this material will serve as the basis for assessing further progress in implementing anti-terrorist financing measures. This questionnaire takes into account the guidance<sup>1</sup> issued by the UN Security Council Committee established for monitoring the implementation of UN Security Council Resolution 1373 (2001) of 28 September 2001 [S/RES/1373(2001)]. Where appropriate, questions in this document contain cross-references to the relevant provisions set out in the UN guidance and S/RES/1373(2001).
2. Your responses to this questionnaire should reflect the current situation in your jurisdiction and not any future or desired situation or a situation based on preconditions that have not yet been met. Each series of questions on a particular Recommendation has clearly marked field with space for describing future situations or policy intentions if necessary. Please use this field to indicate your jurisdiction's Action Plan to come into compliance with the particular Special Recommendation by June 2002. For many of the questions, we ask that you indicate the exact title (by article, paragraph, section, etc.) of the law, regulation, executive degrees or other sources for a particular requirement. In addition to these citations, you should provide copies (separately) of the relevant texts.
3. We request that you complete the questionnaire and forward your responses directly to the FATF Secretariat at [Contact@fatf-gafi.org](mailto:Contact@fatf-gafi.org) on or before **1 May 2002**.

### *Specific instructions for completing and submitting this form electronically*

4. This questionnaire is designed to be submitted electronically. Each 'blank' or 'field' in the form has been indicated by grey shading. You may move from one question to the next either by using your tab key (to move forward), the arrow keys (to move forward or backward), or your cursor (mouse).
5. For questions which call for a 'yes' or 'no' answer, the default is 'no'. In order to provide your answer to this type of question, use your cursor to select the corresponding blank. A small menu will appear giving you your choices. If you feel that this type of question does not apply to your jurisdiction, answer 'no' and explain in the space provided on the form.
6. For other questions that ask for longer responses, again select the corresponding blank and then type in the desired response to that question. The blank will increase in size according to how much information you enter. If you need additional space for explaining your answers, you may submit this information with clear reference to the corresponding question as a separate attachment to your completed questionnaire.
7. We have designed this form to be submitted electronically to facilitate the compilation and analysis of the submitted material. Should you have problems in downloading, filling in or submitting this questionnaire, please contact the FATF Secretariat at the e-mail address indicated above.

FATF Secretariat  
31 January 2002

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<sup>1</sup> *Guidance for the Submission of Reports Pursuant to Paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001 [S/RES/1373(2001)]*, issued 26 October 2001 (<http://www.un.org/docs/sc/committees/1373/guide.htm>).

## SELF-ASSESSMENT QUESTIONNAIRE FOR THE FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

Responses for:

Name of jurisdiction:

Gibraltar <sup>1</sup>

Date of information:

April 2002 <sup>2</sup>

### I. Ratification and implementation of UN instruments

Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.

Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

I.1 Has your jurisdiction ratified and fully implemented the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism? Please answer 'yes', 'no' or 'partially', indicate the appropriate date and cite the applicable law or executive act.

		Date	Applicable law(s) or executive act(s) <sup>2</sup>
Signed	Y <sup>3</sup>	7 March 2001 <sup>4</sup>	Deposit by United Kingdom <sup>5</sup>
Ratification	N <sup>6</sup>	<sup>7</sup>	<sup>8</sup>
Implementation	P <sup>9</sup>	10 October 2001 <sup>10</sup>	<sup>11</sup>

[References for I.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3d, S/RES/1373 (2001)]

I.2 What is your process for ratifying this Convention? Please specify in the space below.

By Order in Council made in the United Kingdom, which has the power to extend Conventions signed by it to Gibraltar. Gibraltar cannot take separate action for ratification. <sup>12</sup>

I.3 Has your jurisdiction fully implemented the following United Nations Security Council Resolutions relating to the prevention and suppression of the financing of terrorist acts?<sup>3</sup>

a. **S/RES/1267(1999)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution, as well as the amounts frozen.)

Implemented?	Date	Applicable law(s) or executive act(s)	Have you frozen assets related to S/RES/1267(1999)?	Number of individuals or entities whose assets have been frozen and amounts frozen
Y <sup>13</sup>	24/11/99 <sup>14</sup>	The Afghanistan (United Nations Sanctions) (Overseas Territories) Order 1999 - published in Gibraltar as Legal Notice 21 of 2000 on 9 March 2000 <sup>15</sup>	N <sup>16</sup>	<sup>17</sup>

[References for I.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]

b. **S/RES/1269(1999)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate to which international anti-terrorism conventions your jurisdiction is a party and specify for each whether the instrument has been signed but not yet ratified ('S'), ratified but not yet implemented ('RA') or implemented ('IM').)

Implemented?	Date	Applicable law(s) or executive act(s)	International anti-terrorism conventions and status
Y <sup>18</sup>	NA <sup>19</sup>	See in particular the Suppression of	Convention on the Suppression of Terrorism;

<sup>2</sup> Here as elsewhere in this questionnaire, please cite the specific provision (article, paragraph, section, etc.) that applies.

<sup>3</sup> Please note that in assessing compliance with this Special Recommendation, responses to questions elsewhere in this questionnaire will be taken into account.

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<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>International anti-terrorism conventions and status</i>
		Terrorism Act 1978 (Overseas Territories) Order published as Legal Notice 31 of 1978, and the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 published as Legal Notice 122 of 2001. Extradition (Hijacking) Order 1971; Extradition (Internationally Protected Persons) Order 1979; Extradition (Protection of Aircraft) Order 1973; Extradition (Tokyo Convention) Order 1971. <sup>20</sup>	Convention for the Suppression of Unlawful Seizure of Aircraft; Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents; Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircraft ("the Montreal Convention"); Convention on Occurrences and certain other Acts Committed on board Aircraft ("the Tokyo Convention") <sup>21</sup>

*[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]*

c. **S/RES/1333(2000)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution, as well as the amounts frozen.)

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1333(2000)?</i>	<i>Number of individuals or entities whose assets have been frozen and amounts frozen</i>
Y <sup>22</sup>	14/2/2001 - 1/11/2001 <sup>23</sup>	The Afghanistan (United Nations Sanctions) (Overseas Territories) Order 2001, as amended by SI 2558 of 2001 - published in Gibraltar on 11 October 2001 as Legal Notice 118 of 2001, and further list of organisation published on 1 November 2001 under Legal Notice 134 of 2001 <sup>24</sup>	N <sup>25</sup>	<sup>26</sup>

*[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]*

d. **S/RES/1373(2001)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution, as well as the amounts frozen.)

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1373(2001)?</i>	<i>Number of individuals or entities whose assets have been frozen and amounts frozen</i>
Y <sup>27</sup>	10/10/2001 <sup>28</sup>	The Terrorism (United Nations Measures) (Overseas Territories) Order 2001 - published in Gibraltar as Legal Notice No 122 of 2001. <sup>29</sup>	N <sup>30</sup>	<sup>31</sup>

*[References for 1.2: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 3e, S/RES/1373 (2001)]*

e. **S/RES/1390(2002)** (Please indicate 'yes', 'no' or 'partially', and cite the applicable law or executive act. If 'yes' or 'partially', please indicate whether or not your jurisdiction has frozen the assets of individuals and entities mentioned in the list associated with this Security Council Resolution, and specify the number of individuals or entities whose assets have been frozen under this Resolution, as well as the amounts frozen.)

<i>Implemented?</i>	<i>Date</i>	<i>Applicable law(s) or executive act(s)</i>	<i>Have you frozen assets related to S/RES/1390(2002)?</i>	<i>Number of individuals or entities whose assets have been frozen and amounts frozen</i>
Y <sup>32</sup>	25/1/02 <sup>33</sup>	The Al-Qaida and Taliban (United Nations Measures)(Overseas Territories) Order 2002 (LN 17 of 2002) <sup>34</sup>	N <sup>35</sup>	<sup>36</sup>

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I.4 Does your jurisdiction have the authority to freeze the assets of terrorists whose names do not appear on the list maintained by the UN Security Council Committee established pursuant to S/RES/1269(1999)? If 'yes', please cite the applicable law(s), regulation(s) or other authority that permits such action.

*Applicable law(s), regulation(s) or other authority*

Y 37 

By virtue of Regulation 5(1) of the Terrorism (United Nations Measures) (Overseas Territories) Order, published in Gibraltar as LN 122 of 2001 38
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I.5 Does the law of your jurisdiction require a UN Security Council designation before a terrorist's assets can be frozen? If 'yes', please indicate how your country plans to implement the requirements of S/RES/1373(2001).

*Plans for implementing S/RES/1373(2001)*

N 39 

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I.6 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

In answering "N" to question I.5 we have previously reported that S/RES/1373(2001) has been implemented (see reply to 1.3d). Furthermore, under the implementing Order no UN designation is required to freeze terrorist assets. 41
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**II. Criminalising the financing of terrorism and associated money laundering**

**Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.**

II.1 Has your jurisdiction criminalised the financing of terrorism, the financing of terrorist acts and the financing of terrorist organisations? Please answer 'yes' or 'no' and cite the applicable law(s).

*Applicable law(s)*

Y 42 

By virtue of Regulation 3, 4 and 6 in the Order published as Legal Notice 122 of 2001. 43
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*[References for II.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 1b, S/RES/1373 (2001)]*

II.2 Are the offences in II.1 above designated as money laundering predicate offences? Please answer 'yes' or 'no' and cite the applicable law(s).

*Applicable law(s)*

Y 44 

By virtue of section 2(7) of the Criminal Justice Ordinance 1995 all indictable offences are money laundering predicate offences. Regulation 11 of the Legal Notice 122 of 2001 makes the offences mentioned II.1 indictable. 45
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II.3 Do terrorist financing offences in your jurisdiction also apply when terrorists or terrorist organisations are located in another State, or when a terrorist act takes place in another State? Please answer 'yes' or 'no' and cite the applicable law(s).

*Applicable law(s)*

Y 46 

By virtue of para d defining "terrorism" in the Order published as Legal Notice 122 of 2001 47
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*[References for II.3: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2d, S/RES/1373 (2001)]*

II.4 Is it an offence to plan, facilitate or commit terrorist acts whether or not these acts take place in your jurisdiction or in another State? Please answer 'yes' or 'no' and cite the applicable law(s).

*Applicable law(s)*

a. acts in your jurisdiction	Y 48	Most plans to commit or facilitate terrorist acts are substantive offences as under II.1. Reinforcing this, under Parts III and IV of the Criminal Offences Ordinance any plan partially made within Gibraltar to commit a crime or assist crime to be committed in Gibraltar is of itself a crime. 49
b. acts in another State	Y 50	Most plans to commit or facilitate terrorist acts in another state are substantive offences as under II.1. Reinforcing this, under the Common Law the same principle applies even where the crime is to be committed outside Gibraltar where the act would be prohibited if carried out in Gibraltar provided that the offence would be

*Applicable law(s)*

punishable in Gibraltar under the Convention on the Suppression of Terrorism (see II.5.b). <sup>51</sup>

[References for II.4: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2e, S/RES/1373 (2001)]

II.5 What penalties apply to persons or entities that have committed terrorist financing offences or that have been involved in, planned, prepared, supported, or committed terrorist acts? Please describe indicate the penalties and cite the applicable law(s).

	<i>Penalties</i>	<i>Applicable law(s)</i>
a. terrorist financing offences	i) Seven years imprisonment and unlimited fine. ii) Up to life imprisonment where the acts constitute aiding, abetting, counseling or procuring a murder or attempt. <sup>52</sup>	i) The Order published in Gibraltar under Legal Notice 122 of 2001, in particular regulation 11. ii) The Criminal Offences Ordinance, Part III, will have this effect in its provisions as secondary parties to offences. <sup>53</sup>
b. terrorist acts ( <i>as above</i> )	i) Up to life imprisonment where the acts constitute aiding, abetting, counseling or procuring a murder or attempt. ii) Where no part of the offence, or the planning, has been committed in Gibraltar, it will be triable only if it falls with the Convention on the Suppression of Terrorism, and it will then be tried as if it were an offence in Gibraltar. <sup>54</sup>	i) The Criminal Offences Ordinance, Part III, will have this effect in its provisions as secondary parties to offences. ii) See the Order published as Legal Notice 31 of 1978. <sup>55</sup>

[References for II.5: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2e, S/RES/1373 (2001)]

II.6 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

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[END A] <sup>57</sup>

[For Secretariat use only]

### III. Freezing and confiscating terrorist assets

Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.

III.1 Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers'<sup>4</sup> which permit competent authorities to freeze funds or other assets of terrorists and terrorist organisations, as well as those who finance terrorist acts or terrorist organisations? If 'yes', please indicate how quickly you may act, any special circumstances or restrictions (for example, automatic termination of the order), and cite the applicable law or regulation.

		<i>How quickly?</i>	<i>Circumstances or restrictions</i>	<i>Applicable law or regulation</i>
a. terrorists and terrorist organisations?	Y <sup>58</sup>	Without delay <sup>59</sup>	Executive Order on reasonable grounds for suspecting the funds are held by terrorists. <sup>60</sup>	Regulation 5 of the Order published as Legal Notice 122 of 2001. <sup>61</sup>
b. those who finance terrorist acts or terrorist organisations?	Y <sup>62</sup>	Without delay. <sup>63</sup>	Executive Order on reasonable grounds that the funds are held by someone who participates in or facilitates terrorism. <sup>64</sup>	Regulation 5 of the Order published as Legal Notice 122 of 2001. <sup>65</sup>

[References for III.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 1c, S/RES/1373 (2001)]

<sup>4</sup> The term 'executive powers' means those powers emanating from the executive branch of government (as opposed to legislative or judicial powers). An example might be an order or decree that may be made by the head of state or government.

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III.2. Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers' which permit competent authorities to seize ...

		<i>Applicable law or regulation</i>
a.	the proceeds of terrorism or of terrorist acts?	Y 66
		<p>Under section 30(8) of the Criminal Justice Ordinance 1995 the court may appoint a receiver to take possession of any realisable property, subject to a restraint order. Furthermore, under sub-section 30(10) of the same Ordinance a Police or Customs office may seize any property under a restraint order to prevent it from being removed from the jurisdiction. The restraint order can be obtained when proceedings have been instituted in Gibraltar.</p> <p>Para 2 of Schedule 4 of The Afghanistan (United Nations Sanctions)(Overseas Territories) Order 2001 gives very broad powers for entry, search and seizure of premises, vehicles, ships, persons and aircraft for evidence believed to be related to Usama Bin-Laden and his associates irrespective of whether proceedings have been instituted in Gibraltar or not.</p> <p>This exists alongside the general police powers to take possession of property related to crime as evidence. 67</p>
b.	the property used in terrorism, in terrorist acts or by terrorist organisations?	Y 68
		IBID 69
c.	property intended or allocated for use in terrorism, in terrorist acts or by terrorist organisations?	Y 70
		IBID 71

III.3. Does your jurisdiction have explicit (legal or regulatory) provisions or 'executive powers' which permit competent authorities to confiscate ...

		<i>Applicable law or regulation</i>
a.	the proceeds of terrorism or of terrorist acts?	Y 72
		<p>Part IV of the Criminal Justice Ordinance 1995 allows for the confiscation of the proceeds of criminal conduct where a person has been found guilty of an offence in Gibraltar.</p> <p>Section 42 and 43 in the same Part allows for the enforcement and registration of external confiscation orders when made by or on behalf of a designated country. 73</p>
b.	the property used in terrorism, in terrorist acts or by terrorist organisations?	Y 74
		<p>Most property that is used or intended to be used for terrorism will be in itself be illegal (guns, explosives, etc). If the property is an exhibit in a criminal trial it can be disposed of at the Court's discretion under the inherent jurisdiction of the Court and more specifically under the provisions of the Police Ordinance (section 49). Further, if the property is covered by a freezing or restraint order it may be dealt with as in III.3(a) above. 75</p>
c.	property intended or allocated for use in terrorism, in terrorist acts or by terrorist organisations?	Y 76
		IBID 77

III.4 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

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**IV. Reporting suspicious transactions related to terrorism**

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

IV.1 Are financial institutions<sup>5</sup> or other businesses and entities in your jurisdiction required to make a report to the competent authorities when they suspect that funds may be linked to, related to or to be used for terrorism, terrorist acts or by terrorist organisations?<sup>6</sup>

<i>Type of institution</i>		<i>Applicable law or regulation</i>	
a. Banks	Y 79	By virtue of regulation 9 of the Order published as Legal Notice 122 of 2001 and section 2 of the Criminal Justice Ordinance 1995. 80	
b. Bureaux de change	Y 81	By virtue of the application of section 2 of the Criminal Justice Ordinance 1995. 82	
c. Stockbrokers	Y 83	IBID 84	
d. Insurance companies	Y 85	IBID 86	
e. Money remittance/transfer services	Y 87	IBID 88	
Other businesses or entities ( <i>please specify</i> )			
f. Everybody 89	Y 90	Section 2 of the Criminal Justice Ordinance 1995 is sufficiently broad to other any person in such a position. 91	
g. 92	N 93	94	

IV.2 Does the reporting obligation mentioned in IV.1 above also apply when the financial institution or other business or entity has reasonable grounds to suspect that funds are linked to, related to or to be used for terrorism, terrorist acts or by terrorist organisations?

<i>Type of institution</i>		<i>Applicable law or regulation</i>	
a. Banks	Y 95	By virtue of regulation 9 of the Order published as Legal Notice 122 of 2001 and section 2 of the Criminal Justice Ordinance 1995. 96	
b. Bureaux de change	Y 97	By virtue of the application of section 2 of the Criminal Justice Ordinance 1995. 98	
c. Stockbrokers	Y 99	IBID 100	
d. Insurance companies	Y 101	IBID 102	
e. Money remittance/transfer companies	Y 103	IBID 104	
Other businesses or entities ( <i>please specify</i> )			
f. Everybody 105	Y 106	Section 2 of the Criminal Justice Ordinance 1995 is sufficiently broad to other any person in such a position. 107	
g. 108	N 109	110	

IV.3 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

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[END B] 112 [For Secretariat use only]

<sup>5</sup> All references to "financial institutions" in this questionnaire, unless otherwise indicated, refer to both banks and non-bank financial institutions (NBFIs). For assessing compliance with FATF Recommendations, NBFIs include as a minimum the following types of financial services: bureaux de change, stockbrokers, insurance companies and money remittance/transfer services.

<sup>6</sup> This question refers to systems that require the reporting of suspicious transactions as well as those requiring the reporting of unusual transactions.

**V. International Co-operation**

Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance or information exchange, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.

Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.

V.1 Does your jurisdiction have specific provisions that permit competent authorities to provide mutual legal assistance<sup>7</sup> to other countries in connection with investigations, inquiries and proceedings relating to the financing of terrorism, of terrorist acts and of terrorist organisations?

<i>Type of investigation, inquiry or proceeding</i>		<i>Applicable treaty, arrangement or other mechanism</i>
a.	criminal	Y <sup>113</sup> On account that any inquiry into the funding of terrorism is treated as a domestic matter by virtue of the Order published as Legal Notice 122, all domestic enforcement procedures are available. <sup>114</sup>
b.	civil enforcement	Y <sup>115</sup> On account that any inquiry into the funding of terrorism is treated as a domestic matter by virtue of the Order published as Legal Notice 122, all domestic enforcement procedures are available. <sup>116</sup>

[References for V.1: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraphs 2f and 3e, S/RES/1373 (2001)]

V.2 Is your jurisdiction able to respond to mutual legal assistance requests relating to the financing of terrorism, of terrorist acts and of terrorist organisations? Please choose 'yes' or 'no'. If 'yes', please provide the number of mutual legal assistance requests (relating to the financing of terrorism, of terrorist acts and of terrorist organisations) received by your jurisdiction during the past twelve months, the number answered, and the average time to respond.

	<i>N° of MLA requests received</i>	<i>N° MLA requests answered</i>	<i>Average response time</i>
Y <sup>117</sup>	None <sup>118</sup>	Not applicable <sup>119</sup>	Not applicable <sup>120</sup>

V.3 Does your jurisdiction permit the exchange of information (other than through mutual legal assistance) with other countries in connection with investigations, inquiries and proceedings relating to the financing of terrorism, of terrorist acts and of terrorist organisations?

<i>Type of investigation, inquiry or proceeding</i>		<i>Applicable law, arrangement or other mechanism</i>
a.	criminal	Y <sup>121</sup> Through lack of prohibition to such exchange. <sup>122</sup>
b.	civil enforcement	Y <sup>123</sup> Through lack of prohibition to such exchange. <sup>124</sup>
c.	administrative <sup>8</sup>	Y <sup>125</sup> Through lack of prohibition to such exchange. <sup>126</sup>

[References for V.3: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraphs 2b, 2f and 3b, S/RES/1373 (2001)]

V.4 If 'yes' to V.3 above, please indicate the number of requests received by your jurisdiction during the past twelve months, the number answered, and the average time to respond.

	<i>N° of requests received</i>	<i>N° requests answered</i>	<i>Average response time</i>
Y <sup>127</sup>	None <sup>128</sup>	Not applicable <sup>129</sup>	Not applicable <sup>130</sup>

V.5 Does your jurisdiction have specific measures in place that permit competent authorities to deny 'safe haven' (i.e., access to your jurisdiction or permission to reside there) for those individuals involved in the financing of terrorism, of terrorist acts or of terrorist organisations?

<sup>7</sup> "Mutual legal assistance" as used here means the power to provide a full range of both non-coercive and coercive mutual legal assistance, including the taking of evidence, the production of documents for investigation or as evidence, the search and seizure of documents or things relevant to criminal proceedings or to a criminal investigation, the ability to enforce a foreign restraint, seizure, forfeiture or confiscation order in a criminal matter.

<sup>8</sup> This category refers to inquiries made on behalf of financial regulatory bodies or certain types of financial intelligence units (FIUs) and which do not fall into the two other categories indicated.

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	<i>Measure(s)</i>	<i>Applicable law or regulation</i>
Y <sup>131</sup>	The grant of asylum may be refused on any grounds that the Executive sees fit. Gibraltar is not party to any Convention that limits this power. <sup>132</sup>	Section 55 of the Immigration Control Ordinance. <sup>133</sup>

*[References for V.5: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2c, S/RES/1373 (2001)]*

V.6 As a means of denying 'safe haven' to persons charged with the financing of terrorism, of terrorist acts or of terrorist organisations, does your jurisdiction have specific measures in place, such as...

		<i>Measure(s)</i>	<i>Applicable law or regulation</i>
a. border controls to prevent the movement of terrorists or terrorist organisations?	Y <sup>134</sup>	i) Passport controls on entry and power to refuse entry. ii) All yachts must report on arrival and provide a crew list before going to their harbour. <sup>135</sup>	i) Immigration Control Ordinance <sup>136</sup>
b. controls to prevent issue of identity papers and travel documents to terrorists?	Y <sup>137</sup>	Use of the Passport warning list. <sup>138</sup>	Provided under Foreign & Commonwealth Consular instructions. <sup>139</sup>
c. measures to prevent forgery or fraudulent use of identity papers and travel documents by terrorists or terrorist organisations?	Y <sup>140</sup>	Passports are printed by UK Government passport printers and comply with UK passport security printing standards.  ID Cards printed by De La Rue Security Systems. Security measures include – sensitised violet dull paper, rainbow printing with anti-photographic background tints, fine line printing, invisible UV features, micro lettering, digital printing for image and personal details including signature and lamination. <sup>141</sup>	<sup>142</sup>
d. any other measures?	N <sup>143</sup>	<sup>144</sup>	<sup>145</sup>

*[References for V.6: Paragraph 3.2 of "Guidance on Submission of Reports" (see note 1); paragraph 2 g, S/RES/1373 (2001)]*

V.7 Does your jurisdiction have procedures in place to permit the extradition of individuals involved in the financing of terrorism, of terrorist acts or of terrorist organisations? If 'yes', please also indicate any prohibitions or restrictions in this regard.

	<i>Prohibition or restriction</i>	<i>Applicable law or regulation</i>
Y <sup>146</sup>	A person involved in financing terrorist offences will fall within the Suppression of Terrorism Act 1978 (Overseas Territories) Order - published in Gibraltar as Legal Notice 31 of 1987, unless the crime did involve a state which was party to the Suppression of Terrorism Convention.  Otherwise extraditable under the Extradition Act 1870 or Fugitive Offenders Act 1967. In the case of the former, it is theoretically possible (although extremely unlikely) that the Court might deem a terrorist offence to be political. <sup>147</sup>	Suppression of Terrorism Act 1978 (Overseas Territories) Order Extradition Act 1870 (section 4 provides a minor theoretical restriction) Fugitive Offenders Act 1967. <sup>148</sup>

V.8 Does your jurisdiction have (legislative or regulatory) provisions or other procedures to ensure that claims of political motivation are not recognised as a ground for refusing requests to extradite persons alleged to have been involved in terrorist financing or terrorist acts? Please answer 'yes' or 'no', describe the measures and cite the applicable law or regulation.

	<i>Measures</i>	<i>Applicable law, regulation or other procedure</i>
Y <sup>149</sup>	Political motivation of itself is not sufficient reason to refuse extradition. <sup>150</sup>	i) In all cases where the Suppression of Terrorism Act as published in Legal Notice 31 of 1987 applies. ii) Case law on interpreting what is a political offence. <sup>151</sup>

*[References for V.8: Paragraph 3.2, "Guidance on Submission of Reports" (see note 1); paragraph 3g, S/RES/1373 (2001)]*

V.9 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

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**VI. Alternative Remittance**

Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.

VI.1 Does your jurisdiction have specific provisions (legal or regulatory) that require persons or legal entities providing money remittance or transfer services<sup>9</sup> to be licensed or registered? Do these requirements **also** apply to informal money or value transfer systems or networks<sup>10</sup>? Please select 'yes' or 'no' and cite the applicable law(s) or regulation(s).

	<i>Must be licensed?</i>	<i>Must be registered?</i>	<i>Applicable law(s) or regulation(s)</i>
a. Money remittance or transfer service	N 153	N 154	155
b. <u>Including</u> informal money/value transfer systems?	N 156	N 157	158

VI.2 Are money remittance/transfer services, including informal money or value transfer systems, in your jurisdiction subject to key FATF Recommendations applicable to banks and non-bank financial institutions (R. 10, 11, 12 and 15)? Please select 'yes' or 'no' for each Recommendation and cite the applicable law or regulation.

<i>FATF Recommendation<sup>11</sup></i>	<i>Applies to money remitters?</i>	<i>Applicable law or regulation</i>	<i>Informal money / value transfer systems are also included?</i>
R. 10 (identification of the customer and recording of this information)	Y 159	Section 8(1) of the Criminal Justice Ordinance 1995 160	N 161
R. 11 (identification of the true identity of the person on whose behalf a transaction is conducted)	Y 162	IBID 163	N 164
R. 12 (maintenance for at least five years of records on transactions)	Y 165	IBID 166	N 167
R. 15 (requirement to report to competent authorities when it is suspected that funds involved stem from criminal activity)	Y 168	Ibid and section 2 of that Ordinance applies to informal systems also. 169	Y 170

VI.3 Has your jurisdiction designated specific competent authorities to oversee the licensing or registration of money transmission services, including informal money or value transfer systems, and is there an authority for ensuring that these services comply with the relevant FATF Recommendations? Please answer 'yes' or 'no' and indicate the name of the competent authority or authorities.

	<i>Name of authority</i>
N 171 <i>Licensing authority</i>	172
N 173 <i>Registration authority</i>	174

<sup>9</sup> The term 'money remittance or transfer service' refers to those non-bank financial institutions that move funds for individuals or entities through their own network or through the regulated banking network. For the purposes of assessing compliance with the FATF Recommendations, money remitter/transfer services are included as one of the four principal NBFIs categories and are thus considered to be part of the 'regulated' financial sector. Nevertheless, such services are used in some laundering or terrorist financing operations, often as part of a larger alternate remittance or underground banking scheme.

<sup>10</sup> The term 'informal money or value transfer system' also refers to systems or networks whereby funds or value are moved from one geographic location to another; however, in some jurisdictions, these informal systems have traditionally operated outside the regulated financial sector (in contrast to money remittance or transfer services). To obtain a clear picture of the situation in each jurisdiction, an artificial distinction has been made for some questions between the informal and formal transfers systems. Some examples of informal systems include the parallel banking system found in the Americas (often referred to as 'Black Market Peso Exchange'), the *hawala* or *hundi* system of South Asia, and the Chinese or East Asian systems. For more information on this topic, see the FATF-XI Typologies Report (3 February 2000) or the Asia Pacific Group Report on Underground Banking and Alternate Remittance Systems (18 October 2001).

<sup>11</sup> The full text of these and the other FATF Recommendations may be consulted through the FATF website at: [www.fatf-gafi.org/40Recs\\_en.htm](http://www.fatf-gafi.org/40Recs_en.htm).

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Y <sup>175</sup> Authority ensuring compliance with relevant FATF Recommendations

HM Customs Gibraltar <sup>176</sup>

VI.4 Are persons or entities in your jurisdiction that conduct money transmission services, including informal money/value transfer systems, without proper authorisation or that fail to comply with key FATF Recommendations (R. 10, 11, 12 and 15) subject to administrative, civil or criminal sanctions? Please select 'yes' or 'no' for each category, indicate the type(s) of sanction, and cite the applicable law or regulation.

	Sanction?	Nature of sanction(s)	Applicable law or regulation
a. Failure to obtain a licence	N <sup>177</sup>	178	179
b. Failure to register	N <sup>180</sup>	181	182
c. Failure to comply with the principles contained in FATF Recommendations.	Y <sup>183</sup>	In respect of R15. Criminal offence punishable by up to 14 years in prison and an unlimited fine. <sup>184</sup>	Section 2 of the Criminal Justice Ordinance 1995. <sup>185</sup>

VI.5 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

Although money transmitters are not required to obtain a licence or to be registered, the Criminal Justice Ordinance 1995 is specific in covering these activities in relation to anti-money laundering measures and compliance with FATF recommendations. Adherence to the legislative and guidance notes requirements are monitored by HM Customs Gibraltar. <sup>186</sup>

[END C] <sup>187</sup> [For Secretariat use only]

**VII. Wire transfers**

**Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain.**

**Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).**

VII.1 Are financial institutions in your jurisdiction required by law or regulation to include information on the originator (name, address, account number<sup>12</sup>) of funds transfers (either accompanying the transfer itself or contained in related messages) sent within or from your jurisdiction? Please indicate 'yes' or 'no' for each category and cite the applicable law or regulation.

Type of institution		Applicable law or regulation
a. Banks	Y <sup>188</sup>	Para 5.21 to 5.24 of Anti-Money Laundering Guidance Notes published under the Criminal Justice Ordinance 1995 which detail the information required to be included in electronic transfers. <sup>189</sup>
b. Bureaux de change	Y <sup>190</sup>	IBID <sup>191</sup>
c. Money remittance/transfer services	Y <sup>192</sup>	IBID <sup>193</sup>
Other financial institutions <sup>13</sup> (please specify)		
d. Life Assurance Providers <sup>194</sup>	Y <sup>195</sup>	IBID <sup>196</sup>
e. Investment Services Providers <sup>197</sup>	Y <sup>198</sup>	IBID <sup>199</sup>

VII.2. Are financial institutions in your jurisdiction required by law or regulation to retain information on the originator of funds transfers (either accompanying the transfer itself or contained in related messages) as it passes through the payment chain? Please indicate 'yes' or 'no' for each category and cite the applicable law or regulation.

Type of institution		Applicable law or regulation
a. Banks	Y <sup>200</sup>	Sections 16 and 17 of Criminal Justice Ordinance. <sup>201</sup>

<sup>12</sup> When the funds are being transferred from an account.

<sup>13</sup> Such as stockbrokers, insurance companies, etc.

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<i>Type of institution</i>		<i>Applicable law or regulation</i>	
b. Bureaux de change	Y 202	Sections 16 and 17 of Criminal Justice Ordinance. 203	
c. Money remittance/transfer services	Y 204	Sections 16 and 17 of Criminal Justice Ordinance. 205	
Other financial institutions ( <i>please specify</i> )			
d. Investment Services 206	Y 207	Sections 16 and 17 of Criminal Justice Ordinance. 208	
e. Life Assurance 209	Y 210	Sections 16 and 17 of Criminal Justice Ordinance. 211	

VII.3. Are financial institutions required by law or regulation to conduct enhanced scrutiny of funds transfers or monitor these transactions for suspicious activity when incomplete information on the originator is available? Please select 'yes' or 'no' for each of the categories, describe the measure(s) and cite the applicable law or regulation.

<i>Type of institution</i>		<i>Measure(s)</i>	<i>Applicable law or regulation</i>
a. Banks	N 212	213	214
b. Bureaux de change	N 215	216	217
c. Money remittance/transfer services	N 218	219	220
Other financial institutions ( <i>please specify</i> )			
d. 221	N 222	223	224
e. 225	N 226	227	228

VII.4 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of the above questions, please specify in the space below the measures you intend to take to comply fully with this Special Recommendation by June 2002. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

The Guidance notes issued under the Criminal Justice Ordinance are to very soon be amended to ensure that the answers under part VII.3 will be "yes". A draft has been produced and will be implemented before June 2002. 229

**VIII. Non-profit organisations<sup>14</sup>**

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organisations posing as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

VIII.1 Does your jurisdiction require legal entities (juridical persons) or other relevant entities used for commercial or non-commercial purposes (other than financial institutions) to obtain a license and/or to register with competent government authorities? Please choose 'yes' or 'no' for each type of entity, indicating whether such entities exist in your jurisdiction, whether these entities must be licensed and/or registered, the licensing and/or registering authority, and then cite the applicable law or regulation.

<i>Type of entity</i>	<i>Exist?</i>	<i>License</i>	<i>Register</i>	<i>Competent authority</i>	<i>Applicable law or regulation</i>
a. Public limited companies <sup>15</sup>	Y 230	N 231	Y 232	The Registrar of Companies 233	Sections 14 to 16 of the Companies Ordinance 234
b. Private limited companies <sup>16</sup>	Y 235	N 236	Y 237	The Registrar of Companies 238	Sections 14 to 16 of the Companies Ordinance 239
c. Offshore companies <sup>17</sup>	Y 240	Y 241	Y 242	IBID in respect of	IBID in respect of

<sup>14</sup> It should be noted that important work on the misuse of corporate vehicles is being carried out through the ongoing review of the FATF Forty Recommendations.

<sup>15</sup> This category **does not include** companies that are listed on a stock exchange or bourse.

<sup>16</sup> Some examples of 'private limited companies' include *société par actions à responsabilité limitée (SARL)*, *Gesellschaft mit beschränkter Haftung (GmbH)*, *Limited Liability Corporation (LLC)*, etc.

<sup>17</sup> This category includes limited liability entities that may be incorporated in certain jurisdictions but which do not fall under a separate or privileged regulatory regime. Such entities may be used to own and operate businesses, issue shares or bonds, or raise capital in other manners. They are generally exempt from local taxes and may be prohibited from doing business in the jurisdiction in which they are incorporate. The *International Business Corporation (IBC)* is an example of such an entity.

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<i>Type of entity</i>	<i>Exist?</i>	<i>License</i>	<i>Register</i>	<i>Competent authority</i>	<i>Applicable law or regulation</i>
d. Trusts and/or foundations <sup>18</sup>	Y <sup>245</sup>	N <sup>246</sup>	N <sup>247</sup>	registration but also the Financial Centre Director in relation to taxation. <sup>243</sup>	registration and the Companies (Concessions and Taxation) Ordinance in relation to tax status. <sup>244</sup>
				<sup>248</sup>	There are provisions for a voluntary register under the Trustee (Incorporation) Ordinance. Application for registration under this must be made to the Executive who has the responsibility to register the trust.  Also, Bankruptcy (Register of Disposition) Regulations provides for asset protection trusts to be registered. <sup>249</sup>
e. Non-profit organisations Other (please specify)	Y <sup>250</sup>	N <sup>251</sup>	Y <sup>252</sup>	Charities Commission <sup>253</sup>	Charities Ordinance <sup>254</sup>
f. <sup>255</sup>	N <sup>256</sup>	N <sup>257</sup>	N <sup>258</sup>	<sup>259</sup>	<sup>260</sup>

VIII.2 Do the competent authorities (administrative and/or judicial) in your jurisdiction have access to information relating to the licensing or registration of the entities indicated in VIII.1 above and under what conditions? Please select 'yes' or 'no' for each category.

<i>Type of entity</i>	<i>Administrative authorities</i>	<i>Judicial authorities</i>	<i>Further explanation of conditions</i>
a. Public limited companies	Y <sup>261</sup>	Y <sup>262</sup>	Such matters are registered and available under Part IV of the Companies Ordinance. <sup>263</sup>
b. Private limited companies	Y <sup>264</sup>	Y <sup>265</sup>	Such matters are registered and available under Part IV of the Companies Ordinance. See in particular sections 127-130 as to powers of inspection. <sup>266</sup>
c. Offshore companies	Y <sup>267</sup>	Y <sup>268</sup>	As in VIII.2(b) and also the Companies (Concessions and Taxation) Ordinance <sup>269</sup>
d. Trusts and/or foundations	Y <sup>270</sup>	Y <sup>271</sup>	Administrative authorities can gain such access when the trusts are administered by a licensed (under the Financial Services Ordinance 1989) trust service provider. <sup>272</sup>
e. Non-profit organisations	Y <sup>273</sup>	Y <sup>274</sup>	Parts III and V of the Charities Ordinance provide the regulatory regime. Part IV provides for supervision. <sup>275</sup>
Other (please specify)			
f. <sup>276</sup>	N <sup>277</sup>	N <sup>278</sup>	<sup>279</sup>

VIII.3. Are there any further requirements or restrictions imposed on legal or other types of entities operating in your jurisdiction, such as...

a. to maintain records?

<i>Type of entity</i>	<i>Nature of requirement</i>	<i>Applicable law or regulation</i>
(1) Public limited companies	Y <sup>280</sup> To keep the register of members updated, to submit an annual return on the details of share ownership and transactions, keep minute books of company meetings, record of directorships and also to keep	Part IV of the Companies Ordinance <sup>282</sup>

<sup>18</sup> This category primarily concerns 'private foundations or establishments' that exist in some civil law jurisdictions and which may engage in commercial or non-profit activities. Some examples of these entities include *Stiftung*, *stichting*, *Anstalt*, etc.

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<i>Type of entity</i>		<i>Nature of requirement</i>	<i>Applicable law or regulation</i>
(2) Private limited companies	Y 283	the audit and accounts. 281	
(3) Offshore companies	Y 286	IBID 284	IBID 285
(4) Trusts or foundations	Y 289	IBID 287	IBID 288
(5) Non-profit organisations	Y 292	When managed by a licensed trust provider. 290	291
		Maintain records and accounts of activities. 293	Part III of the Charities Ordinance, in particular sections 8 to 11. 294
<i>Other (please specify)</i>			
(6)	N 296	297	298

b. to publish annual (financial) reports, or to file periodic declarations/reports to competent authorities (for example, to maintain tax exempt status if applicable)?

<i>Type of entity</i>		<i>Nature of requirement</i>	<i>Applicable law or regulation</i>
(1) Public limited companies (not listed)	Y 299	Public filing of financial statements. 300	4th and 7th EC Company Law Directives as transposed by the Companies Ordinance. 301
(2) Private limited companies	Y 302	IBID 303	IBID 304
(3) Offshore companies	Y 305	IBID 306	IBID 307
(4) Trusts and/or foundations	N 308	309	310
(5) Non-profit organisations	Y 311	To submit to auditing of accounts and documentation on demand by the Board of Charity Commissioners. 312	Sections 8 to 11 of the Charities Ordinance. 313
<i>Other (please specify)</i>			
(6)	N 315	316	317

c. not engaging in certain types of (political advocacy, for profit, etc.) activities?

<i>Type of entity</i>		<i>Nature of restriction</i>	<i>Applicable law or regulation</i>
(1) Public limited companies	N 318	319	320
(2) Private limited companies	N 321	322	323
(3) Offshore companies	N 324	325	326
(4) Trusts and/or foundations	Y 327	A trust for abstract purposes (which include political activity or ends) is not permissible, unless charitable. 328	The Common Law. 329
(5) Non-profit organisations	Y 330	Charities cannot conduct political activity. 331	Against Common Law definition of charitable. 332
<i>Other (please specify)</i>			
(6)	N 334	335	336

VIII.4 In your jurisdiction, are there obstacles for competent authorities in identifying the beneficial owner(s) and directors/ officers of a company or organisation, or the beneficiaries of legal entities? Please choose 'yes' or 'no' for each category. If 'yes', please indicate the nature of the obstacle(s).

<i>Type of entity</i>	<i>Beneficial owner(s)</i>	<i>Company directors/ officers</i>	<i>Beneficiaries (of legal entities)</i>	<i>Nature of the obstacle(s)</i>
a. Public limited companies (not listed)	N 337	N 338	Not Applicable	339
b. Private limited companies	N 340	N 341	Not Applicable	342
c. Offshore companies	N 343	N 344	N 345	346
d. Trusts and/or foundations	N 347	N 348	N 349	350
e. Non-profit organisations	N 351	N 352	N 353	354
<i>Other (please specify)</i>				
f.	N 356	N 357	N 358	359

VIII.5 **FUTURE ACTION or FURTHER EXPLANATION:** If you answered 'no' to any of questions VIII.1 to VIII.3 or 'yes' to any categories of question VIII.4, please specify in the space below the measures you intend to take by June 2002 to ensure that entities

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in your jurisdiction cannot be misused for the financing of terrorism. You may also use this space to provide any clarifying or supplemental information relating to this Special Recommendation.

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