MUTUAL EVALUATION OF THE RUSSIAN FEDERATION

I. **Order of the discussion of the Mutual Evaluation Report of Russia on the Working Group on Mutual Evaluations and Legal Issues (WGEL)**

II. **Order of the discussion of the Mutual Evaluation Report of Russia at the EAG Plenary meeting**

III. **Issues for discussion at the WGEL**

I. Order of the discussion at the Working group

(the order is set by the EAG Mutual Evaluation Procedures, p. 25-29, EAG-II/PLEN/34, new ref. number EAG/PLEN(2007)4/rev.4)

1. The three principal tasks of this WGEL meeting are the following:

- Identify 5-8 key issues for discussion at the EAG Plenary meeting;
- Note any "horizontal issues", as well as consistency with other MERs of the FATF and FSRBs, in order to ensure the quality and consistency of the report.
- Identify any issues that require the interpretation/clarification of FATF standards, Methodology and EAG Procedures.

2. The WGEL meeting can not:

- Make decisions on the text of the report (before the Plenary the decision on amending the text of the Report can only be made by the assessors). At the Plenary meeting changes to the text of the report can only be introduced by the Plenary meeting).
- The WGEL cannot change the ratings.
- The WGEL cannot act as a broker between the assessment team and the evaluated country.

3. The procedure for the discussion at the WGEL is the following: the meeting is chaired by one of the WGEL Co-chairs

- The Secretariat briefly presents the issue for discussion (in the order of the Agenda)
- The representatives of Russia present their view.

- The assessment team presents its view.
- Interventions by the representatives of EAG member-states and observers. These interventions must take into account the 3 principal tasks of the WGEL, mentioned in p.1.
- The WGEL Co-chair sums up the discussion on the issue based on interventions of member-states and refers/does not refer the issue to the Plenary.
- After all of the issues have been discussed the delegations of member-states and observers may raise any other issues.

II. Order of the discussion of the Mutual Evaluation Report of Russia at the EAG Plenary meeting:

(the order is set by the EAG Mutual Evaluation Procedures, p. 30-34, EAG-II/PLEN/34, new ref. number EAG/PLEN(2007)4)

The Plenary meeting will discuss 5-8 issues, which have been forwarded from the WGEL. The discussion of the MER at the Plenary meeting is chaired by the EAG Chairman and the Executive Secretary. The Plenary meeting has the right to make any changes to the text of the MER. The Plenary meeting must make the relevant decisions on the 5-8 issues referred by the WGEL. The Plenary meeting must decide on the ratings for the Recommendations accordingly.

1. Introduction:

- The EAG Chairman opens the discussion on the Mutual Evaluation Report.
- Introduction by the Head of the assessment team and the assessors.
- Introduction by the Head of delegation of Russia.

2. Procedure for discussion at the Plenary meeting:

- The EAG Secretariat briefly presents the issue.
- The representatives of Russia present their view.
- The assessment team presents its view.
- Interventions by the representatives of EAG member-states and observers, including on the issue of upgrading/downgrading the rating or leaving the current rating.
- If necessary, further interventions by Russia and the assessment team for clarifications;
- The Chairman makes the final decision, including on the issue of ratings.
- After all of the issues that were referred by the WGEL have been discussed the delegations of member-states and observers may raise any other issues

3. Conclusion

- After the discussion on all issues and ratings has been concluded the EAG Chairman asks Russia if it agrees to adopt the Mutual Evaluation Report and its Executive Summary.
- Response of Russia.
- The EAG Chairman sets the timeframe for Russia to report back to the Plenary on the progress of implementing the recommendations of the assessment.

III. Issues for discussion at the WGEL

1. The main issues for discussion at the WGEL are highlighted below. These are the issues highlighted by EAG delegations to the Russia report.

2. The de facto objective of the WGEL – is to identify those issues from the list, which will be discussed at the Plenary meeting. The WGEL has the right to change the text of the Comments.

Number of issues	Section and paragraph of the MER	FATF Rec.	Short description of the issue
1.	Sec. 2.4 Rating box Para 168, 178, 192,	SR III	*Current rating for SR.III – PC, Russia considers that the rating should be LC* Issue: National mechanism to examine and give effect to freezing actions taken by other countries. Issue: Reliance on the criminal justice system risks creating problems with the effective implementation of UNSCR 1373. Issue: Publicly-known procedure for unfreezing the funds of persons inadvertently affected by a freezing action. Russia view: (1) *Reliance on the criminal justice system risks creating problems with the effective implementation of UNSCR 1373.* Russia understands that assumption that "reliance on the criminal justice system risks creates problems with the effective implementation of UNSCR 1373" is based on some of the established procedures of Russia's designation criteria. According to law, the national section of the List includes not the physical and legal entities that are suspected of the financing of terrorism, but exclusively the following categories: persons convicted for terrorist crimes, or against whom a criminal case has been initiated for such crimes, as well as terrorist organizations liquidated under a court decision, or against which a case on banning and liquidation is being initiated. So, the assessment team's concern is that "difficulties in obtaining sufficient evidence to convict may result in a terrorist being acquitted and his funds unfrozen". Such a result would frustrate the objectives of UNSCR 1373" (para 192). To our view, the possibility of such acquittance is not higher than the possibility in other jurisdictions of delisting by mistake (approving delisting application) of a disguised terrorist who was listed on the grounds of suspicion, that is, out of framework of the criminal justice system. (2) *Russia does not have a national mechanism to examine and give effect to freezing actions taken by other countries.* The Russian authorities are able to give effect to designations under freezing mechanisms of other jurisdictions Existence of an international agreement on recognizing a decision on freezing by a foreign court or a competent authority is an option. Another existing mechanism of implementing designations for freezing from other countries is sending by a foreign state a relevant request within the framework of mutual legal assistance

			to the General Prosecution of the Russian Federation which in its turn, in accordance with the AML/CFT Law, has the right to refer these data to Rosfinmonitoring for inclusion into the List and subsequent freezing of assets. (3*) Russia does not have an effective and publicly-known procedure for unfreezing the funds of persons inadvertently affected by a freezing action.* The publicly-known procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by the freezing mechanism(for example, coincidence of names) is that their funds are automatically unfrozen after two working days. Moreover, entities listed on the Russian national list are the names of entities that have been convicted, are at trial or are being investigated. Under the circumstances, it is impossible for someone to have been listed by inadvertence. In the case of a listed entity that is being tried and ultimately acquitted, the name of the entity is removed from the list and the funds are unfrozen. For the entity being investigated, the funds are unfrozen if the investigation is terminated without going on trial.
2.	s.3.1 para.305	Scope of AML:/CFT coverage of payment acceptance services	*No rating change is requested. Possible change to text is requested.* <u>Issue: whether the MER has accurately reflects the legal framework in relation to payment acceptance services.</u> <u>Russia view:</u> The MER (para. 305) currently states that "Russia has exempted certain entities (Payment acceptance [приём платежей in Russian] and money transfer service providers, see section 1.3) that provide money transfer services for payment of telecommunication services, rents and utility services from the full scope of the AML/CFT framework (see section 1)". However this is legally not accurate due to the fact that these entities are subject to the full set of measures under the AML/CFT Law. In accordance with Article 5 of the AML/CFT Law these organizations are included into the list of financial institutions, which must observe the full set of the AML/CFT requirements under the AML/CFT Law. Therefore the statement in the report is factually incorrect.
3.	s. 3.2	Law or regulation R.5	*No rating change is requested. Possible change to text is requested.* <u>Issue: whether there is consistency in relation to the treatment of the issue of "law or regulation" in the MER of Russia and other FATF/EAG reports.</u> <u>Russia view:</u> The AML/CFT Law specifically gives Government and Central Bank authority to issue regulations on such an AML/CFT issues, as customer and beneficiary identification and internal control rules (Article 7, para. 2), as well as reporting procedures (Article 7, para. 7) and on several other issues. This is a direct authorization by the legislature to issue regulations in these matters. In accordance with existing definition of

			"regulation" by the FATF, legislative authorization and sanctions available for non-compliance give a document the force of ""regulation". The approach taken by experts in determining which documents have the force of regulation in Russia is inconsistent with the UK report, where the acts of the FSA are considered to be "regulations" (para. 489 of UK MER). In addition the Spain MER considers governmental decrees to have the status of regulation, where they compliment the AML/CFT Law (para. 330 of Spain MER). In addition, in the Kyrgyzstan MER the acts on the National Bank, when they are adopted following the authorization of the AML/CFT regulatory powers granted to the National Bank through the Banking Law were considered to have the force of Regulation. In this regard some of the provisions in such acts as Central Bank Regulation 262-P must be taken into account when assessing the asterisked criteria of Recommendation 5, such as the requirement to carry out repeated CDD, when there are doubts about the veracity of previously obtained data. This requirement is contained in Item 2.6 of the Regulation 262-P, which states that the CI must carry out repeated identification of the customer if there is doubt about the veracity of previously obtained information.
4.	s. 3.2 Ratings box	R.5	*No rating change is requested. Possible change to text and ratings box is requested.* Issue: whether the issue of accounts under fictitious names has been consistently treated in the Russian MER in comparison with other reports. Russia view: The experts agree that opening of accounts in fictitious names is impossible as the AML/CFT Law requires presentation of authentic identification documents at opening the account and periodic updating of the information on clients. Carrying out operations under accounts on behalf of fictitious persons also is impossible, as the AML/CFT Law also requires supporting all operations with trustworthy information on the originator. Thus, opening and handling accounts in fictitious names in Russia is not allowed and is impossible. In other assessments similar requirements on identification (in the absence of specific prohibition for fictitious accounts) did not lead to downgrading (Denmark, Iceland, Norway).
5.	s.3.5 Ratings box	SR.VII	*Current rating for SR.VII – NC, Russia considers that the rating should be LC* Issue: whether the same rules for wire transfers apply to batch transfers Russia view: *Batch transfers are not specifically mentioned in the Law.* According to the FATF Recommendations this issue does not necessarily need to be addressed specifically in the Law (it is not asterisked). In Russia this is dealt with in BoR Regulation 222-P, Item 1.2.3, which states that all

			the rules for transferring originator information must apply to batch transfers.
6.	s.3.8 para.482-484, 486	R.15	*Current rating for R.15 – PC, Russia considers that the rating should be LC.* Issue*:* whether the assessment of effectiveness justifies a downgrade to NC. Russia view: All of the deficiencies noted in the draft MER relate to the effectiveness of internal control systems, which, by itself as it seems does not warrant a downgrade to PC. Below are the individual arguments against the deficiencies in the ratings box: (1) *Internal control procedures governing terrorism finance lack a comprehensive treatment of CFT, focusing almost exclusively on a "list-based" approach.* In accordance with Article 7 of the AML/CFT Law a financial institution must create a complex internal control regime with regard to the peculiarities of its activities and AML/CFT risk. The Internal control rules issued by the relevant competent authorities (Government, Central Bank, Rosfinmonitoring, Securities supervisor, etc.) for financial institutions are all applicable to both ML and TF. The various indicators contained in these Rules are warning signs of both ML and TF. For example, the various types of cashing operations, geographical indicators, client risk categories, which are listed in the Rules are to be used to detect both ML and TF. (2) *Training programs of FIs focus too heavily on legal requirements under the AML/CFT :aw, rather than on practical case studies of ML and TF, diminishing the effectiveness of the programmes*. Rosfinmonitoring has trained over 11000 employees of FIs in the last 4 years. These training programmes include sector-specific presentations of typologies and case studies. These presentations have been shown to the assessment team. However the assessment team has not taken this into account for the rating. In addition there are legal requirements for FIs to take into consideration not only the legal aspects of AML/CFT measures, but the practical ones as well. For example BoR Regulation 1485-U requires the training program to be developed with regard to the activities of the FI, its client base, client risks of ML/FT. (3) *Screening programs are not broad enough, do not cover all personnel and do not focus on country specific risks, diminishing the effectiveness of the programmes*. In assessing the scope of screening programs the draft MER only takes account of the rules that exist for AML/CFT staff, however they did not take into account the fit-and-proper requirements that exist for the management of FIs. It is also not clear what is meant by the reference to "country-specific risks of screening programs" in the ratings box for R.15. (4) *Russia Post could not demonstrate effective implementation of internal control programmes at all branches*. The Russia Post has had detailed Internal control provisions since 2005. All 85 branches of the Russia Post are equipped with Rosfinmonitoring's "ARM-Organization" software, which allows to effectively compile mandatory control and suspicious transaction reports. While Russia Post has established a comprehensive, country-wide system to ensure full compliance with Russia's AML/CFT requirements, the technical limitations for some of the post offices (only half of the post offices have wire connectivity), means that only half of the offices are able to conduct wire transfers. The Russia Post has also issued binding requirements for all staff to undergo AML/CFT

			training. Therefore the weight of the assessors' argument on effectiveness is relative. Thus, the assessors' statements are arguable, which calls into question the PC rating.
7.	s.3.8 para. 488 - 493	R.22	*Current rating for R.22 – NC, Russia and Belarus consider that the rating should be at least PC* <u>Issue: whether the report takes into account all of the provisions of Russian legislation on foreign operations</u> <u>Issue by Belarus</u> The assessors concluded that FATF Recomendation 22 is non-compliant (NC). We consider this rating to be unreasonably low. According to Russian legislation foreign branches must follow the rules set by the head office as well as all of the requirement of Russian laws. Therefore AML/CFT requirements automatically apply to all branches abroad. <u>Russia view:</u> *Criterion 22.1:* The MER does not reflect the fact that the Laws on Joint stock companies and Limited Liability Companies (Articles 5, clause 1, both laws were submitted to the team with the MEQ) require foreign branches of Russian legal persons to abide by the Russian legislation as well as foreign legislation. This effectively means that all foreign branches must abide by the full scope of the requirements under the Russian AML/CFT Law. Thus the gap identified by the assessors in relation to non-CI FIs is non-exitent. In addition, BoR Letter 92-T instructs CIs, their subsidaries and branches to monitor the changes to Russian and foreign legislation as well as the implementation for this legislation by the CI, branch or subsidary. For the banking sector (the only sector with any significant representation abroad) the requirements to observe domestic legislation cover both branches and subsidaries (para. 488). There is a requirement to apply the higher CDD standard of domestic legislation in case host country maintains a lower standard. In addition, according to BoR Instruction 290-P BoR will not liscence or renew the lisence of a CI subsidary that is operating in a country, which does not participate in international AML/CFT cooperation. *Criterion 22.2:* The draft report did not take into account the bilateral agreements that the BoR signs with its foreign counterparts all contain provisions on AML/CFT information exchange on branches and subsidaries and their compliance with domestic and host country legislation. Thus The BoR is always informed to what extent its branches and subsidaries abroad are able to observe Russian AML/CFT legislation. *a) The legal and regulatory framework does not consistemntly apply the requirement to abidy by Russia AML/CFT Laws and regulations to both foreign branches and subsidiaries.* Russia view: In accordance with Bank letter No 92-T the CI is recommended to define for the purpose of monitoring the legal risk: Rules and procedure of implementation of monitoring of changes to the legislation of Russia and of the countires where affiliates, daughter

			and other dependent orgiansations are located, timeleness of accounting and reflection of these changes in CI internal documents and obligation of applying them. A CI with affiliates in the territory of a foreign state is recommended to establish for them the requirements on applying the KYC principle in accordance with the requirements of the Russian legislation, if the legal acts of the foreign state where the affiliate of the CI is acting provide for a more favorable legal regime in relation to those rules, including those aimed at AML/CFT. *b) There is no requirement for increased vigilance over foreign operations in jurisdictiona that do not or insufficiently apply FATF Recommendations.* *(para 492) The current regulatory framework governing foreign operations of CIs is vague, at best, on AML/CFT matters, and requires financial institutions to infer their obligations with respect to foreign operations from regulations not specifically linked to AML/CFT matters. The lack of specific guidance requiring CIs to apply a higher standard of vigilance in countries that do not have adequate AML/CFT programmes in place puts those Russian CIs with foreign operations at risk to violations of Russia's AML/CFT regime.* Russia view: According to Bank Regulation No 290-P the Russian banks are forbidden to have structural divisions in the countries that do not or insufficiently apply the FATF Recommendations. According to the AML/CFT Law (items 2 and 4 of article 6) depositing or transfer of money to the account, provision or receiving of loan, transactions with securities in case at least one side is a legal or natural person registered or located or living in the state (territory) which does not participate in AML/CFT international cooperation, or one of the sides is a person having an account in the said country (territory), is an operation subject to mandatory control, and the CI must send data on such operations to the authorised body. Apart from that, in accordance with item 2.9.12 of Bank Regulation No 262-P the operations with residents of foreign countries or foreign territories known from international sources that their territories are used for production and transportation of narcotics, as well as states or territories permitting free circulation of narcotics (except states or territories using drugs exclusively for medical purposes) shall be considered as higher risk level operations. The Bank of Russia demands that a CI pay higher attention to such operations.
8.	s.3.10.3 Ratings box	R.29 R.17	*Current rating for R.29 – PC, Russia considers that the rating should be LC*. *Current rating for R.17 - PC, Russia considers that the rating should be LC* <u>Issue: whether the FATF Standard requires supervisors to withdraw an Fis licence when founders are convicted of criminal offences</u>

			Russia view: *No powers for BoR, FSFM, FISS, Roscom, Rosfin to withdraw lisence when founders are convicted for criminal offences.* In the Russian view this deficiency goes outside the scope of the FATF Recommendations, which require (under R.23) to prevent criminal ownership of FIs. The withdrawal of an FIs lisence for an independent criminal act comitted by a founder (i.e. robbery) seems unwarranted. In addition, any issues related to market entry should be dealt with under R.23.
9.	s.3.10 para. 541	R.29 R.17	*Current rating for R.29 – PC, Russia considers that the rating should be LC*. *Current rating for R.17 - PC, Russia considers that the rating should be LC* Issue: whether supervisory authorities have power to sanction directors/senior management. Russia view: *No power for BoR, FSFM, FISS to impose fines on FIs/directors, to replace directors/management.* The assessment team has misinterpreted the application of Article 19.5 of the Code on Administrative Offences, which gives all supervisors the power to fine FIs, or suspend senior management for up to 3 years for non-compliance with the supervisors instructions, orders, etc. This is a general Article, which includes non-compliance with any instructions, including AML/CFT. The specific AML/CFT Article 15.27 of the CAO requires supervisors to request Rosfinmonitoring to apply sanctions. However Article 15.27 does not preclude the application of sanctions that all supervisors can impose independently on the basis of the general Article 19.5.
10.	s.3.10	R.29 R.17	*Current rating for R.29 – PC, Russia considers that the rating should be LC*. *Current rating for R.17 - PC, Russia considers that the rating should be LC* Issue: whether the assessment of effectiveness of supervisory sanctions is accurate. Russia view: *System to sanction FIs other than credit institutions not effective*. It seems that the draft report has underestimated the effectiveness of sanctions by other supervisors, for example the FSFM (Securities). FSFM has suspended 16 licences for AML/CFT breaches in the past 4

			years, and withdrew another 8 licences, and also imposed numerous financial sanctions – a total of 632 measures and actions in 2004-2006. For leasing companies Rosfinmonitoring has applied a total of 753 financial sanctions for AML/CFT breaches. When compared with the numbers of sanctions applied in other assessed countries, the figures for Russia seem adequate. In addition, sometimes when deficiencies are corrected by financial institutions in the course of the inspection, there is no need for a sanction. For example in the course of 168 inspections in 2006 the FISS has revealed 62 infringements of AML/CFT legislation, which were corrected by the FI on the spot. Another 97 orders to correct deficiencies were sent to insurance companies by the FISS resulting from information from the Rosfinmonitoring database. Thus sanctioning shoud be considered in the context of the whole range of measures carried out by the supervisor.
11.	s.3.10	R.29	*Current rating for R.29 – PC, Russia considers that the rating should be LC*. Issue: whether the FSFM has the power to compel documents from non-state pension funds *FSFM (Securities supervisor) not able to complel documents from non-state pension funds.* The assessment team has accepted the Russian arguments (para. 537) and deleted the deficiency in the text, but has left the deficiency in the ratings box. In accordance with FSFM Order No. 07-108/pz-n "On approving the Regulation for conducting inspections of organizations, supervision and control for which the FSFM is the authorized body to exercise control and supervision" (items 2.4.3 - 2.4.6) an inspector "may demand from the inspected institution, that it supply any documents needed for purposes of the inspection." As pension punds fall under the jurisdiction of the FSFM, it has all of the necessary rights to compel documents from them.
12.	s.3.10	R.29	*Current rating for R.29 – PC, Russia considers that the rating should be LC*. Issue: whether ROSCOM has the necessary power to carry out inspections, compel production of records *Lack of clarity with respect to ROSCOM's power to carry out inspections, compel production of records.* • ROSCOM's power to carry out inspections is based on Government Regulation 354, which states that Roscommunications is responsible for "ensuring compliance by the organizations of federal postal communication organizations with the requirements to record, store and submit information on operations subject in accordance with the legislation of the Russian Federation to reporting, as well as with internal control requirements". "Internal control requirements" in accordance with the

			Russian legislation and numerous Government/ministerial/agency acts relate to the full scope of AML/CFT obligations of FIs, including CDD, record keeping etc. This argument is supported by the sanctions applied under CAO Article 15.27 for breaches of CDD rules in the understanding that they were a pert of internal controls. • ROSCOM has all the necessary powers to compel production of documents Regulation 354 (p.6.1) states that ROSCOM has the authority to "request and obtain in the established procedure information that might be required for the purpose of taking decisions on the matters put within the scope of powers of the Service". Due to the fact that AML/CFT supervision falls in this scope, so does the power tower to compel production of documents.
13.	Section 3.10 Ratings box	R.23	*Current rating for R.23 – PC, no rating change is requested by Russia. A change to the ratings box is requested.* Issue: whether the assessment team has gone outside the FATF Recommendations in formulating the deficiencies Russia view: The rating box currently states that Russia has established an "Inadequate threshold with respect to major shareholders of credit institutions". The threshold in Russia is 20%. The FATF Recommendations do not require the threshold to be lower. Therefore the assessment team has made a judgement outside the FATF requirements. It seems that this is unfair taking into consideration the fact that the threshold in the United States is 25% (see para. 753 of US MER) and this was not criticized in the US report. The FATF Plenary meeting in June noted that this issue goes outside the FATF Standard, and this should be noted accordingly in the report. Unfortunately the assessment team has not altered the text of the MER, which is even more disturbing. Therefore Russia requests that the text of the MER be amended accordingly.
14.	s.3.10	R.17	*Current rating for R.17 - PC, Russia considers that the rating should be LC* Issue: whether Article 15.27 of the Code on Administrative offences is sufficiently broad to allow the application of sanctions for all AML/CFT violations. Russia view: The report currently states that Article 15.27 Code of Administrative Offences is not sufficiently broad, and does not cover the violations of some types of AML/CFT requirements, such as CDD. However this Article 15.27 envisages sanctions for the violation of internal control requirements, "Internal control requirements" in accordance with the Russian legislation and numerous Government/ministerial/agency acts relate to the full scope of AML/CFT obligations of FIs, including CDD, record keeping etc. This argument is supported by the sanctions applied under CAO Article 15.27 for breaches of CDD. The assessors have also ignored the examples that Russia has provided to the assessment team. These examples showed that Article 15.27 has been applied specifically for the breaches of CDD

			requirements.
15.	s.3.7, 3.10, 4.3 para. 465, 533	R.25	*Current rating for R.25 – PC, Russia considers that the rating should be LC* Issue: whether the feeback by supervisors is sufficient and whether FIU case-by-case feedback is possible Russia view: (1) *Criterion 25.1: Feeback from supervisors.* The draft report notes that Rosfinmonitoring is the only authority that provides feeback to financial institutions on the implementation of the legal requirements. However the supervisory authorities have also issued numerous guidelines to the FIs. For example the BoR has issued 60 acts, 33 of which are methodological recommendations to CIs. These recommedations sometimes also come in the form of "frequently asked questions" on various AML/CFT issues which are published and sent to FIs. (2) *Criterion 25.2: FIU feedback.* In addition to the information in the MER, the FIU also provides typologies to the private sector, both directly and through the supervisory bodies. Examples have been demonstrated to the assessors. In relation to the manner of reporting, the FIU also provides FIs with special software allowing them to easily compile reports. Rosfinmonitoring has trained over 11 000 personnel of financial institutions in the past 4 years. The training included typologies and case studies, as well as explanation of the legal requirements. The assessors note that Russia does not provide case-by-case feedback beyond the explanation of the law. However individual case-by-case feedback is not possible due to legal principles prescribed in the AML/CFT Law (Article 8, item 4), which precludes the disclosure of any information on the work of the FIU by its employees.This is consistent with the FATF Best practices paper, which allows countries to refrain from case-by-case feedback when it is inconsistent with their domestic legal principles.
16.	Sec.5.3 Rating box	SR VIII	*Current rating for SR.VIII –PC, Russia considers that the rating should be LC.* Issue: Some of the rules are insufficiently enforced. Issue: Efficient system in place to share information to target abuse. Issue: Formalised and efficient system in place that focuses on potential vulnerabilities. Issue: There is inconsistent outreach to the NPO sector to provide guidance. Russia view:

			(1) *The lack of a comprehensive review of the system means that not all the necessary measures have been taken and it is unclear what measures are part of a comprehensive policy to fight the misuse of NPOs by terrorist financiers, and what the effect of those measures has been (effectiveness issue).* The issue of implementation by the Russian Federation of Special Recommendation VIII was reviewed at the Interagency meeting in the Presidential Administration on May 25, 2007. The meeting has tasked Ministry of Justice, Rosregistration and Rosfinmonitoring to analyse additionally the adequacy of the legislation regulating NPO activity, taking into account the TF risks. The report on the results of that review was sent to the Presidential Administration on 29.06.2007. The mentioned report with the annex was provided to the assessors. (2) *Some of the rules are insufficiently enforced.* The only rule which seem to be insufficiently enforced is the yearly reporting obligation by NPOs. In 2007, Rosregistration had received 49 211 such reports of NPOs, which is about 36% of registered NPOs (among 228 179 registered NPOs, 90 708 are trade unions, 1 158 are political parties and their structural subdivisions. Such category of legal entities does not submit reports to Rosregistration in accordance with the legislation regulating their activities). In relation to other NPOs that did not file a report, Rosregistration takes measures of reaction – written warnings are issued. Besides clarifications are given through the mass media, and informational letters to specific NPOs are sent. It should be mentioned that new reporting process by NPOs has just started according to amendments to NPOL and some time is needed for 100% NPOs to start reporting according to the new standards. (3) *There is inconsistent outreach to the NPO sector to provide guidance.* The Russian authorities pay most intensive attention to the outreach towards the NPO sector. For example, Rosfinmonitoring has organised conferences and seminars for NPOs, with the participation of other competent authorities. This has also been done as part of Council of Europe capacity building assistance (Moli-Ru). The specialised monthly magazine "Non-profit organisations in Russia" also covers matters related to NPOs and terrorist financing, accounting, reporting and taxes. For permanent exchange of information between the authorities and the public society, attraction of maximum number of NPOs to the development of the state policy a special body was established – Public Chamber of the Russian Federation consisting of 126 persons – 42 persons named by the Presdient of the Russian Federation (not civil officials but mostly respected representatives of the Russian society), 42 representatives of all-Russian NPOs, and 42 representatives of regional NPOs. The Status of the Public Chamber is regulated by Federal law No 32-FZ dated 04.04.2005 "On the Public Chamber of the Russian Federation". This is a most respected field of dialogue of the authorities with the NPO sector. The state bodies have constant contacts with the NPOs on specific issues of their activities, including in the AML/CFT field. This is one of the main lines of activiies of Rosregstrtion. Rosregistration formed by its order No 189 dated 22.08.2007 a Public Council from representatives of NPOs for development of recommendations on different aspects of NPO activity. (4) *There is no formalised and efficient system in place that focuses on potential vulnerabilities.* The basic legal act for the non-profit sector is Federal law No 7-FZ dated 07.01.1996 "On non-profit organizations" (NPOL). The sector is regulated also by federal laws No 82-FZ dated 19.05.1995 "On public associations", No 125-FZ dated 26.09.1997 "On freedom of belief and on religious unions", No 95-FZ dated 11.07.2001 "On political parties" and No 114-FZ dated 25.07.2002 "On combating extremist activity". All these laws have been conceptually changed several times. The improvement of the legislation has been the result of intensive studying the NPO sector by the competent Russian authorities (first of all, Ministry of Justice and the Federal Registration Service - Rosregistration, subordinate to it, as well as by the Prosecution Office). On the basis of control over the NPO activities, as well as intensive contacts of Russian authorities with representatives of the NPOs the most serious risk factors in the NPO sector were identified. They are political and religious extremism, nourishing terrorism,

			as well as use of the NPO potential by organized criminal groups, in particular, for money laundering. These risks demanded adequate legislative response, which was the reason for steady improvement of the Russian laws on NPOs. *(5) There is no formalised and efficient system in place to share information to target abuse.* As the result of the availability and efficiency of such a system 25 terrorists organisations were liquidated by court decision in Russia in 2003-2007. (6) *No single authority is formally designated as the competent authority responsible for co-ordinating Russia's domestic efforts regarding NPOs and receiving international requests.* Rosregistration is the competent authority in all cases except MLA when the international requests are sent through the General Prosecution Office.
17.	6.3.1 Para 761, 754 ГП	36	*No rating change is requested. Possible change to text* ***and ratings box*** *is requested.* Issue: whether the report accurately interprets the statistics provided on MLA Russia view: *Draft MER (para 761): the Russian authorities state that all requests have been answered in the year the request was received. This seems unlikely given the fact that feedback from FATF and FSRB members shows delays. The numbers also suggest that requests received at the end of the year are still answered before 31 December of that year. This is of course impossible, especially since, also according to Russia, all requests involved carrying out investigate actions. The evaluation team therefore considers these figures not to be reliable and therefore effectiveness could not be measured.* *The feedback received from FATF and FSRB members points at delays*. Rusian view. The General Prosecution Office has a 10-day term determined for the execution of MLA requests. This term can be prolonged in exceptional cases when a much larger scope of procedural actions is needed or presentation of additional information is needed for the execution of the request. There are cases when the execution of MLA requests takes about 2 months but these cases in the AML/CFT sphere are exceptional. This is largely explained by the fact that request on such cases mainly vome from CIS countries that have similar legal systems and having documents in the Russian language. Besides, the effecteveness and speed of the international cooperation is influenced by the institute of presence of representatives of the requesting side at the execution of procedural actions in the Russian territory (again mainly from CIS countries). In this case the terms of execution a MLA request are substancially shortened. In addition the received materials are submitted to the persons present, which excludes their lengthy postage. In Russia we have a lengthy vacation time after the New Year (around 10 or more days) so the Prosecution Office takes additonal measures

			to execute MLA requests before the end of the year, including those that were received in December. In case the MLA request does not meet the requirements of the international agreement or there is no information necessary for the full execution of the requested actions, the request can be returned to the competent body of the requesting state with a proposal to prepare a new request or to submit additional information. Such request when the necessary complete information is presented will be regarded as a new request and the previous one executed. In case the information is enough to execute it partially (for full execution additional information is needed) the request is executed in the volume that is possible on the basis of the submitted information. *The term of execution of the request is calculated from the moment when it was received by the Prosecution Ofice till the day the answer was sent to the initiato.* (by the law enforcement agency that executed the request or by the Proscution office after receiving materials from the person that executed the request). The time for post delivery is not taken into account. Thus, the time between the date of sending the request by the requesting country and the date of receiving the answer can be substantially longer than the time for execution of the request by the General Prosecution Office (sometimes several months longer).

EAG Secretariat
July 8, 2008