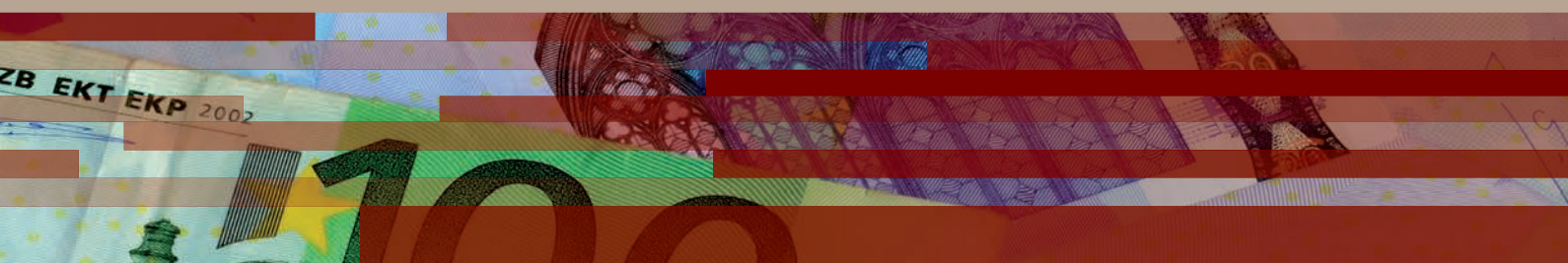


The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism

MONEYVAL



ANNUAL REPORT 2011

**The Committee of Experts
on the Evaluation of Anti-Money
Laundering Measures and
the Financing of Terrorism
(MONEYVAL)**

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EXECUTIVE SUMMARY

MONEYVAL is now regarded by Council of Europe member states as an important mechanism to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively. Of the 30 jurisdictions evaluated by MONEYVAL, 22 were subject to active monitoring processes by MONEYVAL in 2011. Reports which have been considered at MONEYVAL plenary meetings have indicated a consistent improvement of compliance against international standards.

Furthermore, MONEYVAL is now an internationally recognised and influential global player in the anti-money laundering and countering the financing of terrorism (AML/CFT) world. It is a leading Associate Member of the Financial Action Task Force. It is respected as an effective monitoring mechanism for the quality of its outputs and the strength of its robust follow up procedures, which are acknowledged as delivering results. Through its activities, MONEYVAL identifies and helps to reduce risks to the global financial system and identifies gaps in national AML/CFT systems, and actively follows up the progress countries made to rectify them.

1. Introduction and Background

1.1 Introduction

2011 marks MONEYVAL's 14th year of existence. It is in its fifth year as a leading Associate Member of the FATF and, as such, is a key player in the global network of anti-money laundering and countering the financing of terrorism (AML/CFT)¹ assessment bodies (FATF Style Regional Bodies (FSRBs)). MONEYVAL's evaluation processes are based upon the major global AML/CFT standards, as represented by the FATF 40 Recommendations and the 9 Special Recommendations on Terrorism Financing.

In January of 2011, when the new MONEYVAL statute came into force, 29 jurisdictions were subject to MONEYVAL's evaluation procedures. 28 Council of Europe member States have been assessed by MONEYVAL (the full list of States is set out in section 2.1 below). In 2006 Israel applied to become subject to MONEYVAL's evaluation procedures. This application was accepted by the Committee of Ministers and Israel now fully participates in all MONEYVAL's evaluation processes, including through the provision of trained evaluators.

In February 2011, the Cardinal Secretary of State of the Holy See applied for the Holy See also to become subject to MONEYVAL's evaluation processes. With the adoption by the Committee of Ministers on 6 April 2011 of Resolution CM/Res(2011)5, the Holy See (including Vatican City State) additionally participates fully in the evaluation process of MONEYVAL and received an on-site visit in November 2011 based on the FATF Methodology². The accession of the Holy See brings the number of jurisdictions currently evaluated by MONEYVAL to 30.

MONEYVAL is now in its 4th round of assessment visits. This round commenced in late 2009, at the conclusion of the 3rd round of on-site visits. The 4th round of on-site visits is intended to be a shorter and more focused follow up to the recommendations made in the 3rd round reports of all jurisdictions that undertook a 3rd round evaluation. MONEYVAL's 4th round reassesses a number of the so-called core and key FATF standards (see Appendix II for details) and follows up all those Recommendations which received low ratings in the 3rd round. The 4th round focuses even more closely on the effectiveness of implementation of the international standards, particularly as many MONEYVAL countries have now had AML/CFT legislation in place for more than 15 years.

2011 also saw the publication of a comprehensive Horizontal Review of MONEYVAL's third round of detailed assessments. This review forms the backdrop to the work of MONEYVAL in 2011 and beyond, as the review provides a clear picture of the state of compliance of MONEYVAL countries with the international standards, as at September 2010. All 3rd round reports include ratings in respect of the implementation of each of the 40 FATF Recommendations and 9 Special Recommendations³. The 3rd round reports also covered compliance with the EU's 3rd Money Laundering Directive following its introduction in December 2007.

1.2 Compliance of MONEYVAL jurisdictions 2005-2010 (based on the Horizontal Review of 3rd round of evaluations)

The first point that clearly emerges from the Horizontal Review⁴ is that, year on year, progress has been made by all jurisdictions participating in MONEYVAL's evaluation process through development and consolidation of their AML/CFT defences. The progress is particularly striking on the preventive side. While a small number of jurisdictions still do not extend AML/CFT preventive obligations to all of the non-financial sector (including, in some cases, lawyers and accountants), all jurisdictions have in place broadly comprehensive AML/CFT preventive legislation. These laws typically address the important Customer Due Diligence (CDD) and record keeping standards, which need to be in place in all financial and relevant non-financial institutions, and other businesses and professions which are

¹ A list of all abbreviations and acronyms used in the report are set out in Appendix II.

² The FATF Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF Special Recommendations sets out the elements that should be present in order to demonstrate full compliance with the mandatory elements of each of the FATF Recommendations.

³ Possible ratings are: Compliant (C); Largely Compliant (LC); Partially Compliant (PC) and Non-Compliant (NC) or Not Applicable (NA).

⁴ The Horizontal Review can be viewed on

http://www.coe.int/t/dghl/monitoring/moneyval/Publications/3rdHorizontalreview_en.pdf

required to impose AML/CFT obligations. These obligations should be applied when accounts are opened and significant transactions are conducted by natural and legal persons.

MONEYVAL has always had thorough and creative systems of follow-up through regular progress reporting underpinned by a graduated series of steps which can be taken in respect of jurisdictions which are not in compliance with MONEYVAL's reference documents – Compliance Enhancing Procedures (CEPs), which it has used where necessary.⁵

The third round progress reports showed that most jurisdictions enhanced their legislation appropriately during the course of that round to ensure that CDD requirements apply also in respect of the identification and verification of the real “beneficial owners” of accounts, even if these requirements were not fully in place at the time of the on-site visit. AML/CFT supervision and sanctioning in the financial sector, particularly in respect of banks, have also been intensified between 2005 and 2009. Compliance by the banks and the rest of the financial sector generally is much stronger than in the non-financial sector, particularly the designated categories of businesses and professionals (DNFBP) where both compliance and AML/CFT supervision need enhancing. All jurisdictions in MONEYVAL also had (and have) a legal basis for the reporting of suspicious transactions (STRs) by the private sector to a financial intelligence unit. In all MONEYVAL jurisdictions this system was fully operational by the end of the 3rd round.

During the third round, MONEYVAL jurisdictions slowly developed their systems to respond to the FATF Special Recommendations on Financing of Terrorism, though the measures in place for prosecution of terrorism financing and rapid freezing of terrorist assets had rarely been used. On the positive side most of the financial sector participants which the evaluation teams met were checking the relevant terrorist lists and were well aware of the need to freeze or report should they find a match. Legal provisions and procedures for de-listing and unfreezing were less developed.

On the criminal legal side, it was good to see that many MONEYVAL jurisdictions had embraced concepts which ten years ago were not considered to be within their legal traditions, such as corporate criminal liability for money laundering. Several jurisdictions, at MONEYVAL prompting, had gone beyond existing international standards in criminalising negligent money laundering. Some jurisdictions were also introducing, where a criminal conviction had been obtained for serious proceeds-generating offences, the reversal of the burden of proof in establishing whether assets in the possession of a defendant have been unlawfully obtained (and therefore subject to confiscation). Other jurisdictions were (and still are) exploring innovative ways of addressing, through an appropriate legal process, the problems of “unexplained wealth” in jurisdictions where organised crime and corruption remain active.

While progress on preventive measures had gathered pace in the 3rd round, and legislative enhancements had been made to facilitate the investigation and prosecution of money laundering and to develop freezing, seizing and confiscation regimes, the results from the law enforcement/prosecutorial side frequently remained modest. All MONEYVAL jurisdictions that participated in the third round of mutual evaluations have now achieved convictions for money laundering. Indeed in some jurisdictions some serious money laundering convictions have been achieved. But convictions for serious money laundering offences, committed by third parties or professional launderers on behalf of organised crime, were the exception rather than the rule. It was noted in the review that there was still a need to create and entrench a law enforcement culture across all MONEYVAL jurisdictions which proactively goes after criminal proceeds. The report stressed that more significant results by law enforcement (in terms of prosecutions, convictions, and deterrent confiscation orders) were needed to better support and complement the considerable effort and resources applied by the private sector in the implementation of AML/CFT preventive measures.

⁵ In 2008, MONEYVAL became the first Associate Member of FATF in the global network of assessment bodies to issue a public statement of non-compliance in respect of one of its members (Azerbaijan). Since then Azerbaijan has made rapid progress to bring its AML/CFT system into compliance with international standards and, as a consequence, the public statement has been removed.

1.3 Overview of work conducted in 2011

2011 has been a year of intensive MONEYVAL monitoring work. Of the 30 jurisdictions evaluated by MONEYVAL, 22 were subject to active monitoring processes by MONEYVAL in 2011:

Principal Achievements in 2011

- 6 full on-site visits were undertaken with key findings left with the jurisdiction (Andorra, Latvia, Malta, Republic of Moldova, the Holy See and Georgia).
- An unforeseen high level mission was undertaken (to Republic of Moldova) under the CEPs, which resulted in rapid remedial action by the Republic of Moldovan authorities. (see section 5.2.3 below).
- 5 new mutual evaluation reports were adopted and published (Albania, Cyprus, Czech Republic, San Marino and Slovakia).
- 11 3rd round progress reports were subject to detailed secretariat review, full plenary discussion, adoption and publication (Bosnia and Herzegovina, Bulgaria, Croatia, Republic of Moldova, “the Former Yugoslav Republic of Macedonia”, Russian Federation, Azerbaijan, Estonia, Israel, Monaco and Romania).
- Compliance reports for jurisdictions in the CEPs have been prepared, updated and published three times in respect of the two jurisdictions currently in CEPs (Albania and Bosnia and Herzegovina).
- Progress was reviewed and further action taken in respect of 6 other jurisdictions not in the CEPs, which had received letters from the MONEYVAL chair in December 2010 and April 2011 requesting the remedying of specific important deficiencies. (Azerbaijan, Croatia, “the Former Yugoslav Republic of Macedonia”, Georgia, Republic of Moldova and Ukraine).

In addition to the foregoing, MONEYVAL also undertook Typologies research to better understand the money laundering and terrorist financing environment in the European region and also held an Evaluator Training Seminar which was attended by 32 experts from 21 jurisdictions evaluated by MONEYVAL.

As well as undertaking its own monitoring work, MONEYVAL occupies a position of high political relevance in the AML/CFT environment. In 2009 G20 called upon FATF to identify jurisdictions which pose threats to the global financial system. The MONEYVAL secretariat supports the Vice Chair of MONEYVAL, Dr Anton Bartolo (Malta), who currently co-chairs with a senior regulator from an FATF country (Germany), the Europe/Eurasia Regional Review Group (ERRG) which feeds into this global process in respect of all European and Eurasian jurisdictions, whether or not they are evaluated by MONEYVAL. During 2011, three MONEYVAL countries⁶ were subject to examination by the ERRG (Georgia, Republic of Moldova and Ukraine).

We consider that all MONEYVAL activities in 2011 clearly demonstrate that the Committee of Ministers’ expectations of MONEYVAL, as reflected in Article 1.2 of the MONEYVAL statute, have been met and exceeded in 2011.

1.4 Structure of this report

This report continues by setting out the formal mission and framework of MONEYVAL with key information on the evaluation processes. It then details, in accordance with article 10 of the statute of MONEYVAL, information on the state of compliance with AML/CFT international standards in the jurisdictions that have been monitored through formal plenary processes in 2011.

The report then covers other important topics: MONEYVAL’s key partnerships with other organisations (FATF; IMF; World Bank; EU; UN and others).

It then covers other major MONEYVAL activities in 2011 (typologies; training of evaluators; representation in other forums and awareness-raising).

⁶ Albania became subject to this process in 2011, though consideration by the ERRG will take place in 2012.

There then follows a section on the Conference of the Parties (COP) to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS 198). This is because the Warsaw Convention was drafted taking into account problems identified in MONEYVAL evaluations and because the separate monitoring mechanism set up under A.48 of the Convention specifically refers to the COP “using the procedures and mechanisms of MONEYVAL in its processes”.

This report concludes with a section on resources and a brief conclusion.

2. Mission and Working Framework

2.1 Aim and status of MONEYVAL

MONEYVAL is a monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems.

Through a dynamic process of mutual evaluation, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

MONEYVAL is a permanent monitoring mechanism of the Committee of Ministers reporting directly to them in accordance with Article 10 of the Statute.

Evaluation by MONEYVAL covers, under Article 2 of the Statute of MONEYVAL:

- (a) member States of the Council of Europe that are not members of the FATF (Article 2 2a of the Statute) and member States of the Council of Europe that become members of the FATF and request to continue to be evaluated by MONEYVAL (Article 2. 2b. of the Statute), currently:

- Albania
- Andorra
- Armenia
- Azerbaijan
- Bosnia and Herzegovina
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Estonia
- Georgia
- Hungary
- Latvia
- Liechtenstein
- Lithuania
- Malta
- Republic of Moldova
- Monaco
- Montenegro
- Poland
- Romania
- Russian Federation⁷
- San Marino
- Serbia
- Slovak Republic
- Slovenia
- “The former Yugoslav Republic of Macedonia”
- Ukraine

- (b) Non member States of the Council of Europe (Article 2. 2e. of the Statute), currently:

- Israel⁸

- (c) (c)The Holy See (including Vatican City State)⁹ by virtue of Resolution CM/Res (2011)5.

⁷ Also a member of FATF.

⁸ Under the Statute of MONEYVAL, Israel is ineligible to stand for the Bureau or vote in elections for the Bureau.

⁹ The Holy See (including Vatican City State) is similarly ineligible to stand for the Bureau or vote in elections for the Bureau.

2.2 Objectives and key information

The objective of MONEYVAL is to ensure that its evaluated jurisdictions have in place effective systems to counter money laundering and terrorist financing and comply with the relevant international standards in these fields. MONEYVAL endeavours to achieve this by:

Methodology

- Assessing compliance with all relevant international standards in the legal, financial and law enforcement sectors through a peer review process of mutual evaluations.
- Issuing reports which provide detailed recommendations on ways to improve the effectiveness of domestic regimes to combat money laundering and terrorist financing and States' capacities to co-operate internationally in these areas.
- Ensuring an effective follow up of evaluation reports, including compliance enhancing procedures, to improve levels of compliance with international AML/CFT standards by the States which subscribe to MONEYVAL's terms of reference.
- Conducting typologies studies of money laundering and terrorist financing methods, trends and techniques.

MONEYVAL evaluations are based on the following standards:

International Standards upon which MONEYVAL Evaluations are based

- FATF 40 Recommendations 2003.
- 1988 United Nations Convention on Illicit Traffic of Narcotics, Drugs and Psychotropic Substances (Vienna Convention and the 2000 United Nations Convention against Transnational Organised Crime (Palermo Convention).
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg Convention) (ETS No. 141).
- 9 Special Recommendations of FATF on financing of terrorism and several other related UN instruments (UN Convention for Suppression of the Financing of Terrorism, relevant UN Security Council Resolutions for the freezing of terrorist assets).
- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the implementing Commission Directive 2006/70/EC of 1 August 2006.

MONEYVAL has conducted three rounds of mutual evaluations and is currently involved in a follow-up assessment round.

Mutual Evaluation Rounds

First evaluation round (1998-2000)

The first round of mutual evaluations, based on the 1996 FATF Recommendations, was initiated in April 1998 and on-site visits were concluded in December 2000. 22 Council of Europe member states were evaluated in the first evaluation round.

Second evaluation round (2001-2004)

MONEYVAL concluded at the end of 2003 its second round of on-site visits. This second round, also was based largely on the 1996 FATF Recommendations, included evaluation against the FATF's 2000 Criteria for non-co-operative states and territories; the 22 countries which participated in the first round were reassessed on this basis. MONEYVAL also conducted on-site evaluation visits in this round in the then new Council of Europe member States (Armenia, Azerbaijan, Bosnia and Herzegovina, Monaco, Serbia and Montenegro).

Third evaluation round (2005-2009)

The third round of mutual evaluations was based on the 2003 revised FATF Recommendations. On-

site visits were concluded in 2009 and the final third round reports were published in 2010. Israel and Montenegro (as a separate state) were evaluated for the first time under the 3rd round. All these evaluations were conducted according to the 2004 comprehensive global Methodology agreed with the FATF, the FSRBs, IMF and World Bank and which covers both money laundering and terrorist financing. This evaluation round covered all the legal, financial and law enforcement FATF standards to combat both money laundering and financing of terrorism (as the FATF Special Recommendations on Terrorist Financing were in place from 2001). In addition the evaluation reviewed aspects of compliance with the European Union's Third Anti-Money Laundering Directive which came into force on 15 December 2007.

Follow-up evaluation round (MONEYVAL Fourth Round) (2009-2013)

MONEYVAL commenced a follow up round of on-site visits in 2009. For each country, these evaluations focus on the effectiveness of implementation of core and key and some other important FATF Recommendations together with any Recommendations for which the country received either a non compliant or partially compliant rating. In addition the evaluation reviews aspects of compliance with the European Union's Third Anti-Money Laundering Directive, which came into force on 15 December 2007.

As such on-site visits constitute one of the cornerstones of the work carried out by MONEYVAL. In 2011 MONEYVAL has conducted the following missions:

On-Site Visits in 2011

- Andorra (March)
- Georgia - Conducted in conjunction with the IMF (November)
- Holy See (Including Vatican City State) (November)
- Latvia (May)
- Malta (May)
- Republic of Moldova (November)

The reports on all of these visits will be considered at MONEYVAL Plenary meetings in 2012.

The following Mutual Evaluation Reports were adopted and published in 2011:

Mutual Evaluation Reports Adopted in 2011

- Albania (April)
- Cyprus (September)
- Czech Republic (April)
- San Marino (September)
- Slovak Republic (September)

2.3 Governance

Article 6 of the MONEYVAL Statute provides for Bureau comprised of a Chair, Vice-Chair and three other persons. The functions of the Bureau are to assist the Chair, supervise the preparation of meetings and to ensure continuity between meetings as necessary.

Bureau

In 2011, the Bureau that was elected in December 2009 concluded their 2 year mandate. The Bureau comprised:

MONEYVAL Bureau in 2011

- Chair: Mr V. Nechaev (Russian Federation)
- Vice Chair: Dr A. Bartolo (Malta)
- Mr A. Codescu (Romania)
- Ms I. Fendekova (Slovakia)
- Mr A. Malkhasyan (Armenia)

There were new elections for the Bureau at the 37th plenary in December 2011. The Chair and Vice Chair were re-elected for a second 2 year term. The following were elected to serve on the Bureau for the next 2 years:

Newly elected members of MONEYVAL Bureau

- Mr A. Codescu (Romania)
- Ms E. Frankow-Jaskiewicz (Poland)
- Mr N. Muccioli (San Marino)

2.4 Scientific Experts

MONEYVAL is fortunate in having a panel of independent 'scientific experts'. The function of the scientific experts is to assist the Chair and Secretariat in ensuring the consistency of MONEYVAL's outputs including fulfilling a quality control function for draft mutual evaluation reports and to attend all MONEYVAL plenaries and enrich debates with their experience and knowledge as well as contributing in other ways to MONEYVAL's activities. In 2011, the scientific experts were:

MONEYVAL Scientific Experts in 2011

- Professor W Gilmore (Professor of Public International Law, Edinburgh University);
- Mr B Verhelst (Deputy Director CTIF-CFI, and Attorney General in Belgium), law enforcement scientific expert;
- Mr H Zammit Laferla (former Deputy Head of Banking Stability, Central Bank of Malta), financial scientific expert;
- Mr G Ilacqua (Head of International Co-operation Division, Banca d'Italia), financial scientific expert;
- Mr A Strijker (former Head of the Dutch delegation to FATF), a financial scientific expert with special responsibility for the EU Directives.

It is with great regret that Mr Zammit Laferla resigned from this position in December 2011, having been an active member of MONEYVAL since its creation. He will be sadly missed and the Committee wishes him well in his new activities in the private sector.

3. Key findings of adopted fourth assessment visit reports 2011

An overview of each of the adopted reports follows, taken from the key findings in the executive summaries of those evaluation reports which were debated, adopted and published in 2011.

3.1 Albania¹⁰

Although Albania has made considerable progress to tackle ML (money laundering) and FT (financing of terrorism) the risk of ML remains high. Albania has a history of organised crime with clan-based and hierarchically organised networks that are mainly involved in drug trafficking. The relative size of the cash-based informal economy facilitates the laundering and integration of proceeds of crime. The number of sectors identified with illegal practices, including illegal gambling establishments and exchange bureaux, as well as the vulnerabilities that relate to cross-border transportation of currency, also make Albania at risk for ML activity.



Despite efforts by the authorities to reduce the reliance on cash, the use of cash through the informal economy remains a problem in Albania. The use of the informal economy has an impact on the overall effectiveness of preventive measures as transactions facilitated through these channels circumvent the preventive measures established by the authorities.

Albania also remains at risk regarding possible financing of terrorism activities. There is a record in the first half of the 2000s of the government freezing assets of terrorist financiers, curtailing activities of suspect Islamic non-profit organisations (NPOs), and expelling individuals suspected of having links to terrorism.

Albania has fully criminalised ML largely in line with the requirements under the Vienna and Palermo Conventions. However, there have been few convictions for ML and demanding evidentiary requirements have had a negative impact upon Albania's ability to make effective use of the provisions. Also, the Albanian provisions that criminalise the financing of terrorism, although significantly enhanced in recent years, still fall short of meeting the FATF standard.

The Albanian Financial Intelligence Unit (FIU) has improved its analytical processes resulting in higher quality financial intelligence; however the legal framework needs to be strengthened with regard to its operational independence. The FIU's responsibility to disseminate information regarding suspicious transactions should also be clarified.

Albania has updated the legal framework for preventive measures for financial institutions, but the requirements fall short of the international standard in some areas, such as for the identification of beneficial owners, and the lack of any customer due diligence (CDD) measures for customers that are foreign politically exposed persons (PEPs). In addition, the effectiveness of implementation of preventive measures remains a concern, with uneven understanding of the provisions amongst financial institutions and a lack of suspicious transaction reports.

Implementation of preventive measures by designated non-financial businesses and professions (DNFBPs) is limited. A large range of DNFBPs have been subject to supervision by the FIU however other designated supervisors have had limited engagement in AML/CFT activities.

The legal framework underpinning the supervisory authorities' power is sound but the supervisory role of the FIU should be clarified. Moreover, the Financial Supervisory Authority has not undertaken any inspection of the securities and insurance sectors.

Domestic and international cooperation is good. Albania has established a number of domestic and international cooperation mechanisms that facilitate cooperation between competent authorities and foreign counterparts; however, cooperation mechanisms between supervisory agencies, both domestically and internationally, are underutilised.

¹⁰ The full report can be found on

[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL\(2011\)3_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/ALB4_MER_MONEYVAL(2011)3_en.pdf)

3.2 Cyprus¹¹

Cyprus has a record of relatively low level of crime. The authorities with whom the evaluation team met explained that the money laundering risks to which the jurisdiction is exposed have not changed since the third round evaluation in 2005. No specific ML/FT risk assessment has been undertaken, however the Advisory Authority has identified a number of risks and vulnerabilities. According to its assessment, the main risks emanate from the international business activities at the layering stage, money laundering activities usually taking place through banking or real estate transactions, while it is considered that risks at the placement stage are being mitigated by legal requirements in place regarding dealers in foreign currency, restrictions on foreign ownership of property and the limited role of cash transactions. The Cyprus authorities consider the FT risk to be low. Nonetheless, a comprehensive national risk assessment is essential to adequately identify ML/TF risks and vulnerabilities, as well as the targeted sectors in the country, Cyprus should take appropriate measures to address those risks.



Money laundering and the financing of terrorism are criminalised largely in line with the FATF standard and the legal framework provides an ability to freeze and confiscate assets in appropriate circumstances, with minor deficiencies relating to the scope of criminalisation of the FT offence. As of the assessment date, there have been no prosecutions or convictions for terrorism financing. A few effectiveness issues remain as regards the implementation of the ML offence when considering the number and type of ML convictions and the volume of confiscation orders achieved. Cyprus needs to take additional measures to ensure a comprehensive system for freezing terrorist assets in application of the United Nations Security Council Resolutions (UNSCR).

Overall, progress has been made since the third round evaluation by strengthening the preventive regime through the enactment on 13 December 2007 of the Law no. 188(I)/2007 on the Prevention and Suppression of Money Laundering Activities and Terrorist Financing Law (hereinafter the AML/CFT Law), which came into force on the 1st of January 2008. This Act, which was amended in 2010, was also aimed at implementing the transposition in Cyprus legislation of the Third European Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. These requirements were complemented by directives and orders issued by the supervisory authorities to the respective sector. It was positively noted that the financial and to a lesser extent the DNFBPs sectors show a higher degree of awareness of their responsibilities and obligations under the AML/CFT Law and the relevant Directives.

The Cyprus supervisory authorities of the financial sector have sufficient powers to supervise compliance with AML/CFT requirements and carry out inspections. They are empowered to apply, as appropriate, a range of sanctions which are proportionate and dissuasive, though it was noted that sanctions imposed in practice have been mainly in the form of warning letters to take corrective action. Overall, the financial sector appeared to be adequately monitored, although it is recommended to step up the number of on-site visits in particular on money transfer businesses (MTBs) and investment firms and regulated markets.

However, the same cannot be concluded as regards the designated non-financial businesses and professions, as there is insufficient evidence that effective supervision is taking place across the board, and in particular as regards trust and company service providers, real estate, dealers in precious metals and stones as well as lawyers. There is also a clear lack of resources in the supervisory authorities with the result that on-site examinations may not be undertaken appropriately, if and when undertaken.

Cyprus has effective mechanisms for coordination and co-operation among all domestic AML/CFT stakeholders, including an active Advisory Authority. Cyprus should, however, conduct a review of the effectiveness of the AML/CFT system.

¹¹ The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/CYP4_MER_MONEYVAL\(2011\)02_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/CYP4_MER_MONEYVAL(2011)02_en.pdf)

The legal framework for mutual legal assistance is sound and Cyprus responds to requests for assistance generally in an efficient and effective manner. Further efforts appear necessary to demonstrate that non-MLA related assistance is also similarly effective for all competent authorities.

3.3 Czech Republic¹²

The evaluators were informed by the authorities that a specific AML/CFT risk assessment had not been undertaken since the last evaluation. From the authorities with whom the issue was discussed, it was clear that, like in other countries, organised crime groups remain a continuing and serious risk and that they are operating significantly in white-collar crime and internet fraud and that the proceeds of their crimes are laundered in the Czech Republic. A comprehensive national risk assessment is essential to identify vulnerable sectors within the Czech financial system in terms of ML/FT.



The total damage from economic crime in 2009 was 1,068,230,000 Euros. None-the-less there is little evidence of significant money laundering cases being taken forward by the police and the prosecution, with a tendency noted in the previous evaluation to treat money laundering as subsidiary to the other offences. The Czech authorities need to analyse why there is such a major discrepancy between the types of money laundering cases being prosecuted and the incidence of money laundering in the country.

The Czech authorities consider the FT risk to be low. The FIU is working effectively, and more reports are now being sent to law enforcement than in the earlier part of the period under review. The overall impact of FIU reports on law enforcement results is difficult to quantify in the absence of relevant statistics.

The lack of reliable and comprehensive ML/FT supervisory statistics hinders the full analysis and comprehension of the ML/FT risks within the Czech financial sector as well as the implementation of an effective risk based approach. The supervisory cycle for the financial sector is very extended and some of the riskier areas may not be covered for several years. In particular, exchange bureaux should be subject to more targeted ML/FT on-site inspection. The lack of reliable statistics and information on the performance of the law enforcement and the judicial side in money laundering investigation, prosecution and conviction, as well as in respect of confiscation orders also makes it very difficult for the evaluators to assess the overall impact of the law enforcement response to ML and for domestic authorities to analyse their own performance in these areas.

Progress has been made since the third evaluation with the adoption of the new AML/CFT Law implementing the 3rd EU Money Laundering Directive and many of the preventative recommendations in the 3rd round MER.

3.4 San Marino¹³

San Marino has a low crime environment. No specific money laundering (ML)/financing of terrorism (FT) risk assessment has been undertaken. The money laundering risks, according to the authorities continue to derive from the foreign predicate offences (primarily offences of fraud, usury and bankruptcy), with proceeds being invested or transferred through San Marino, with the banking and fiduciary sectors being the areas with the greatest vulnerability.



Money laundering is often committed by making use of fictitious business operations to justify movements of capital. Indicators suggest that San Marino is susceptible to ML, such as cross-linked investments to launder in San

¹² The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/CZE4_MER_MONEYVAL\(2011\)01_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/CZE4_MER_MONEYVAL(2011)01_en.pdf)

¹³ The full report can be found on [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/SMR4_MER_MONEYVAL\(2011\)20_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/SMR4_MER_MONEYVAL(2011)20_en.pdf)

Marino proceeds from tax evasion and from the Italian criminal organisations, possibly exploiting the vulnerabilities of San Marino's financial system. The FT risks are deemed to be low.

Money laundering is criminalised largely in line with the FATF standard and the legal framework provides an ability to freeze and confiscate assets in appropriate circumstances.

There remain a number of deficiencies to be addressed to ensure that the FT offence is fully in line with the international requirements. Since the previous evaluation, there has been an increase in the number of money laundering investigations, with annual numbers rising from 4 in 2007 to 13 in 2008, and with the development of jurisprudence on money laundering, with convictions reached in 4 judgements. There has also been an increase of international co-operation with foreign authorities on money laundering cases, with predicate offences identified being *inter alia* fraud, usury, bankruptcy, international trafficking in narcotics, which have led to a number of seizure orders of important amounts. As of the assessment date, there have been no prosecutions or convictions for terrorism financing. Additional measures are required to ensure a comprehensive system for freezing terrorist assets in application of the United Nations Security Council Resolutions (UNSCR).

San Marino has made substantial progress to establish an operational financial intelligence unit the Financial Intelligence Agency (FIA), which is now at the centre of the overall AML/CFT effort. However, the additional functions entrusted to FIA and the over reliance by other authorities on FIA to carry out a number of non-FIU tasks impact on the workload of its staff and thus affect its effectiveness. Additional measures are required to ensure that the San Marino police officials start playing an active role in AML/CFT efforts.

Considering the large number of legislative, regulatory and institutional measures adopted by San Marino since March 2008, the authorities have demonstrated a clear commitment to implement AML/CFT standards. The preventive regime has undoubtedly been strengthened and while the legal framework is comprehensive for both financial and non-financial institutions, it falls short of the international standards in some areas such as simplified due diligence and risk management procedures and raises certain concerns about the quality of the implementation.

The competence for supervision of compliance with AML/CFT requirements lies now with the FIA, which has a comprehensive supervisory mandate and powers, though the limited resources allocated to that effect appear to impact negatively on the implementation of its supervisory function. These resources need to be increased and supervisory action be strengthened to ensure that both financial and non-financial institutions are adequately implementing the AML/CFT requirements.

The effectiveness of the operational co-operation and of the coordination mechanisms led by the Technical Commission of National Coordination gathering all domestic competent authorities has improved. The Commission's role should be enhanced by providing for a forum where trends and emerging money laundering risks could be examined and regular reviews undertaken of the AML/CFT strategic direction on the basis of risks identified, so as to make necessary adjustments to relevant policies and measures.

The legal framework for mutual legal assistance is sound and San Marino responds to requests for assistance generally in an efficient and effective manner. Further efforts appear necessary to ensure that the legal framework regarding non-MLA related assistance, in particular international cooperation with foreign supervisory authorities is adequate and cooperation mechanisms in this area are effective.

3.5 Slovak Republic¹⁴

Slovakia enacted on 1 September 2008 a new Act No. 297/2008 Coll. on the Prevention of Legalisation of Proceeds of Criminal Activity and Terrorist Financing transposing the Third EU Money Laundering Directive, and Implementing Directive. Overall, the new law has brought the Slovak preventive AML/CFT system broadly into line with the FATF standards. Notably it established a clear legal basis for reporting suspicions of financing of terrorism, which was missing at the time of the last evaluation.



¹⁴ The full report can be found on

[http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/SVK4_MER_MONEYVAL\(2011\)21_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/SVK4_MER_MONEYVAL(2011)21_en.pdf)

Even though no formal action plan (at policy level) aiming at reviewing the implementation of AML/CFT policies domestically was adopted by the Government after the adoption of the 3rd round mutual evaluation report (MER) for the implementation of the recommendations, most of the elements of the action plan as set out in the 3rd round MER appear to have been addressed and significant progress has continued to be made since the adoption of the 3rd round MER in September 2006.

The evaluators were not advised of any specific AML/CFT risk assessment undertaken since the last evaluation. Nonetheless, they were advised that there is a significant threat from domestic organised crime investing its proceeds overwhelmingly within the Slovak economy. Other prevalent economic and financial crimes include official corruption, theft of vehicles, tax evasion, fraud, and smuggling.

The authorities consider the FT risk to be low. The major improvement with regard to the fight against terrorist financing since the adoption of the 3rd round MER has been the incrimination of financing of terrorism offence as an autonomous offence which is broadly in line with the international standards, though some issues, as noted beneath, remain outstanding.

Overall, Slovakia has continued to develop and strengthen its AML/CFT regime since the adoption of the 3rd round MER. There is, however, still a very low level of prosecutions for money laundering (ML) (and, though this is less clear, of orders to confiscate assets). The evaluators have serious concerns about how effectively money laundering is being used as a tool to fight major proceeds-generating crime and organised crime. Given the centrality of the FIU in the Slovak AML/CFT system, its present level of resources and position in the overall police structure, as well as its operational independence and autonomy, still needs to be further strengthened.

4. 3rd round progress reports

4.1 Objectives and format

One year after the adoption of the 3rd round evaluation report, each country submits a progress report describing the new measures it has adopted since the adoption of the report.

The MONEYVAL Secretariat prepares a written analysis of progress against the FATF core Recommendations. This desk review is circulated to the plenary participants before the discussion of the progress report. One jurisdiction acts as rapporteur to assist the plenary in its peer review. The rapporteur jurisdiction raises questions on the replies to the progress report questionnaire other than on the core recommendations, which, as noted, are analysed by the secretariat. The rapporteur jurisdiction advises the plenary as to whether the information provided adequately answers the questions raised. If the plenary is satisfied with the information provided and the progress being undertaken, the progress report and the analysis of the core recommendations will be adopted and published on the MONEYVAL website. If the plenary is not satisfied with the information provided the reporting jurisdiction will be invited to submit a fuller report to the next meeting. If the progress is considered to be insufficient further steps can be taken including the imposition of CEPs. An adopted 1st progress report is subject to a further update two years later (2nd progress report).

Progress report Format

- A general overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field;
- An update on improvements which have been made in respect of the FATF core Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV);
- An update on improvements which have been made in respect of those other FATF Recommendations which were rated either non-compliant or partially compliant in the mutual evaluation report;
- Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC); and
- Updated statistical data.

4.2 Progress reports adopted in 2011¹⁵

Plenary meeting	First Progress Report	Second Progress Report
35th meeting (11-14 April)	➤ Bosnia and Herzegovina	➤ Bulgaria ➤ Croatia ➤ Republic of Moldova
36th meeting (26-30 September)		➤ “The former Yugoslav Republic of Macedonia” ➤ Russian Federation
37th meeting (12-16 December)		➤ Azerbaijan ➤ Estonia ➤ Israel ➤ Monaco ➤ Romania

¹⁵ All of the progress reports can be found in the countries section on the MONEYVAL website http://www.coe.int/t/dghl/monitoring/moneyval/Countries/Country_profiles_en.asp

4.3 Summary of findings of the progress reports

4.3.1 1st progress report of Bosnia and Herzegovina (BiH) (Rapporteur: UK)

Amendments made to the Criminal Codes and Criminal Procedure Codes¹⁶ have improved the overall legislative framework of the BiH's criminal legal system although a number of deficiencies remained. The enactment of the Law on Foreign Exchange Operations and a new Book of Rules contributed to the improvement of preventive AML/CFT regime at all levels. Significant deficiencies did, however, remain which are being addressed under the CEPs (see section 5.2.2 below)

4.3.2 2nd progress report of Bulgaria (Rapporteur: Israel)

Numerous developments have occurred which address major issues raised by the evaluators and which are improving the effectiveness of money laundering criminalisation and the implementation of CDD measures, with a focus on awareness-raising, training, risk assessment and practice. However, the legal obligation to perform full CDD for FT is not still implemented but should be provided for with the amendments to the Law on Measures against Financing of Terrorism.

The penal legislation still needs to be completed with regard to some designated categories of predicate offence and criminal liability of legal persons is also still to be addressed. Furthermore, there is a need to continue challenging the courts with the more difficult (third party) laundering cases, particularly where there is evidence from which a court can draw the necessary inferences of either the underlying predicate criminality or of knowledge that relevant property is of criminal origin.

4.3.3 2nd progress report of Croatia (Rapporteur: Liechtenstein)

Croatia reported specific measures indicating varying levels of progress on all the core Recommendations. From the information available, it appears that Croatia improved its level of compliance with most of the core recommendations, with the exception of the criminalisation of FT where the FT offence needs revisiting. In relation to the criminalisation of ML, the amendments introduced successfully address almost all the deficiencies identified in the MER and strengthen the ML offence. There are positive developments on the implementation of the ML offence, as the average number of convictions has improved since the mutual evaluation. Furthermore, the AML/CFT Law (2008) has introduced new provisions which strengthen the CDD requirements, and these have been usefully complemented by several implementing rulebooks and guidelines issued by the competent regulatory and supervisory authorities. Measures have also been taken to improve compliance with the requirements to report suspicions of ML and FT, though technical deficiencies and implementation issues remain and still need addressing.

4.3.4 2nd progress report of Republic of Moldova (Rapporteur: Azerbaijan)

The Republic of Moldova appears to have made steady progress on the normative front on preventive measures and record keeping requirements. It appears that some convictions are being achieved, which is a step in the right direction. However, it remains necessary to continue challenging the courts with autonomous money laundering cases in order that the jurisprudence is built up effectively. The FT obligation is now being further refined in the AML law and the consequential Regulation should be amended to ensure that the requirement to report suspicions of FT is covered in all its characteristics. The criminalisation of terrorist financing appears now to be quite comprehensive.

Issues relating to the concerns about the constitutionality of the reporting requirements are addressed in Section 5.2.3 below.

4.3.5 2nd progress report of “the former Yugoslav Republic of Macedonia” (Rapporteur: Republic of Moldova)

Progress has been made on clarifying the legal issues raised in respect of the criminalisation of ML and some jurisprudence in respect of ML criminalisation has been developed. However, the number of

¹⁶ There are separate Criminal Codes and Criminal Procedure Codes for each of BiH and the entities (Federation of Bosnia and Herzegovina and Republic Srpska) and Brcko District.

final convictions and cases brought remains very low. The criminalisation of FT still needs revisiting. In relation to reporting of suspicions of FT, the amendments introduced fully address the structural deficiencies identified. However, the level of reporting indicates continuing problems with regard to the effectiveness of implementation. Efforts are being made through awareness-raising and training to address these problems. Supervision appears to be detecting AML/CFT breaches by the financial sector.

4.3.6 2nd progress report of Russian Federation (Rapporteur: Malta)

The secretariat review noted that in its third round evaluation report the Russian Federation received a 'largely compliant' rating on the issue of criminalisation of money laundering. The identified deficiency related to the absence of two offences which are required to be predicate offences to money laundering (insider trading and market manipulation). Market manipulation is now a criminal offence, and insider trading legislation has been enacted and will come into effect in two years. In 2010 (after the 3rd round on-site visit) a threshold of 6 million roubles was introduced in respect of one of the money laundering offences as a temporary measure. The plenary expressed concern and recommended that the threshold should be removed.

4.3.7 2nd progress report of Azerbaijan (Rapporteur: Poland)

The Secretariat review welcomed the progress achieved by Azerbaijan to remedy deficiencies with respect to Core Recommendations. Azerbaijan has amended the Criminal Code to introduce revised ML and FT offences, which are now broadly in line with the international standards, and has classified as criminal offences market manipulation and insider trading to complete the range of designated categories of predicate offences.

In respect of financial aspects, there have been several significant and positive legal developments in the regulatory measures to address the shortcomings identified in the 3rd MER. Azerbaijan has introduced a risk-based approach and addressed the major legal deficiencies on the financial side in the revised AML/CFT law, particularly the all-important customer identification procedures. There is now a comprehensive formal STR regime.

It was noted by the Secretariat that Azerbaijan had responded positively to most of the recommendations in the last report and to the Compliance Enhancing Procedures. Steady progress is now being made in the implementation of the AML/CFT regime, though there is more work still to do to make the regime fully effective.

4.3.8 2nd progress report of Estonia (Rapporteur: San Marino)

Estonia has made considerable progress in addressing the identified deficiencies in compliance with the Core Recommendations. Amendments to the Penal Code and the AML/CFT Law have been adopted which have addressed most of the concerns raised. Furthermore, an amendment to the Penal Code has been proposed to introduce an offence of conspiracy to commit money laundering and further amendments are in the process of being enacted which will address the reporting of attempted transactions. Training has been provided to investigators, prosecutors and judges regarding the concept that there does not need to be a prior or simultaneous conviction in respect of the underlying offence from which proceeds were generated in money laundering cases. There have been two convictions in circumstances where there was no prior or simultaneous conviction for the underlying offence.

4.3.9 2nd progress report of Israel (Rapporteur: Russian Federation)

Overall there is a clear process in train to address most of the recommendations in the 3rd round report. Numerous developments have occurred which address major issues raised by the evaluators. The AML Law has been amended in order to fully cover the offences listed in the Glossary to the FATF Recommendations. The CDD system was improved by imposing stricter obligations on the financial institutions' CDD requirements. Currently all financial institutions have the legal obligation to perform know your customer (KYC) procedures for all account owners without threshold limits, and to perform on-going due diligence with reference to the KYC process. The effectiveness of the reporting system has been improved and it appears that the FIU is actively involved in awareness-raising and training activities.

4.3.10 2nd progress report of Monaco (Rapporteur: Liechtenstein)

The Principality of Monaco has continued to perfect its preventive system to combat money laundering and the financing of terrorism, through the adoption in 2009 of new legislation, and in 2011 of a sovereign order and related implementing measures, which resulted in completing the existing regime.

The Monegasque authorities have thus positively responded to the large majority of recommendations made in respect of the core recommendations. There remain reservations as regards the effective implementation of the criminalisation of money laundering, though the number of money laundering prosecutions appears to have slightly increased and case law has evolved clarifying the level of proof required for underlying offences in ML cases, as well as the limited implementation by obliged entities of the reporting obligation of suspicious transactions related to terrorism.

4.3.11 2nd progress report of Romania (Rapporteur: Montenegro)

Romania has made progress on clarifying the legal issues raised in respect of the criminalisation of ML and there has been a clear improvement in the number of indictments and convictions with two cases involving the more difficult “autonomous” ML offences. With regard to the criminalisation of FT, the Criminal Code and Criminal Procedure Code are currently undergoing review and revision. With regard to preventive measures and reporting of ML/TF suspicions, there have been a number of amendments to law and regulation that have remedied many of the identified deficiencies although some still remain. Further amendments to the AML/CFT Law have now been promulgated and have been put into force.

5. Compliance Enhancing Procedures (CEPs)

5.1 CEPs Structure

MONEYVAL's compliance enhancing procedures ensure that countries take steps to meet the international standards and follow MONEYVAL recommendations within an appropriate time frame. There are 5 steps in this graduated process:

CEPs Process

- i) A letter from the MONEYVAL Chair to the head of delegation drawing attention to the non-compliance with the reference documents. The letter is copied to the plenary meeting.
- ii) A letter from the MONEYVAL Chair to the Secretary General drawing his attention to the non-compliance by a MONEYVAL participating state. The letter is copied to the head of delegation concerned.
- iii) A letter from the Secretary General of the Council of Europe to the relevant government minister drawing attention to non-compliance with the reference documents.
- iv) A high level mission to the country concerned, to reinforce this message from step iii).
- v) A formal public statement drawing attention to the state's failure to comply with MONEYVAL's reference documents.

The CEPS process can be applied flexibly according to need.

Countries may be placed in the CEPs process as a result of plenary discussions on mutual evaluation reports, progress reports, or for other reasons (e.g. urgent issues – see Republic of Moldova below) or as a result of horizontal reviews of overall progress at the end of an evaluation round. In this context, in 2010, as MONEYVAL had done at the end of the second round of evaluations, the plenary reviewed, at the conclusion of the third round of evaluations, the overall state of progress in MONEYVAL jurisdictions. A decision was taken to review in a special process all jurisdictions that received 30 or more 'non-compliant' or 'partially compliant' ratings in their 3rd round mutual evaluation reports. The plenary set a threshold number of ongoing important deficiencies which it considered sufficient to require the institution of CEPs. The secretariat in 2010 analysed, on desk reviews, the progress on all these deficiencies in the 9 MONEYVAL countries concerned. 2 countries (Albania and Bosnia and Herzegovina) were placed in CEPs as a result of the number of ongoing deficiencies identified in this special review. In the case of Bosnia and Herzegovina the CEPs process under this special procedure was subsequently merged with the CEPs process resulting from their first third round progress report, reconsidered in 2011, which raised significant concerns about the extent of progress overall.

Throughout the application of these steps the country concerned is required to submit reports to the plenary detailing the steps taken to achieve compliance, which, in certain cases, may include action plans endorsed at government level. If the plenary is satisfied with progress they can be removed from the CEPs.

5.2 CEPs reports heard in 2011

Plenary meeting	CEPs Report
35th meeting (11-14 April)	<ul style="list-style-type: none">➤ Albania (step i)➤ Bosnia and Herzegovina (step i)➤ Republic of Moldova (report on step iv and then reverting to step i)
36th meeting (26-30 September)	<ul style="list-style-type: none">➤ Albania (step i)➤ Bosnia and Herzegovina (step i)➤ Republic of Moldova (Removed from CEPs)
37th meeting (12-16 December)	<ul style="list-style-type: none">➤ Albania (step i)➤ Bosnia and Herzegovina (step i)

The findings of the reports are as below:

5.2.1 Albania

The identified important deficiencies which the CEPs process is addressing relate to Recommendation 5 (Customer Due Diligence), SR II (financing of terrorism) and SR III (freezing terrorist assets) and R 6 (politically exposed persons).

By the 36th Plenary in September sufficient progress had been made with regard to R 6 and Albania was removed from further monitoring under this procedure in respect of this issue. There remain several deficiencies in respect of R 5 and SR II and SR III. At the 37th Plenary in December it was decided to move to Step ii.

5.2.2 Bosnia and Herzegovina¹⁷

At the hearing of the first 3rd round progress report at the 34th plenary in December 2010 it was concluded that there were significant concerns about the extent of or speed of progress overall to rectify deficiencies in the 3rd evaluation report across a range of core and key Recommendations and CEPs were applied, requiring significant improvements on a broad range of issues. An action plan to remedy the numerous deficiencies identified in the mutual evaluation report received political endorsement at ministerial level in October 2011. Steps are now being taken under an agreed Action Plan to meet the recommendations of MONEYVAL, according to a timetable for improvements to be made in the short, medium and long term. Deficiencies to be addressed within the short term require action by April 2012. Step i was maintained at the 37th Plenary with an interim report to the secretariat in March 2012, in advance of the 38th Plenary.

5.2.3 Republic of Moldova

The Republic of Moldova was placed into Compliance Enhancing Procedures in December 2010 directly at step iv) as a result of plenary concerns about a Constitutional Court decision in November 2010 which abrogated some underpinning provisions of the AML/CFT system including the STR obligation. On 1-2 February 2011, the Director of Monitoring, Mr Christos Giakoumopoulos led a team to Chisinau comprising the Chair and Executive Secretary of MONEYVAL and the scientific expert for law enforcement issues, Mr Boudewijn Verhelst. The team met with Acting President Lupu and Prime Minister Filat, members of the Constitutional Court and other senior members of the Republic of Moldovan authorities and representatives of the banking sector. The mission underlined the urgent need to enact legal amendments which would meet both the concerns of MONEYVAL and the Constitutional Court. With the assistance of legislative expertise from the Council of Europe amendments and secondary legislation were rapidly brought forward addressing these issues. The plenary in March took note of the successful outcome of the high level mission as by that meeting the legislation had been amended and step iv of the procedure was lifted. The Republic of Moldova remained in CEPs until the secondary legislation was in place, after which the procedure was lifted entirely after the September 2011 plenary.

¹⁷ The compliance reports for BiH can be found on http://www.coe.int/t/dghl/monitoring/moneyval/Countries/BH_en.asp

6. Important identified deficiencies brought to the attention of the MONEYVAL jurisdictions not within the CEPs Process

6.1 Background to this process

Six countries, reviewed at the end of the third round, had important deficiencies below the threshold decided for institution of CEPs. The Chair wrote to the relevant Heads of Delegation, outside of the CEPs process, inviting them to address these deficiencies in a timely manner. It was agreed that the Bureau would revert to these issues and review progress in December 2011, in advance of the 37th plenary.

6.2 Jurisdictions concerned

- Azerbaijan
- Croatia
- Georgia
- Republic of Moldova
- “The former Yugoslav Republic of Macedonia”
- Ukraine

6.3 Plenary consideration in 2011

The 37th Plenary in December 2011 reviewed progress on the identified important deficiencies in each of the countries concerned.

Azerbaijan

Deficiencies relating to lack of criminal liability for legal persons and failure to extend the confiscation regime to all designated categories of predicate offence had been identified. Legislation is in the process of being enacted that is designed to remedy these two deficiencies.

Croatia

Deficiencies relating to the criminalisation of FT and failure to implement a comprehensive system for implementing UN resolutions for freezing and confiscation of terrorist assets had been identified. Croatia has taken action to remedy these deficiencies including the adoption of a new Criminal Code, although this has yet to come into force, and by providing guidance to reporting entities.

Georgia

The lack of CDD obligations in respect of lawyers, auditors and accountants had been identified as an important deficiency. Although a draft law has been submitted to parliament extending the CDD obligation to auditors and accountants, no progress has yet been made with regard to lawyers.

Republic of Moldova

Deficiencies relating to the limitation of the scope of the definition of PEPs and a lack of effective, proportionate and dissuasive sanctions for natural and legal persons that fail to comply with national AML/CFT requirements and a lack of a sanctioning regime for casinos and dealers in precious metals and stones had been identified. The definition of PEPs has been amended in the AML/CFT Law and the Administrative Code was amended in order to impose a sanctioning regime for non observance of the provisions of the AML/CFT Law.

“The former Yugoslav Republic of Macedonia”

Three important deficiencies had been identified: deficiencies in the criminalisation of FT; lack of comprehensive regime for freezing terrorist assets; and deficiencies in the preventive regime for casinos. Although no progress has been made with regard to the deficiencies in the criminalisation of FT, legislation has been introduced to remedy the other deficiencies.

Ukraine

Three important deficiencies had been identified: deficiencies in the confiscation and provisional measures relating to criminally derived funds; deficiencies in the provisions for freezing; and confiscation of terrorist assets and deficiencies in the cross border declaration and disclosure procedures. Ukraine has adopted legislation which amended the existing legal framework and established the relevant mechanisms and procedures to remedy the deficiencies in the provisions for freezing and confiscation of terrorist assets, however, the other deficiencies have not been fully addressed.

7. Typologies Work

7.1 Structure of Typologies work

Another important function of MONEYVAL is to identify new and emerging money laundering and terrorist financing techniques, and to assess the level of these threats and report on the findings. Each year, MONEYVAL undertakes typologies researches to better understand the money laundering and terrorist financing environment in the European region and to assist decision makers and operational experts with up-to-date information in order that they may develop policies and strategies to combat these threats. The annual typologies workshop brings together financial intelligence units, law enforcement experts and regulatory authorities's experts in order to exchange information on significant cases and operations. It also provides a vital opportunity for operational experts and private sector representatives to identify and discuss effective AML/CFT counter-measures.

7.2 Typologies projects in 2011

Typologies projects in 2011

1. Criminal money flows on the internet: methods, trends and multi-stakeholder counteraction.
2. The use of internet gambling for ML and FT purposes.
3. Trade based money laundering in cash intensive economies.
4. The postponement of financial transactions and the monitoring of bank accounts.

Work on the first two projects will be completed in early 2012 with the publication of the reports. Work commenced on the second two projects at the Typologies meeting in Israel in 2011.

7.3 Typologies meeting – Tel Aviv October/November 2011

MONEYVAL held its 10th meeting of experts on money laundering and terrorism financing typologies between 31 October and 2 November in Tel Aviv, Israel. 75 experts from 31 jurisdictions and one international organisation, including experts from the public and private sectors as well as policy makers, met to discuss ML/FT methods and trends in the context of the two selected topics.

The three day meeting was opened by Professor Stanley Fischer, Governor of the Bank of Israel, former First Deputy Managing Director of the International Monetary Fund and former Vice President and Chief Economist at the World Bank who stressed the great importance of the work conducted by MONEYVAL in mutual evaluation and in typologies research.

The experts gave presentations including case studies, best practices and discussed specific legal issues related to the chosen topics, and work is proceeding on these projects with a view to reports being prepared in 2012.

The Israeli authorities are warmly thanked for hosting this successful event.

8. Other important MONEYVAL work 2011

Aside from its fourth round evaluation cycle, follow up reports and compliance enhancing procedures, MONEYVAL has engaged in many other important activities:

8.1 Key partnerships

As noted, MONEYVAL is a key partner in the global network of interdependent AML/CFT assessment bodies.

The FATF

The FATF continues to be MONEYVAL's primary international partner and collaborator. As an Associate Member of the FATF, MONEYVAL contributes to the policy-making work of FATF. The Chair, the Vice-Chair and the Executive Secretary regularly attend all the FATF working group and plenary meetings with delegates from MONEYVAL States. Thus MONEYVAL States have real opportunities of inputting into FATF global AML/CFT policy making. Considerable FATF and MONEYVAL resources were devoted in 2011 to the revision of the FATF Recommendations and Special Recommendations. MONEYVAL, through the Executive Secretary, was actively involved in the revision of the law enforcement standards. Considerable MONEYVAL Secretariat resources are applied to following the work of each of the main FATF working groups, and in attendance at intersessional meetings – particularly the International Co-operation Review Group (ICRG) (to which the ERRG reports), and the Working Group on Evaluations and Implementation (WGEI), which is the group that deals with issues involving interpretation of the global standards and the development of the global AML/CFT Methodology.

The President of FATF appoints 2 FATF delegations to MONEYVAL with voting rights. The delegations in 2011 were Austria and the United Kingdom. The United Kingdom was replaced in October 2011 by France. These delegations are thanked for their support and very helpful contributions to plenary discussions.

MONEYVAL welcomed Mr Giancarlo del Bufalo (Italy), the current President of FATF at the 37th plenary meeting in December. In his very complimentary speech to MONEYVAL (excerpts attached at Appendix I), he underlined once again how advanced MONEYVAL is as an Associate Member of the FATF and MONEYVAL's crucial importance to the global network of AML/CFT assessment bodies, and how the FATF benefits from MONEYVAL's experience.

MONEYVAL has mutual observer status with other FSRBs and cooperates with them on a number of levels.

ICRG/ERRG

As noted in the introduction, the G20 called on the FATF in 2009 to identify jurisdictions which were threats to the global financial system. Countries can be nominated directly or are considered automatically if their evaluation reports have an identified number of low ratings in the important core and key Recommendations. All European jurisdictions identified for review by the ICRG are referred to the ERRG. The ERRG then analyses the factual situations and reports to the ICRG. The ICRG decides whether a full targeted review is required and final decisions are taken on this by the FATF plenary. During 2011 three MONEYVAL countries (Georgia, Republic of Moldova and Ukraine) were subject to consideration by the ERRG. All MONEYVAL countries were referred automatically as a result of evaluation reports.

The ICRG process is intended to complement the follow-up procedures of the FSRBs.

MONEYVAL Evaluated Countries considered by the ICRG/ERRG in 2011

Georgia

Following a prima facie review, it was concluded that Georgia had made sufficient progress in remedying the relevant deficiencies and was removed from the ICRG process in February 2011.

Republic of Moldova

The Republic of Moldova was subject to a targeted review in 2011 and it was concluded that it had made sufficient progress on the major issues including remedying the impact of the decision of the Constitutional Court following the intervention by MONEYVAL. The Republic of Moldova was removed from the ICRG process in July 2011.

Ukraine

The ICRG conducted a targeted review of Ukraine and followed this up with an on-site visit in which one of the MONEYVAL scientific experts participated. As a consequence of this, it was concluded that the identified AML/CFT deficiencies had been substantially addressed and that implementation of the reforms would continue to be monitored by MONEYVAL. Consequently, Ukraine was removed from the ICRG process in October 2011.

The IMF and World Bank (the international financial institutions)

Since 11 September 2001, the role of the international financial institutions (IFIs) in AML/CFT has expanded. The clear engagement of the IFIs with the FATF and MONEYVAL was based in the decisions of their Boards after 11 September 2001 that AML/CFT issues should be routine parts of all their much larger financial sector assessments in their member States.

MONEYVAL (and FATF) negotiated with the IFIs in 2003-4 'burden sharing' agreements under which the IMF or World Bank¹⁸ would conduct a small number of MONEYVAL or FATF evaluations in an evaluation round and present the report for adoption at MONEYVAL and FATF plenaries. In 2011 the IMF led the MONEYVAL on-site evaluation of Georgia (with a MONEYVAL expert covering the 3rd EU Money Laundering Directive), and will present this report in 2012. They also presented the report of Albania based on an on-site mission in 2010. The benefit for MONEYVAL in this relationship is that the IFIs also accept all other MONEYVAL reports (prepared by MONEYVAL alone) as the AML/CFT components of their own wider financial assessments in other MONEYVAL countries. This is a very big compliment to the Council of Europe and MONEYVAL's quality of work.

In 2011 both the IMF and the World Bank actively participated in all MONEYVAL plenary meetings and were involved as trainers in the 2011 evaluator training seminar in July. Their contributions to MONEYVAL are appreciated.

The European Union

The European Union (EU) has been actively involved in MONEYVAL since its inception. In fact, the EU encouraged its creation. It is represented in MONEYVAL through the European Commission and the Council to the European Union. As a distinctly European monitoring mechanism, MONEYVAL has always had the European Union Directives as part of its mandate. Currently, MONEYVAL additionally evaluates all its jurisdictions (whether EU members or not¹⁹) on those parts of Directive 2005/60/EC (the 3rd EU Directive) that depart from the FATF standards. This assessment is published with each report that MONEYVAL produces (though without ratings). This is unique to MONEYVAL. The older members of the EU (evaluated by FATF) are not assessed on the EU Directives through a peer review process currently, as FATF only evaluates global standards. It is now possible under Article 2.2 c. of the MONEYVAL Statute for Council of Europe member States not evaluated by MONEYVAL under FATF standards, to apply for an evaluation by MONEYVAL in respect of the European standards in the 3rd Directive on the same basis as MONEYVAL member States.

The United Nations

The United Nations (UN) global AML/CFT standards are embodied in the FATF 40 Recommendations and 9 Special Recommendations. The United Nations Office on Drugs and Crime (UNODCP) and UN Counter Terrorism Committee (CTED) send representatives to MONEYVAL. MONEYVAL has successfully collaborated on several occasions with CTED in their separate assessments of the UN Security Council Resolutions on Financing of Terrorism in MONEYVAL countries, most recently in January 2012 in Albania.

¹⁸ In practice only the IMF has undertaken MONEYVAL countries as the IMF concentrates more on developed countries.

¹⁹ Currently, 12 MONEYVAL States are EU members.

The Egmont Group

The Egmont Group was established in 1995 as an international forum bringing together financial intelligence units (FIUs) – which are the receiving units for suspicious transaction reports from the private sector – in order to improve and systemise AML/CFT co-operation, particularly at intelligence level. MONEYVAL has observer status and has actively participated in Egmont Group meetings and contributed to training of FIU staff. The Egmont Group was active in pressing for FIU standards to be covered in an international legal instrument and contributed actively to the negotiation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198). MONEYVAL's law enforcement scientific expert, Mr Boudewijn Verhelst, is currently also the Chair of the Egmont Group.

8.2 Publications and outreach

Dirty Money

We would like to thank Professor William C. Gilmore, Professor of Public International Law at Edinburgh University (and MONEYVAL legal scientific expert), for the fourth revision of this important text, which was published by the Council of Europe in October 2011. The fourth edition brings together all the current AML/CFT standards, explains the importance of the Warsaw Convention and addresses all current global AML/CFT initiatives. It is required reading for all AML/CFT practitioners.

Horizontal Review

As already noted, the 3rd horizontal Review was published in March 2011 and has been well received. The MONEYVAL Secretariat is regularly invited to speak on a range of issues connected with AML/CFT work in external forums. Most invitations cannot be accepted due to resource constraints. However, the Executive Secretary did participate in the global AML/CFT conference organised by moneylaundering.com and Global Alert in the United States in March, where he introduced MONEYVAL's 3rd Horizontal Review and engaged in a dialogue on AML/CFT issues with leading US public and private sector officials. Presentations have also been given to students at the University of Strasbourg. The Secretariat also actively participated in an EU forum involving practitioners, EU officials and academics, hosted by the Institute of Advanced Legal Studies at the University of London in May 2011.

8.3 Evaluator Training

MONEYVAL held a successful evaluator training seminar from 25 to 29 July 2011 in Strasbourg. The seminar was attended by 32 experts from 21 jurisdictions evaluated by MONEYVAL, including for the first time experts from the Holy See. Other jurisdictions evaluated by the FATF also participated as trainees, as did representatives of 2 other FATF style regional bodies; the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) and the Eastern and South African Anti Money Laundering Group (ESAAMLG).

The primary purpose of the seminar was to train future evaluators of MONEYVAL's 4th round of mutual evaluations, and also to assist in the training of others in the global network of anti-money laundering and countering the financing of terrorism assessment bodies. Participating trainers included the Executive Secretary of MONEYVAL, a representative of the FATF Secretariat (Ms Alexandra Eckert), MONEYVAL scientific experts (Mr Herbert Zammit Laferla, Malta and Mr Boudewijn Verhelst, Belgium) and Mr Lajos Korona (Hungary), experts from the IMF and the World Bank (Mr Giuseppe Lombardo and Mr Klaudio Stroligo) and a financial expert from the UK Financial Services Authority (FSA), Mr Ian Matthews. The assistance of all these experts was greatly appreciated by all the participants.

9. The Conference of the Parties to CETS 198 (COP)

The 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, which came into force on 1 May 2008, builds on the success of the 1990 Convention. It is the first comprehensive anti money laundering treaty covering prevention, repression and international co-operation in anti money laundering and confiscation. Additionally, its provisions are extended to financing of terrorism. The Convention currently has 22 ratifications and it is anticipated that, as has been the case with the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141), all Council of Europe member States will become full parties to it. There are 12 signatories not followed by ratification, including the European Union.

Under A.48 a separate monitoring mechanism is created for States parties (the Conference of the Parties). In 2011, Mrs Eva Rossidou-Papakyriacou (Cyprus) was elected to be the first Chair of the COP.

COP Bureau

- Mrs Eva Rossidou-Papakyriacou (Cyprus) – Chair
- Ms Alina Bica (Romania) – Vice-Chair
- Mrs Oxana Gisca (Republic of Moldova)
- Ms Hasmik Musikyan (Armenia)
- Mr Sorin Tanase (Romania)

In 2011, Mr Paolo Costanzo (Italy) was appointed to be a scientific expert to the COP.

The COP had agreed at its first meeting that it would not duplicate the assessments of MONEYVAL or FATF and only assess those new parts of the Convention that add value to the current global standards and which can assist States in achieving greater success in this area. The assessment is based on a review by rapporteurs for legal issues, FIU issues and international co-operation issues of the replies to a detailed questionnaire. Where necessary, MONEYVAL (and FATF) reports will be drawn upon. There is no on-site visit unless, after hearing the draft report, the COP requires further information before adopting the report.

The first report of the COP was adopted in 2011 – on Albania, and it is published on the COP website²⁰. The MONEYVAL Executive Secretary doubles as Executive Secretary to the COP because of the COP's direct linkages to the work of MONEYVAL (and the FATF).

²⁰ http://www.coe.int/t/dghl/monitoring/cop198/default_en.asp

10. Conclusion

In conclusion, MONEYVAL is now regarded by Council of Europe member states as an important mechanism to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively. Of the 30 jurisdictions evaluated by MONEYVAL 22 were subject to active monitoring processes by MONEYVAL in 2011. Reports which have been considered at MONEYVAL plenary meetings have indicated a consistent improvement of compliance against international standards.

Furthermore, MONEYVAL is now an internationally recognised and influential global player in the AML/CFT world. It is a leading Associate Member of the FATF. It is respected as an effective monitoring mechanism for the quality of its outputs and the strength of its robust follow up procedures, which are acknowledged as delivering results. Through its activities, MONEYVAL identifies and helps to reduce risks to the global financial system and identifies gaps in national AML/CFT systems, and actively follows up the progress countries made to rectify them.

Appendix I

Excerpts from the Speech of the President of FATF at the 37th plenary meeting on 13 December 2011

This is the fourth FATF Associate Member Plenary meeting that I have attended since the start of the Italian Presidency. I would like to take this opportunity to highlight the important role MONEYVAL plays in the global AML/CFT network as one of the senior FATF associate members and one of the consistently well-performing ones.

Mutual Evaluations and Follow-Up Procedures

MONEYVAL is the only FSRB to have started a fourth round of mutual evaluations of its members, aiming to monitor the implementation of the current FATF Standards. The fourth round differs from the previous round in focusing on those Recommendations not fully implemented according to the third round. The MONEYVAL fourth round is therefore, as I understand it, a sort of “follow-up” to the last round.

In addition, you are in the process of carrying out a first mutual evaluation of the Vatican City State (the Holy See) for which the on-site visit has just taken place. This is an important evaluation, as it brings in a State that has until recently been outside the AML/CFT peer review process. I look forward to seeing the results of this evaluation during the relevant discussion of the report next year.

At the same time, MONEYVAL continues to carry out robust mutual evaluation follow-up that includes clear “compliance enhancing procedures”. The MONEYVAL process is designed to maintain the focus on areas where a particular member may not have fully implemented the FATF standards or where it might have failed to make meaningful progress in addressing identified shortcomings.

This monitoring work is an essential tool to ensure effective implementation of the FATF Standards and is the very “raison-d’être” of an FSRB. I congratulate you on such effort and look forward to hearing some of the lessons you have learned through your various processes, as we all work to develop a core of common processes for the next round of evaluation of the new FATF Recommendations.

Review of the FATF Recommendations

As you all know, the Review of the FATF Standards is coming to a close, following a lot of hard work. MONEYVAL has taken part in the in-depth discussions over the past two years both through the participation of individual members and the active contribution of the MONEYVAL Secretariat.

The FATF Plenary will adopt the revised text of the Recommendations in February 2012, and then begin work on revising the assessment methodology and the mutual evaluation and follow-up processes. We look forward to carrying out this revision work in close collaboration with associate members and completing it by early 2013.

MONEYVAL has a great deal to contribute to this process through the wealth of experience it has acquired from three full rounds of mutual evaluations as well as from the fourth round currently underway. MONEYVAL experience in the evaluation process is, in my view, essential to help us all to develop and refine a core of common evaluation and follow-up procedures that future rounds will be able to follow. I sincerely hope we can count on your support.

International Co-operation and Review Group (ICRG)

As you are aware, an important function of the FATF is to identify and address, through its ICRG process, the risks related to jurisdictions that insufficiently apply the FATF Recommendations.

The ICRG process is world-wide in scope and can thus focus on jurisdictions in any region when they meet certain criteria. Even FATF members have been or are currently subject to the ICRG process.

I am sincerely glad to see that MONEYVAL takes strong action when implementation shortcomings are identified. I am gratified as well that MONEYVAL's own procedures also help to bring about necessary remedial action when a MONEYVAL member falls under the ICRG process.

I once again thank you for the opportunity to be here today and address MONEYVAL, and I wish to congratulate MONEYVAL on its effective functioning and valuable performance and contribution.

I rely on MONEYVAL's continued support and participation in the FATF efforts to consolidate and enhance the AML/CFT global network.

Appendix II

LIST OF ABBREVIATIONS AND ACRONYMS

AML	Anti-money laundering
CDD	Customer Due Diligence
CDPC	European Committee on Crime Problems
CEPs	Compliance Enhancing Procedures
CETS 198	2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention
CFT	Countering the financing of terrorism
COP	Conference of the Parties to the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – the Warsaw Convention (CETS 198)
Core Recommendations	FATF Core Recommendations: R.1 Money laundering offence R.5 Customer due diligence R.10 Record keeping R.13 Suspicious transaction reporting SR.II Criminalise terrorist financing SR.IV Suspicious transaction reporting – terrorist financing
CTED	UN Counter Terrorism Committee
CTIF-CFI	The Belgian Financial Intelligence Unit
DNFBP	Designated non-financial businesses and professions
ERRG	Europe/Eurasia Regional Review Group
ESAAMLG	Eastern and South African Anti Money Laundering Group
EU	European Union
FATF	Financial Action Task Force
FIU	Financial intelligence unit
FSRB	FATF Style Regional Bodies
FT	Financing of Terrorism
GIABA	Inter-Governmental Action Group against Money Laundering in West Africa
ICRG	International Co-operation Review Group of the FATF
IFIs	International financial institutions – IMF and World Bank
IMF	International Monetary Fund
Key Recommendations	FATF key Recommendations R. 3 Confiscation and provisional measures R. 4 Secrecy laws consistent with the Recommendations R. 23 Regulation, supervision and monitoring R. 26 The FIU R. 35 Conventions R. 36 Mutual legal assistance R. 40 Other forms of co-operation SR. I Implement UN instruments SR. III Freeze and confiscate terrorist assets SR. V International co-operation
KYC	Know your customer
MER	Mutual evaluation report
ML	Money laundering
MLA	Mutual legal assistance
MTB	Money Transfer Business
NPO	Non-profit organisation
PEP	Politically exposed person
Statute	Resolution CM/Res(2010)12 on the Statute of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
STR	Suspicious transaction reports
UN	United Nations

UNODCP	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolutions
WGEI	Working Group on Evaluations and Implementation of the FATF



<http://www.coe.int/moneyval>