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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES
AND THE FINANCING OF TERRORISM
(MONEYVAL)

Written progress report submitted to MONEYVAL
by Moldova ¹

¹ As adopted by MONEYVAL at its 28th Plenary Meeting (Strasbourg, 8-12 December 2008). For further information on the examination and adoption of this report, please refer to the Meeting report (ref. MONEYVAL (2008) 40 at <http://www.coe.int/moneyval>)

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1. General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

Moldova has continued the development and strengthening of its AML/CFT system since the MONEYVAL third round evaluation of Moldova took place. The final report was adopted by MONEYVAL at its 24th Plenary meeting in Strasbourg, 10-14 September 2007.

Some of the important measures have been undertaken already by the time of adopting the final evaluation report, reflecting in this way the prompt reaction that Moldova had regarding the necessity of improving its AML/CFT system by implementing the MONEYVAL recommendations.

The fundamental revision of the AML/CFT legislation started with the adoption on 27 July 2007 of the new AML/CFT Law – the Law on preventing and combating money laundering and terrorism financing. The Law defines the ML/TF phenomena, establish Customer Due Diligence procedures, and describe the reporting entities. Also, the law stipulates directly that banking and professional secrets are not applicable for the law enforcement agencies, tax and financial control authorities, prosecutors and courts of justice.

On 13 July 2007, Moldova has ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

In order to implement the requirements of the Warsaw Convention and of the new AML/CFT Law, the relevant legal framework was amended by the Law No 243-XVI of 16 November 2007. An important amendment was the change of the art. 243 of the Criminal Code – Money laundering offence, in order to cover all material and mental elements as stated by the Palermo Convention, keeping the same language of its Article 6.

All the mentioned progresses have been achieved within a comprehensive policy performed by the state authorities, promoted by the National Strategy for preventing and combating money laundering and terrorism financing, approved by Government Decision No 632 of 05 June 2007. Its implementation is facilitated by an Action Plan and by a Mixed Working Group, composed by nominal representatives of the key central public authorities, established by the Order of the Centre for Combating Economic Crimes and Corruption. Combating of terrorism and terrorism financing was also one of the most important issues on the Government's agenda.

In order to insure the implementation of the new AML/CFT Law several implementation acts were approved, for example Order of the CCCEC on reporting of activities or transactions which fall under the incidence of the mentioned law, the Order of the CCCEC on the list of countries where illegally are made drugs, countries that do not have provisions for prevention of money laundering and terrorism financing, high risk countries because of the increased level of crimes and corruption, as well as the list of off-shore countries or areas, the Order of the Intelligence and Security Service on the lists of persons and entities involved in terrorist activities, etc.

The Project against Corruption, Money Laundering and Terrorist Financing in the Republic of Moldova started in October 2006.

The project support the Republic of Moldova in its efforts against corruption, money laundering and financing of terrorism in line with European and other international standards. The Centre for

Combating Corruption and Economic Crime (CCCEC) will be the main counterpart institutions, but the project will also cooperate with a range of other institutions, including civil society organisations. The project will have a duration of three years and is aimed at the following objectives and outputs:

Overall objective	To contribute to the prevention and control of corruption, money laundering and the financing of terrorism so that these no longer undermine the democracy, the rule of law and economic and social development and the confidence of the public in State institutions in Moldova
Project objective 1	To ensure the implementation of Moldova’s anti-corruption strategy on the basis of annual action plans
Output 1.1	Efficient monitoring, coordination and management of the anti-corruption strategy ensured and annual action plans available
Output 1.2	Legislation improved to effectively prevent and control corruption as foreseen in the anti-corruption strategy and action plans and in accordance with GRECO recommendations and European and United Nations standards
Output 1.3	Capacity of anti-corruption prosecutors strengthened to prosecute, supervise and manage corruption-related offences
Output 1.4	Cooperation among law enforcement and criminal justice bodies enhanced through joint training on investigation, prosecution and adjudication of corruption offences as well as international cooperation
Output 1.5	Capacities of the CCCEC strengthened to analyse corruption-related phenomena and trends, as well as to design and implement measures for the prevention of corruption
Output 1.6	Prevention plans implemented and internal controls reinforced within the judiciary, prosecution, police, CCCEC and other bodies at risk
Output 1.7	Implementation of the law on the financing of political parties ensured
Output 1.8	Corruption and conflicts of interest in the political process reduced
Output 1.9	Capacities of local government for the prevention of corruption and strengthening of public ethics enhanced
Output 1.10	Active role of civil society and media against corruption promoted and tolerance of the public to corruption reduced
Project objective 2	To strengthen the anti-money laundering/counter-terrorist financing (AML/CTF) system of Moldova in accordance with international standards and good practices as well as MONEYVAL recommendations
Output 2.1	Relevant legislation in line with international standards and best practices
Output 2.2	Competencies, status and organisational set-up of the FIU in line with MONEYVAL recommendations and international best practices
Output 2.3	System of collection, processing, analysis, protection and exchange of information on transactions designed and procured for the FIU
Output 2.4	Capacity of the FIU to co-operate with the FIUs of other countries in accordance with the Egmont Group standards will have increased
Output 2.5	National AML/CTF strategy including effective mechanisms to ensure co-operation between the FIU and law enforcement, criminal justice and regulatory authorities adopted and implemented
Output 2.6	Capacity of obliged entities and their regulators and supervisors to meet their obligations under the AML/CTF legislation will have increased
Output 2.7	Capacity of law enforcement and criminal justice bodies to meet their obligations under the AML/CTF legislation will have increased

The new informational system of the FIU, acquired with the support of the Molico project, offer the possibility for on-line reporting of the STRs. During 2007 it was enhanced the level of data protection through installing a security system, that authorized the access just from the office were are the staff of the OPCML are carrying out their activity.

During 2008, MOLICO project in Republic of Moldova achieved computer systems and high-level secure software for processing and storage of the confidential information. The technical infrastructure and software that belong now to the Office help to the effectuation of an efficient, productive, qualitative and operative work.

The FIU undertook a series of activities in order to enhance the cooperation at the national and international level.

At the national level, CCCEC has signed cooperation agreements with General Prosecutor's Office, National Bank of Moldova, Ministry of Interior Affairs, Intelligence and Security Service, Customs Service, Ministry of Information Development and the National Commission of Financial Market.

Regarding the international cooperation, the FIU after a long procedure of harmonization of legislation in accordance with the EGMONT GROUP principles and with the support of the sponsored agencies of FIU of Ukraine, Russian Federation and Bulgaria was accepted as a member of the Egmont Group during the plenary meeting held in Seoul , Korea, on 27 May 2008.

A series of memorandums of understanding with similar authorities with Belgium, Indonesia, Netherlands were concluded and finalized the negotiations with the authorities of Cyprus and Poland.

On 21 February 2008 the Republic of Moldova has ratified the International Convention for the suppression of acts of nuclear terrorism of 13 April 2005 and on 03 March 2008 - the Council of Europe Convention on the prevention of terrorism combating the terrorism of 16 May 2005.

Moldova has ratified all international instruments against terrorism contained in the Annex of the TF Convention, thus the declaration made in the Law on ratification the TF Convention which states that Moldova do not consider treaties to which is not party as being included in the appendix to the Convention, was excluded by Law 136-XVI of 19 June 2008.

In order to implement all ratified international instruments against terrorism and the UN Resolutions No 1373(2001), 1540 (2004), 1617 (2005) and 1624 (2005), it was carried out a fundamental revision of the national legislation which had as a result the adoption on 19 of June of the Law on amending several acts, including the Law on combating the terrorism, Criminal Code, Criminal Procedure Code, Law on refugee status, etc. which took in consideration the recommendations of the United Nations Office on Drugs and Crimes experts. The amendments to the Criminal Code introduce the corporate liability for all legal entities, except the public authorities, change the Terrorism financing offence in order to cover all the material and mental elements as it is provided by the TF Convention, introduce a series of new articles to cover the offences provided by the 9 international instruments described in the Annex at the TF Convention, improves the confiscation regime, etc.

A new body for coordinating the anti-terrorist measures was established by the Decision of the Government No 1295 of 13 November 2006 – Anti-terrorist Centre of the Intelligence and Security Service.

Alongside with the anti-money laundering and anti-financing of terrorism activities, combating the organized crime measures were high on the political agenda.

Anti-corruption legislative measures included the adoption of a new Law on combating and prevention of the corruption, the Law on code of conduct of the civil servant, the Law on conflict of interests, the approval of the Code of Ethics and Deontology of the police officer, etc.

Measures against illicit use of drugs and narcotic substances, concern more that six implementation normative acts. Also, the Ministry of Internal Affairs approved a strategic concept for a period of 5 years for preventing and combating narcomany and the illicit narcotic and psychotropic substances and the Government approved by its Decision the Measures on combating the narcomany and narcobusiness for 2007-2009 years.

With a view to combating trafficking in human beings, the Government approved a new national Plan for 2008-2009 years, approved a new Regulation of the National Committee for combating trafficking in human beings, created territorial commissions for preventing and combating trafficking in human beings and the Centre for assistance and protection of traffic victims and potential victims, approved the Regulation on the procedure for victims readmission. The Parliament has adopted the Law on the protection of witnesses and of the others parties in the criminal proceedings. Also, it was drafted and soon it will be approved by Government Decision the National Strategy of the national reference system in domain of assistance the traffic victims and potential victims

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The text of Article 243 should formally cover the laundering by the author of the predicate offence.</i>
Measures taken to implement the Recommendation of the Report	The Law No 243-XVI of 16 November 2007 changes the first par. of the art. 243 <i>Money laundering</i> of the Criminal Code using the same wording as of the art. 6, par. 1 <i>Criminalization of the laundering of proceeds of crime</i> of the Palermo Convention, thus covering formally the laundering by the author of the predicate offence in a manner that it is provided by the Palermo Convention, in a sense that it is not provided additionally that the offences set forth in par. 1 of the art. 243 of the CC do not apply to the persons who committed the predicate offence, as stated in art. 6 (2) e) of the Palermo Convention.
Recommendation of the MONEYVAL Report	<i>The issue of the foreign predicates to money laundering (subject to dual criminality or not) could also be further addressed, either in law or by way of creating jurisprudence. This would help to clarify the wording and avoid possible interpretations at variance with current accepted opinion.</i>
Measures taken to implement the	The article 243 <i>Money laundering</i> of the Criminal Code was amended by the Law No 243-XVI of 16 November 2007 by introducing a new paragraph (No 4) which clearly states that illicit acts are

Recommendation of the Report	<p>considered and those acts committed outside the state territory when the conduct is a criminal offence under the domestic law of the state where it is committed and would be a criminal offence under the domestic law of the Republic of Moldova if committed on its territory.</p> <p>Also, as recommended, the <i>Insider dealing</i> offence was introduced in the Criminal Code by Law No 353-XVI of 24 November 2006 (now articles 245¹ and 245² of the CC), thus all designated predicate offences are covered in the Criminal Code.</p>
Recommendation of the MONEYVAL Report	<i>It should also make it clear what evidence is required concerning the associated offence and criminal intent.</i>
Measures taken to implement the Recommendation of the Report	From the common understanding of prosecutors and judges for the money laundering case it is necessary to have a direct intent and proves of the illicit origin of assets.
Recommendation of the MONEYVAL Report	<i>The corporate criminal liability under article 21(3) CC should apply beyond the commercial legal entities, to include non-commercial and non-profit legal persons.</i>
Measures taken to implement the Recommendation of the Report	<p>After the amendment of the art. 21 of the Criminal Code by the Law No 136-XVI of 19 June 2008, the corporate criminal liability was extended to all legal entities, excepting public authorities.</p> <p>Beside that, the art. 243 (1), after amendment introduced by the Law No 243-XVI of 16 November 2007, establishes a punishment for legal entities – a fine of between 7.000 and 10.000 conventional units with the deprivation of the right to practice (exercise) a certain activity or winding up the legal entity.</p>
Recommendation of the MONEYVAL Report	<i>A serious effort needs to be made to increase the effectiveness of the system, particularly in the judiciary phase. The implementation aspect is presently quite unsatisfactory, however, and needs to be addressed by a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements.</i>
Measures taken to implement the Recommendation of the Report	<p>Significant training was provided to prosecutors and judges with the support of MOLICI Project. Thus the prosecutors participated in the <i>Training on Fight against money laundering and financing of terrorism, 18-24 June 2007, Kiev, Ukraine</i></p> <p><i>Training for judges and prosecutors on prevention and combating money laundering and terrorist financing, 14-15 April 2008, Chisinau</i></p> <p>The training aimed to instruct prosecutors and judges on best practices in investigation of money laundering cases, as well as to present international experience in this area.</p> <p><i>Training for judges and prosecutors on prevention and combating money laundering and terrorist financing, 14-15 April 2008, Chisinau</i></p> <p>The event has been organised in cooperation with the Prosecutor Office and the National Institute of Justice.</p>
Recommendation of the MONEYVAL Report	<i>Such measures should be accompanied by awareness-raising and information aimed at police officers, prosecutors and judges (publications, internal memoranda, guidelines, instructions, training courses etc.) which would also emphasize the need to prevent abuses of the plea bargaining system in cases of money laundering or serious crime. The revision process should be used to reconsider overall consistency (include a general reference to financial assets, property and income and the links between aggravating circumstances).</i>
Measures taken to implement the Recommendation of the Report	<p><i>Study visit to the Belgian Financial Intelligence Processing Unit, 23-25 July 2007, Brussels, Belgium</i></p> <p>The visit was organized for the representatives of the Service to Prevent and Control Money Laundering/ CCCEC, Ministry of Interior, Anti-corruption Prosecutor Office and National Bank of Moldova.</p> <p><i>International seminar on Combating terrorist financing, 15-17 October, Giessbach, Switzerland</i></p>

	<p>Representative from the Financial Intelligence Unit, Ministry of Internal Affairs, Anti-corruption Prosecutor Office and the Security and Intelligence Service participated in the seminar organised by the Financial Integrity Network that covered the issues of terrorist financing typologies, implementation of the FATF recommendations, financial monitoring to prevent terrorist financing and cyber terrorism.</p> <p><i>Training for judges and prosecutors on prevention and combating money laundering and terrorist financing, 14-15 April 2008, Chisinau</i></p> <p>The event has been organised in cooperation with the Prosecutor Office and the National Institute of Justice.</p> <p><i>Workshop “Combating the terrorist financing. Implementation of UN Security Council Resolutions”, 5 November 2008</i></p> <p><i>Workshop on Fight against Money Laundering and Financing of Terrorism organized on 29 of august 2007 by the World Bank;</i></p> <p><i>On September 10-13th 2007 the prosecutors participated in the study visit at the Anticorruption National department of Romania;</i></p> <p><i>During the IVth semester of the year 2007 the prosecutors participated to a cycle of conference and practical exercises organized at the national and international level on fight against money laundering and financing of terrorism , count proliferation of the weapons of mass destruction. A close.</i></p> <p><i>On 5th of September 2008 the Anticorruption prosecutors representatives attended the Workshop on Fight against corruption, money laundering and financing of terrorism organized by the IMF.</i></p> <p><i>In 2008 the General Prosecutors representatives attended the international seminar organized by the US Embassy and US Treasury Department on Fight against terrorism and criminal investigation of ML/TF cases.</i></p>
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence)	
I. Regarding financial institutions	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>Most steps are required to increase the level of compliance with the FATF Recommendation 5 which is one of the fundamental Recommendations of the FATF. The examiners advise that obligations in the AML/CFT methodology marked with an asterisk are put in the AML Law.</i>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the expert recommendation the obligations in the AML/CFT methodology marked with an asterisk were included in the AML/CFT Law.</p> <p>Thus the recommendation 5.1 is covered by the art.5(2) a) of the Law 190 – XVI of 26.07.2007 (OM no. 141 – 145/597 of 07.09.2007) (father refer as Law)</p> <p>the recommendation 5.2 is covered by the art.5(1) a) , b), c), d) of the Law 190 – XVI of 26.07.2007</p> <p>the recommendation 5.3 is covered by the art.5(1) a) of the Law 190 – XVI of 26.07.2007</p> <p>the recommendation 5.4 is covered by the art.5(2) a) of the Law 190 – XVI of 26.07.2007</p> <p>the recommendation 5.5 is covered by the art. 3 and art.5 (2) b) of the Law 190 – XVI of 26.07.2007</p> <p>the recommendation 5.7 is covered by the art.5(2) c) of the Law 190 – XVI of 26.07.2007</p>
Recommendation of the MONEYVAL Report	<p><i>It is strongly recommended to amend the AML Law (and consequently the various existing sector-specific regulations) in order to implement the various requirements of Recommendation 5, and to ensure that the following mechanisms are duly taken into account:</i></p> <ul style="list-style-type: none"> • <i>Identification of beneficial owners</i> • <i>“Know your customer” policies</i> • <i>On-going due diligence in respect of the business relationship</i>

	<ul style="list-style-type: none"> • <i>enhanced due diligence mechanisms for specific high-risk customers, including PEPs</i> • <i>modalities for the verification of identification</i> • <i>consequences of problems occurring during the identification process</i> • <i>applicability to existing customers</i>
Measures taken to implement the Recommendation of the Report	<p>The Law on prevention and combat of money laundering and terrorism financing no. 190 – XVI of 26.07.2007 (OM no. 141 – 145/597 of 07.09.2007) (further refer as Law) foresees the following:</p> <ul style="list-style-type: none"> * Identification and verification of identity of beneficial owner (art.5 (2) a) and b); * Establishing the policies and rules regarding know your customer (art.9 (1) and (3)); * Establishing the requirements regarding ongoing monitor of transactions and business relationships (art.5 (2) c) and d); * Establishing the measures regarding enhanced due diligence for reporting entities (art.6); * Establishing the measures regarding verification of customers’ identity (art. 5 (2) a) and b); * The obligation of reporting entities to refrain from account opening, setting business relations, stop or refuse transaction conclusion in case there haven’t been presented respective acts for identification of physical or juridical persons, the data and received information aren’t authentic (art.6 (8)); * Establishing the measures for identification and verification of clients (art.9 (1)) at the same time the reporting entities should take into consideration art. 16 (1) of Law, when performing business relations with new customers and the existent customers. <p>According to this law all the supervising authorities had to revise their regulations, thus the following normative acts of NBM have been amended:</p> <ul style="list-style-type: none"> • Regulation on opening, modification and closing of accounts in authorized banks of RM (decision no.297 of 25 November 2004 of the CA of NBM) • Regulation on use of e-banking systems, nr. 376 of 15.12.2005 (OM of the Republic of Moldova No. 1-4/6 of 6 January 2006) • The Regulation No. 10018-20 on the organization and functioning on the territory of the Republic of Moldova of foreign exchange offices and exchange bureaus by hotels the Council of Administration No 282 as of 07.11.2007, Official Monitor of the Republic of Moldova No 16-17 as of 25.01.2008. • Recommendations on developing programs by the banks of the Republic of Moldova on prevention and combat of money laundering and terrorism financing (the NBM Decision no.94 of 25.04.2002 (OM no. 59-61/143 of 02.05.2002))
Recommendation of the MONEYVAL Report	<p><i>The examiners strongly advise to include in the AML law or regulation a definition of “beneficial owner” on the basis of the glossary to the FATF Methodology. Financial institutions should take reasonable measures to verify the identity of beneficial owners using relevant information or data obtained from reliable sources.</i></p>
Measures taken to implement the Recommendation of the Report	<p>Law on prevention and combating money laundering and terrorism financing defines the notion of “Beneficial owner” (art.3), as well as obliges the reporting entities to identify and verify the identity of beneficial owner (art.5 (2) a) and b)).With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.3 of Recommendations establishes the requirements of internal policies regarding identification and verification of customers’ beneficial owner identity.</p> <p>Regulation No. 10018-20 comprises the following provisions which are related to foreign exchange offices, exchange bureaus by hotels. In the case when the operation is performed on behalf of another individual (beneficial owner), the individual, who performed the operation shall present, along with his identity document, the power of attorney legalized in the established way. (item 4.7.4 and 4.7.5 of Regulation No.10018-20) .</p>

Recommendation of the MONEYVAL Report	<i>The legal status of the 2002 NBM Recommendations as a key regulation for banks should not be disputable. The Moldova authorities are advised to address this issue so as to avoid controversies and take the necessary measures to ensure that the text contains mandatory obligations for banks which are enforceable by the NBM and are fully in compliance with the FATF recommendations.</i>
Measures taken to implement the Recommendation of the Report	<p>All the essential criteria concerning Customer Due Diligence are stipulated in the Law (articles 5, 6, 7). Recommendations on developing programs by the banks of the Republic of Moldova on prevention and combating money laundering and terrorism financing deal with the implementation of the requirements set forth in the Law.</p> <p>In accordance with art.10 (2) of Law, the public authorities, empowered to execute the supervision of the reporting entities, approve recommendations, verify and monitor the application of the provisions of the present law on observing the requirements regarding the collection, the recording, the keeping, the identification and the presentation of the information on the carrying out of the transactions, as well as the carrying out of the measures and procedures related to the internal control.</p> <p>Recommendations on developing programs by the banks of the Republic of Moldova on prevention and combat of money laundering and terrorism financing have been approved by the NBM Decision no.94 of 25.04.2002 (OM no. 59-61/143 of 02.05.2002). Decisions approved by NBM according to art. 11 of the Law on the NBM (nr. 548-XIII of 21.07.1995, Official Monitor 56-57/624 of 12.10.1995) are compulsory for financial institutions.</p> <p>In the supervision process of banks, NBM verified the implementation of the Recommendations, as well. In non compliance situations the NBM applied penalties and remedial measures. These actions have not been never disputed by banking sector.</p>
Recommendation of the MONEYVAL Report	<i>In the further development of the NBM recommendations, the NBM is encouraged to carefully analyse the current legislative limitations and existing practice to avoid introducing mandatory requirements for banks in situations that are prohibited in any event or are not applicable.</i>
Measures taken to implement the Recommendation of the Report	According to the Decision of the Council of Administration no. 281 of 07.11.2007 were approved amendments to Recommendations taking into consideration the provision of the Law, thus determining some situations with enhanced due diligence for banks at customer identification, taking into consideration the existent practice.
Recommendation of the MONEYVAL Report	<i>It is also recommended to extend more largely the 2002 NBM Recommendations on money laundering and the AML Law to the issue of terrorist financing regarding the due diligence mechanisms.</i>
Measures taken to implement the Recommendation of the Report	<p>According with art.14 (2) – (5) of the Law, the reporting entities are obliged to withhold from carrying on business relations with persons involved in terrorist activities, at the same time disposing the right to freeze their transactions' execution.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.3 of Recommendations establishes that financial institution take into consideration as priority the mentioned Law.</p>
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP²	
Recommendation of the MONEYVAL Report	<i>First of all, Moldova should take steps to clarify the drafting of the AML law by listing more precisely the non-financial activities and professions (abolishing the catch-all form which applies to all operators effecting transactions outside the financial system).</i>
Measures taken to implement the Recommendation of the Report	„According to the Law No 190-XVI as of 26.07.2007 on prevention and combating money laundering and terrorism financing the activities and professions involved in the non-bank (non-financial) sector are the professional participants at the securities market including the stock exchange,

² i.e. part of Recommendation 12.

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dealers and brokers (bank brokers, non-bank brokers), independent registrars, National Depository of Securities. The insurance/reinsurance market includes insurance/reinsurance companies and intermediaries (insurance/reinsurance brokers). The non-banking (non-financial) sector also includes audit activities, independent accountants and consultants in the non-bank financial sector and investment funds, investment management companies, deposit companies, fiduciary companies.”

The Recommendations concerning the application of the measures of prevention and combating of money laundry and terrorism financing on the financial non-banking market approved by the Decision of the National Commission of Financial Market nr. 63/5 of 25.12.2007, incorporates the customer due diligence measures. Chapter 5 of the mentioned Recommendations lists the means for identifying the clients by professional participants such as: before establishing the business relations, on the execution of some occasional transactions with a value of minimum 50 thousand lei (approximately 3800 Euro), as well as performing some electronic transactions with a value of minimum 15 thousand lei (approximately 1000 Euro), indifferently of the fact that the transaction is performed by one single operation or by many operations, in case of existence of some suspicions of money laundry or terrorism financing, in case of existence of some doubts concerning the authenticity or the precision of the obtained identification data. The Recommendations encompass the elements of the identification and the subjects of specific identification of clients by the professional participant as well as information about the purpose and nature of the business relation, concerning complex and unordinary transactions. The different aspects of the identification means of the client, the procedures of accepting them and the decisions on beginning business relations are established in the Article 5.7. National Commission of Financial Market, through the Recommendations, imposes professional participants to have a policy and a systematic procedure of identifying the clients and of those who act in their name and should not establish a relation until the identity of the new client is verified. As defined in the Article 5.9, the means of identification are not applied in case of obtaining a life insurance policy, with the condition that the insurance premium or the annual instalments of payment are up to 15 thousand lei (approximately 1000 Euros) or that one singular insurance premium does not excel 30 thousand lei (approximately 2000 Euros) as well as in the case when subscription to the insurance policies, emitted by the pension fund, on the basis of an employment contract or the occupation, with the condition that this kind of policy cannot be bought back before the term and cannot be used as a guarantee or as pawn in order to obtain a loan. The Recommendations establish the procedures referring to continuous monitoring of accounts and transaction as: detection of ordinary/specific operations of the client, monitoring the client’s operations in order to determine if the they correspond to the ordinary operations for this particular client or for the clients from similar categories, possession of adequate informational management systems in order to present the person responsible with the necessary information for efficient identifying, analyzing and monitoring of the high degree of risk clients’ accounts, identification of the limited and suspicious operations by the professional participant, including the potential ones, as well as the sources of means used by the client in these operations. Procedures concerning possession and preservation of information, that needs to include at least the following as mentioned in the Article 5.11

The National Commission of Financial Market together with CCCEC elaborated the draft law for amending the Law on prevention and combat of money laundering and terrorism financing no. 190 – XVI of 26.07.2007 (OM no. 141 – 145/597 of 07.09.2007). The modifications refer to: exclude the sentence “investment funds, investments management companies, depository companies” from the Article 4, a), as these entities are professional participants on the non-banking financial market according to Law on securities market nr. 199-XIV from 18.11.1998, replace the Article 4, b) with “professional participants on the non-banking financial market, except savings and credit associations, that hold type A license” according to the Article nr. 4 of the Law regarding National Commission of Financial Market nr. 192-XIV din 12.11.1998. At the same time, National Commission of Financial Market, suggest to eliminate from the reporting entities the savings and credit associations, that hold type A license because they offer borrowings only to their members (members are natural persons only)

	<p>from the region where the association is registered. The Article 4, c) of the Law on prevention and combat of money laundering and terrorism financing is suggested to be eliminated because the insurance companies and insurance brokers are professional participants on the non-banking financial market as mentioned in the Article 4, b). National Commission of Financial Market suggests to eliminate the Article 4, m) from the reason that micro financing organizations are professional participants on the non-banking financial market as mentioned in the Article 4, b).</p>
Recommendation of the MONEYVAL Report	<p><i>Urgent consultations are needed with the profession of lawyer in order to determine their obligations under the AML Law.</i></p>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the art.4 i) Law No 190-XVI as of 26.07.2007 on prevention and combating of money laundering and terrorism financing the layers are considered as reporting entity The provisions of the present law cover all financial institutions, as well as the following physical and juridical persons (named below <i>reporting entities</i>):</p> <p>i) lawyers, notaries and other legal independent professionals, during the preparation, the carrying out or the realization of the transactions, on their own behalf or on behalf of the natural or the legal person, concerning the:</p> <p>In these respect following the recommendation of the experts in October 2007 consultation with the Barou of Lawyers were made and received approval as far as the obligation and special forms for reporting is concerned.</p>
Recommendation of the MONEYVAL Report	<p><i>All changes regarding the CDD for financial institutions should be put in place for DNFBPs</i></p>
Measures taken to implement the Recommendation of the Report	<p>It is defined in the Article 4. of the Law No 190-XVI as of 26.07.2007 on prevention and combating of money laundering and terrorism financing the DNFBPs that are now subject of the AML law:</p> <p>The provisions of the present law cover all financial institutions, as well as the following physical and juridical persons (named below <i>reporting entities</i>):</p> <p>a) ...investment funds, investment management companies, deposit companies, fiduciary companies;</p> <p>b) professional participants on the securities market, inclusively stock exchange companies, dealers, brokers ;</p> <p>c) insurance and reinsurance companies;</p> <p>j) auditors, independent accountants and financial banking or non banking consultants;</p> <p>k) persons who provide investment or fiduciary assistance;</p> <p>The Recommendations concerning the application of the measures of prevention and combating of money laundry and terrorism financing on the financial non-banking market approved by the Decision of the National Commission of Financial Market nr. 63/5 of 25.12.2007, include aspects of the financial institutions which should take reasonable measures for customer due diligence. Thus, Chapter 5 of the Recommendations fully covers the means applied by the professional participants for the clients identification before establishing the business relations, on the execution of some occasional transactions with a value of minimum 50 thousand lei (approximately 3800 Euro), as well as performing some electronic transactions with a value of minimum 15 thousand lei, indifferently of the fact that the transaction is performed by one single operation or by many operations, in case of existence of some suspicions of money laundry or terrorism financing, in case of existence of some doubts concerning the authenticity or the precision of the obtained identification data.</p> <p>Professional participant shall identify the client and adopts adequate and risk based means for verification of the identity, in order to possess information and certainty about the client, property structure and his modalities of control.</p> <p>Professional participant shall monitor continuously the transactions or business relations of the client,</p>

	<p>in order to assure that these are in accord with the information provided and that it is continuously updated.</p> <p>The point 5.4 establishes the elements of identification: natural or legal person that maintain an account at the professional participant or those in whose name the account is maintained, beneficiary owners of the transactions performed by the professional intermediaries, Subjects of specific identification of clients by the professional participant are mentioned in the point 5.5:.</p> <p>Professional participant has to obtain information about the purpose and nature of the business relation, concerning complex and unordinary transactions according to the point 5.6.</p> <p>The point 5.7 establishes the means of identification of the client. The procedures of accepting the clients should include more stages depending on the level of risk of the clients, in the same time emphasizing the clients with a high level of income, the source of which is unclear. Decisions on beginning business relations with clients with a high level of risk have to be taken exclusively on the level of steering body. It is important that the process of accepting of clients must not affect the large public access to the financial non-banking services.</p> <p>According to the point 5.8 professional participants have to possess a policy and a systematic procedure of identifying the clients and of those who act in their name and should not establish a relation until the identity of the new client is verified..</p> <p>Means of identification shall not be applied according to the point 5.9 in case of obtaining a life insurance policy, with the condition that the insurance premium or the annual instalments of payment are up to 15 thousand lei (1000 Euro) or that one singular insurance premium does not excel 30 thousand lei (2000 Euro), subscription to the insurance policies, emitted by the pension fund, on the basis of an employment contract or the occupation, with the condition that this kind of policy cannot be bought back before the term and cannot be used as a guarantee or as pawn in order to obtain a loan.</p> <p>Procedures reflected in point 5.10 referring to continuous monitoring of accounts and transaction Structure model of the internal program concerning prevention and combating of money laundry and terrorism financing shall encompass the “Know your customer” rules: accepting the client, identification of the client, monitoring the transactions, maintaining and preserving the information.</p>
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The AML law requires financing institutions to keep information on identified customers, archive of accounts and primary documents regarding limited and suspicious financial transactions for a period of 5 years from the date when the transaction was carried out. The provisions of the AML law should cover the entire transactions carried out by financial institutions, and not exclusively those regarding suspicious transactions and transactions in excess of the set amounts by the law.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.7 (1) of Law, the reporting entities keep the accounting of the information and the documents of the legal and natural persons and of the beneficiary owner, the register of identified natural and legal persons, the archive of accounts and primary documents, including business correspondence, for at least 7 years, after the business relationship ending or bank account closing. The reporting entities keep the accounting of all the transactions for at least 7 years after the transactions are ended.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.4 of Recommendations establishes the obligation of financial institutions to keep the information about their customers’ business activity. Banks, in accordance with p.18.6 of the Regulation on opening, modification and closing of accounts in</p>

	<p>authorized banks of RM (decision no.297 of 25 November 2004 of the NBM) “Upon account closing, legal records on account opening shall be maintained in the bank archive as in accordance with the legislation in effect and the organization procedures of archiving works (7 years, as is mentioned in AML Law).”</p> <p>Regulation No. 10018-20 comprises the following provisions related to all foreign exchange offices. After verifying the book-keeping and recording of operations, the documents shall be collected, filed in folders by days (months etc.) and stored according to the legislation. The documents on performed operations and the identified individuals (control tape, the second copies of foreign exchange bulletins, registers) shall be kept at least 7 years after the completion of the operations. The integrity and storage of documents shall be ensured by complying with the legislation in force and with the rules on archive works’ organization. The responsibility for ensuring documents’ storage shall be vested by the director of the foreign exchange office. (item 5.10.7 of the Regulation 10018-20)Recommendations on the elaboration of programs on prevention and combating of money laundering and terrorism financing by foreign exchange offices and exchange bureaus by hotels comprise the provisions according to which the foreign exchange office, hotel (organization) which, according to the licences of the National Bank of Moldova have opened exchange bureaus, shall ensure that the documents and information about the operations and the identified individuals are accessible and available in time, upon request, to CCECC and to other competent authorities. (attachment No. 11 of the Regulation, item 27 of Recommendation) Programs PCMLTF of foreign exchange offices and hotels (organizations) shall contain procedures on information record keeping and storage. (Attachment No. 11 of Regulation, item 6 of Recommendation).</p>
Recommendation of the MONEYVAL Report	<i>A general requirement to maintain all relevant records for 5 years after the termination of the account or business relationship should be established.</i>
Measures taken to implement the Recommendation of the Report	According to art.7 (1) of the Law, the reporting entities keep the accounting of the information and the documents of the legal and natural persons and of the beneficiary owner, the register of identified natural and legal persons, the archive of accounts and primary documents, including business correspondence, for at least 7 years, after the business relationship ending or bank account closing. The reporting entities keep the accounting of all the transactions for at least 7 years after the transactions are ended.
Recommendation of the MONEYVAL Report	<i>Competent authorities should be given proper powers to enable them to request, in specific cases, financial institutions to keep all necessary records for a longer period as determined these authorities.</i>
Measures taken to implement the Recommendation of the Report	As mentioned above, according to the article 7 (1) of the Law, the records have to be kept for a period of 7 years that is longer than stipulated in the recommendation 10 FATF (5 years).
Recommendation of the MONEYVAL Report	<i>The AML law and sector specific legislation or regulation should clearly require financial institutions to maintain such information and data on clients and transactions so that it can be made available on a timely basis to the competent authority.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.7 (1) of the Law, the reporting entities keep the accounting of the information and the documents of the legal and natural persons and of the beneficiary owner, the register of identified natural and legal persons, the archive of accounts and primary documents, including business correspondence, for at least 7 years, after the business relationship ending or bank account closing. The reporting entities keep the accounting of all the transactions for at least 7 years after the transactions are ended.</p> <p>According to art.7 (2) of the Law, the reporting entities respond completely and promptly to the requests of the Centre for Combating Economic Crimes and Corruption and other empowered authorities, regarding the existence, of business relations and their nature, between these entities and certain natural and legal entities, at the present moment and during the previous 7 years.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks,</p>

	according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.4 of Recommendations establishes that financial institutions shall ensure that the documents and the information concerning the identification and the verification of clients, of effective beneficiaries, as well as concerning the monitoring of clients' operations, be timely available, upon request, to competent authorities.
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP³	
Recommendation of the MONEYVAL Report	<i>All changes regarding the record keeping requirements for financial institutions should be put in place for DNFBPs.</i>
Measures taken to implement the Recommendation of the Report	<p>The DNFBPs are subject to the AML law No 190-XVI as of 26.07.2007 on prevention and combating of money laundering and terrorism financing, they fall under incidence of the article 4 of the law as reporting entities.:</p> <p style="padding-left: 40px;">Article 4. Reporting entities</p> <p style="padding-left: 40px;">The provisions of the present law cover all financial institutions, as well as the following physical and juridical persons (named below <i>reporting</i> entities):</p> <p style="padding-left: 40px;">.....</p> <p style="padding-left: 40px;">e) casinos (inclusively internet-casinos);</p> <p style="padding-left: 40px;">f) places of rest, equipped with gambling devices, institutions organizing and carrying out lotteries or gambling;</p> <p style="padding-left: 40px;">g) real estate agents;</p> <p style="padding-left: 40px;">h) dealers in precious metals or precious stones</p> <p style="padding-left: 40px;">i) lawyers, notaries and other legal independent professionals, during the preparation, the carrying out or the realization of the transactions, on their own behalf or on behalf of the natural or the legal person, concerning the:</p> <ul style="list-style-type: none"> - purchasing and selling of real estate; - natural or legal persons business management; - creation, functioning or management of legal persons, <p style="padding-left: 40px;">excepting the cases of evaluation of the legal situation of a client, defense or client representation tasks connected with a juridical procedure;</p> <p style="padding-left: 40px;">j) auditors, independent accountants and financial banking or non banking consultants;</p> <p style="padding-left: 40px;">k) persons who provide investment or fiduciary assistance;</p> <p>Also the law foresees the other type of activities as:</p> <p style="padding-left: 40px;">d) institutions that legitimate or register the ownership right;</p> <p style="padding-left: 40px;">l) organizations that have the right of rendering services regarding money order, telegraphic or transfers of goods.</p> <p>Regarding the record keeping for financial institutions, the DNFBPs with respect to the article 7 ensures:</p> <p style="padding-left: 40px;">Article 7. Keeping of the records about the activities and the transactions of the legal or natural persons and of the beneficiary owner.</p> <p style="padding-left: 40px;">1) The reporting entities keep the accounting of the information and the documents of the legal and natural persons and of the beneficiary owner, the register of identified natural and legal persons, the archive of accounts and primary documents, including business correspondence, for at least 7 years, after the business relationship ending or bank account closing. The reporting entities keep the accounting of all the transactions for at least 7 years after the transactions are ended.</p> <p style="padding-left: 40px;">2) The reporting entities respond completely and promptly to the requests of the Center for</p>

³ i.e. part of Recommendation 12.

	Combating Economic Crimes and Corruption and other empowered authorities, regarding the existence, of business relations and their nature, between these entities and certain natural and legal entities, at the present moment and during the previous 7 years.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting)

I. Regarding Financial Institutions

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Instead of a specific and exhaustive list of suspicious transactions, the preventive law should make suspicion that funds are proceeds from crime or are linked or related to, or are used for financing of terrorism the only mandatory basis for making an STR, regardless of transaction amount.</i>
Measures taken to implement the Recommendation of the Report	According to art.5 (1) c) of the Law, the reporting entities apply security measures regarding the natural or legal persons, inclusively the beneficiary owner if there is a suspicion of money laundering or terrorism financing, regardless of any derogation, exemption or set limit and according to art.8 of the Law, informs the CCECC. According to art.4, 6, 8 and 11 of Law, CCECC elaborates the Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing.
Recommendation of the MONEYVAL Report	<i>The question of a single form for reporting all transactions whatever the reporting entity should be seriously considered, and the policy whereby entities are only bound by their obligations if a form and a CCCEC instruction exist should be abandoned</i>
Measures taken to implement the Recommendation of the Report	According to art.8 (3) of the Law, in the special form regarding the transactions that fall under the incidence of the present law, containing their data, confirmed by the signature of the person who fulfilled it or by any other identification manner. According to article 8 (4), The guide of the suspect activities and transactions, the example of the special form and the manner of transmission are approved by the Centre for Combating Economic Crimes and Corruption and are published in the Official Gazette of the Republic of Moldova (Decision regarding the disclosure of the activities and transactions overseen in the Law nr.117 from 20.11.2007, OM nr.198-202/731 from 21.12.2007).
Recommendation of the MONEYVAL Report	<i>The Moldovan authorities should also clarify the situation in respect of the application and scope of Article 4. 1(g) and make it clear that it applies to all reports of operations subject to an upper limit, under both articles 4.1(b) and article 5.1(a) to (e). This would avoid the risk of confusion and non-reporting.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the provision of the Law No 190-XVI as of 26.07.2007 on prevention and combating money laundering and terrorism financing art. 8 establish the clear obligations requirements of STRs and threshold reports.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting)

II. Regarding DNFBP⁴

Recommendation of the MONEYVAL Report	<i>Moldova should ensure that the reporting form is available rapidly for all designated non-financial businesses and professions subject to the AML Law (at the same time as clarifying the precise list thereof).</i>
Measures taken to implement the Recommendation of the	In the context of the new Law No 190-XVI as of 26.07.2007 on prevention and combating money laundering and terrorism financing, the Article no. 8 clearly define the procedure of reporting the activities or transactions that are reflected by the law.

⁴ i.e. part of Recommendation 16.

Report	<p>The point 1 concerns that the reporting entities are obliged to inform immediately the Centre for Combating Economic Crimes and Corruption, about any suspect activity or transaction, which is being prepared, performed or finalized. The data regarding suspect transaction are reflected in a special form, which is sent to the Centre for Combating Economic Crimes and Corruption but not later than 24 hours. The point 2 reflects the transactions finalized or carried out, through one operation with a value exceeding 500.000 lei (approximately 38400 Euros), as well as those carried out through more operations during a period of 30 calendar days, with the mentioned value, are reflected in a special form, sent to the Centre for Combating Economic Crimes and Corruption, not later than the 15th of the month immediately following the operational month.</p> <p>In the special form reflected in the point 3 regarding the transactions that fall under the incidence of the present law, containing their data, confirmed by the signature of the person who fulfilled it or by any other identification manner, at least the following information should be provided:</p> <ol style="list-style-type: none"> a) the series, the number, and the date of issue of the identity document, address and other data required for the identification of the person who conducted the respective transaction; b) the address and other data required for the identification of the person in whose name the transaction was carried out; c) the address and other data required for the identification of the beneficiary owner of the transaction; d) the legal identification data and the accounts of the customers participating to the transaction; e) the type of the transaction; f) data about the reporting entity which made the transaction; g) the date, the time and the value of the transaction; h) the name and the position of the person who registered the transaction; i) the reasons of suspicion. <p>The guide of the suspect activities and transactions highlighted in the point 4, the example of the special form and the manner of transmission are approved by the Centre for Combating Economic Crimes and Corruption and are published in the Official Gazette of the Republic of Moldova.</p> <p>Also, according to the point 5, the reporting entities and their employees are obliged to refrain themselves from communicating to natural and legal entities who carry out the activity or the transaction, or to third parties about the transmission of the information to the Centre for Combating Economic Crimes and Corruption.</p> <p>Point 6 reflects that the reporting entities shall ensure the protection of their employees against any threats or hostile action regarding the reporting of suspect activities and transactions.</p> <p>With respect to Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the reporting activities or transactions that fall under the incidence of the Law regarding the prevention and combating money laundering and terrorism financing, the safety transmission of the special formulas shall define the process of suspicious transactions reporting.</p>
Recommendation of the MONEYVAL Report	<p><i>Additional measures should be taken to ensure that all DNFBPs comply with their reporting obligations.</i></p>
Measures taken to implement the Recommendation of the Report	<p>Within the performed controls of the professional participants on the nonbanking financial market, the inspectors from National Commission of Financial Market must examine the observance of the Recommendations concerning the application of the measures of prevention and combating of money laundry and terrorism financing on the financial non-banking market approved by the Decision of the National Commission of Financial Market nr. 63/5 of 25.12.2007.</p> <p>National Commission of Financial Market Order no. 56 from 15.08.2008 regarding Type-Program of carrying out the control of the activity of professional participants on the non-banking financial market related to the prevention and combating money laundering and financing of terrorism establishes the</p>

	<p>reporting obligations.</p> <p>Also a draft law on supervising the reporting entities foresees in the art.4 e), f), h), j), was elaborated by the Ministry of Finance.</p>
Recommendation of the MONEYVAL Report	<i>More outreach and guidance is developed for all DNFBPs to explain the reporting obligation</i>
Measures taken to implement the Recommendation of the Report	<p>According to the Centre for Combating Economic Crimes and Corruption Order no. 118 from 20.11.2007 “on approval of the Guide to Suspect Activities or Transactions under the incidence of the Law on Prevention and Combating of Money Laundering and Terrorism Financing”, the Chapter III establishes the indexes of the suspect transactions within the banking and nonbanking currency exchange. The point 12 defines the indexes that establish the suspect character within the nonblank transactions. The guidelines are tailor made and diversified according to the different type of reporting entities, including DNFBPs.</p> <p>The Chapter no. IV shall establish the indexes within the securities transactions.</p> <p>The indexes within suspect transactions in the insurance area are encompassed in the Chapter V.</p> <p>The indexes within suspect transactions in the casinos and gambling area are encompassed in the Chapter VI,</p> <p>The indexes within suspect transactions in the area of independent professionals are encompassed in the Chapter VII;</p> <p>The indexes within suspect transactions in the area are of organizations that have the right of rendering services regarding money order, telegraphic or transfers of goods encompassed in the Chapter VIII.</p> <p>National Commission of Financial Market, along with MOLICO project has organized 4 training seminars for professional participants on the non-bank financial market. With respect to Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the safety transmission of the electronic special formulas, National Commission of Financial Market and Centre for Combating Economic Crimes and Corruption was performed a seminar for 60 officials of the professional participants on the nonbanking financial market including: brokerage companies, independent registrars, fiduciary companies and insurance companies.</p> <p>Also the Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the reporting activities or transactions that fall under the incidence of the Law regarding the prevention and combating of money laundering and terrorism financing, includes as well the special forms for the DNFBPs</p> <p>In the process of establishing an efficient system of reporting activities or transactions under the incidence of the AML/CFT Law the reporting entities stipulated in the Article 4 of this Law are obliged to submit to the FIU of Moldova their suspicious in special forms regarding activities or transactions under the incidence of the AML/CFT Law (Order of the Centre for Combating Economic Crimes and Corruption No. 118 of 20.11.2007 (entered into force on 21.12.2007).</p>
Changes since the last evaluation	

Special Recommendation II (Criminalization of terrorist financing)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>To take legislative and other steps that prove necessary to ensure that the financing of terrorism under Article 279 (in conjunction with Article 278) also covers organizations and persons recognized as engaging in terrorist activities, even in the absence of (preparation of) a specific terrorist act;</i>
Measures taken to implement the	Article 279 of the Criminal Code was changed considerably by the Law No 136-XVI of 19 June 2008, its current wording implementing fully all requirements established by the 1999 International

<p>Recommendation of the Report</p>	<p>Convention for the Suppression of the Financing of Terrorism, the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism and the relevant provisions of the new AML/CFT Law.</p> <p>Art. 279 (1) b) covers expressly the financing of “an organized criminal group, a criminal organization or a person that commits or makes attempts to commit a terrorist offence or organizes, manages, associates with, agrees in advance, instigates or takes part as an accomplice in perpetration of this offence”.</p> <p>Article 279. Terrorism financing <i>(1) Terrorism financing, i.e. making available or deliberately, directly or indirectly, collecting assets of any nature obtained by any means, by any person, using any methods, or providing financial services for the use of these assets or services or knowing that they will be used entirely or partially:</i> <i>a) to organize, prepare or commit a terrorist offence;</i> <i>b) by an organized criminal group, a criminal organization or a person that commits or makes attempts to commit a terrorist offence or organizes, manages, associates with, agrees in advance, instigates or takes part as an accomplice in perpetration of this offence,</i> <i>is liable to imprisonment for 5 to 10 years with deprivation of the right to hold certain positions or to perform certain activities for 2 to 5 years, with a fine applied to the legal entity in the amount of 7,000–10,000 conventional units with liquidation of the legal entity.</i> <i>(2) A terrorism financing offence is considered consummated irrespective of whether the terrorist offence has been committed, whether the assets have been used to commit this offence by a group, organization or person mentioned under par. (1) letter b), or whether the actions have been committed on or beyond the territory of the Republic of Moldova.</i> <i>(3) Property refers to funds, any category of corporeal or incorporeal, movable or immovable, tangible or intangible values (assets), as well as other legal instruments under any form, including electronic or digital, evidencing a title or right, including any share (interest) in relation to these values (assets).”</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>To take legislative and other steps that prove necessary to ensure that the terrorist acts provided for in Articles 278 and 279 include the acts provided for in the international conventions to which the 1999 Convention refers</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>In order to implement the international instruments aiming at combating the terrorism ratified by the Republic of Moldova, namely the:</p> <ul style="list-style-type: none"> - 1970 Convention for the Suppression of Unlawful Seizure of Aircrafts, - 1971 Convention for the Suppression of the Unlawful Acts against Safety of Civil Aviation and its additional Protocol of 1988, - 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, - 1979 International Convention against Taking Hostages, - 1980 Convention on the Physical Protection of Nuclear Material, - 1988 Convention for the Suppression Unlawful Acts against the Safety of Maritime Navigation, - 1997 International Convention for the Suppression of Terrorist Bombings, - 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, - 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf, - 1997 Convention on the Marking of Plastic Explosives for the Purpose of Detection, - 1999 International Convention for the Suppression of the Financing of Terrorism, - 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, - 2005 Amendment to the Convention on the Physical Protection of Nuclear Material,

- 2005 Council of Europe Convention on the Prevention of Terrorism

and also the UN Resolutions No 1373(2001), 1540 (2004), 1617 (2005) and 1624 (2005),

There has been undertaken a fundamental revision of the relevant legal framework which had as a result a draft on amending the Law on Law on combating the terrorism, Criminal Code, Criminal Procedure Code, Law on refugee status, etc. which took in consideration the recommendations of the United Nations Office on Drugs and Crimes experts and was adopted by the Parliament on 08 August 2008 (Law No 136-XVI).

The amendments introduced by the mentioned Law covers all the acts provided for in the 9 international conventions mentioned in the Annex to the TF Convention:

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 – art. 275 “*Theft or capture of train, airship or vessel*” of the Criminal Code as amended;
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 23 September 1971– 289¹ “*Offences against aviation security and against airport security*” of the Criminal Code;
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 – art. 142 (new wording) “*Assault against a person who benefits from international protection*” of the Criminal Code;
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 – art. 280 “*Taking hostages*” of the Criminal Code as amended;
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980 – art. 292 “*Manufacturing, purchase, processing, storage, shipment, usage or neutralization of the explosive substances or the radioactive materials*” as amended, art. 295 (new wording) “*Theft of radioactive materials or devices or of nuclear installations, threatening to steal or request to transmit these materials, devices or installations*”, art. 295¹ (new art.) “*Holding, production or use of radioactive materials or devised devices or of nuclear installations*” and art. 295² (new art.) “*Assault on a nuclear installation*” of the Criminal Code;
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988 – art. 289¹ (new art.) “*Offences against aviation security and against airport security*” of the Criminal Code;
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 – art. 140¹ “*Usage, development, manufacturing, acquisition by other means, processing, possession, storage or conservation, direct or indirect transferring, keeping, shipment of weapons of mass destruction*” (as amended.), art. 289² (new art.) “*Offences against maritime transport security*” of the Criminal Code;
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 – art. 289³ (new art.) “*Offences against the security of fixed platforms*” of the Criminal Code;
9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 – 278¹ (new art.) “*Delivery, placement, triggering or detonation of an explosive device or of any other device with lethal effect*” of the Criminal Code.

In order to give explanation of the newly introduced terminology the General Part of the Criminal Code was amended with the articles 134² - 134¹¹ defining: Aircraft in flight and aircraft in exploitation; Fixed platform; Explosive device or other device with lethal effect; State or governmental object;

	<p>Infrastructure object; Public place; Nuclear material; Nuclear installation; Radioactive device; Terrorist offence.</p> <p>Due to this revision, the declaration made with regard to the TF Convention stating that Moldova do not consider treaties to which it is not party as being included in the appendix to the Convention, was excluded by the Law 136-XVI of 19 June 2008.</p>
Recommendation of the MONEYVAL Report	<i>To take legislative and other steps that prove necessary to ensure that the form of support given includes all types of funds whether material or non-material</i>
Measures taken to implement the Recommendation of the Report	The new wording of the art. 279 refers in par. 1 to “assets of any nature”, this expression being explained additionally by par. 3 of the same art.: “Assets mean financial means, any category of corporeal or incorporeal, movable or immovable, tangible or intangible values (assets), as well as acts/documents or other legal instruments in any form, including electronic or digital, evidencing a title or a right, including any share (interest) in relation to these values (assets)”. In this context, it was implemented the definition given by the TF Convention.
Recommendation of the MONEYVAL Report	<i>To take legislative and other steps that prove necessary to ensure that the scope of Article 21 (corporate criminal liability) is extended to make it applicable to Articles 278 and 279.</i>
Measures taken to implement the Recommendation of the Report	Article 21 of the Criminal Code was amended by the Law No 136-XVI of 19 June 2008 and covers now all legal entities, except public authorities, and is applicable additionally to articles 279 <i>Terrorism financing</i> , 279 ¹ <i>Recruitment, training or provision of other support for terrorist purposes</i> , 279 ² <i>Instigation for terrorist purposes or public justification of terrorism</i> and 292 <i>Manufacturing, purchase, processing, storage, shipment, usage or neutralization of the explosive and radioactive materials</i> of the Criminal Code.
(Other) changes since the last evaluation	On 21 February 2008 the Republic of Moldova has ratified the International Convention for the suppression of acts of nuclear terrorism of 13 April 2005 (Law No 20-XVI of 21 February 2008) and on 03 March 2008 - the Council of Europe Convention on the prevention of terrorism combating the terrorism of 16 May 2005 (the Law No 51-XVI of 7 March 2008).

Special Recommendation IV (Suspicious transaction reporting)

I. Regarding Financial Institutions

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>A fully comprehensive provision should be introduced by law or regulation requiring financial institutions to report to the FIU whenever they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, in line with SR IV.</i>
Measures taken to implement the Recommendation of the Report	<p>Reporting entities report immediately to the Centre for Combating Economic Crimes and Corruption regarding any suspect activity or transaction of terrorism financing not later than 24 hours from the receiving of the request.</p> <p>The Article 8 (1) of the AML/CFT Law established the obligation of reporting of the activities or transactions that falls under the incidence of the AML/CFT Law. The reporting entities are obliged to inform immediately the Centre for Combating Economic Crimes and Corruption, about any suspect activity or transaction, which is being prepared, performed or finalized. The data regarding suspect transaction are reflected in a special form, which is sent to the Centre for Combating Economic Crimes and Corruption but not later than 24 hours.</p> <p>The guide of the suspect activities and transactions, the example of the special form and the manner of transmission are approved by the Center for Combating Economic Crimes and Corruption and are published in the Official Gazette of the Republic of Moldova. The Center for Combating Economic Crimes and Corruption adopted the order No. 118 of 20.11.2007 (entered into force on 28.12.2007) "On approval of the guide to suspect activities or transactions under the incidence of the law on prevention and combating of money laundering and terrorism financing" that establishes the criteria and indicators of possible suspect activities or transactions related to money laundering and terrorism</p>

	financing (hereinafter referred to as suspect transactions) including as well the suspect transactions related to terrorism financing are also established based on the lists of persons and entities involved in terrorist activities published in the Official Monitor of the Republic of Moldova by the Information and Security Service.
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	<i>A fully comprehensive provision should be introduced by law or regulation requiring DNFBPs to report to the FIU whenever they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, in line with SR IV.</i>
Measures taken to implement the Recommendation of the Report	<p>Reporting entities report immediately to the Centre for Combating Economic Crimes and Corruption regarding any suspect activity or transaction of terrorism financing not later than 24 hours from the receiving of the request.</p> <p>The Article 8 (1) of the AML/CFT Law established the obligation of reporting of the activities or transactions that falls under the incidence of the AML/CFT Law. The reporting entities are obliged to inform immediately the Centre for Combating Economic Crimes and Corruption, about any suspect activity or transaction, which is being prepared, performed or finalized. The data regarding suspect transaction are reflected in a special form, which is sent to the Centre for Combating Economic Crimes and Corruption but not later than 24 hours.</p> <p>The guide of the suspect activities and transactions, the example of the special form and the manner of transmission are approved by the Centre for Combating Economic Crimes and Corruption and are published in the Official Gazette of the Republic of Moldova. The Centre for Combating Economic Crimes and Corruption adopted the order No. 118 of 20.11.2007 (entered into force on 28.12.2007) "On approval of the guide to suspect activities or transactions under the incidence of the law on prevention and combating of money laundering and terrorism financing" that establishes the criteria and indicators of possible suspect activities or transactions related to money laundering and terrorism financing (hereinafter referred to as suspect transactions) including as well the suspect transactions related to terrorism financing are also established based on the lists of persons and entities involved in terrorist activities published in the Official Monitor of the Republic of Moldova by the Information and Security Service.</p> <p>According to the NCFM recommendation article 8.</p> <p>REPORTING THE SUSPICIOUS OPERATIONS</p> <p>8.1 The professional participant must possess clear procedures, according to the provisions of the Law on prevention and combating money laundry and terrorism financing, brought o the attention of the entire personnel, procedures which imply reporting by the employees of all the suspicious transactions to a special person within the steering body of the professional participant, responsible for accumulating information and undertaking measures against money laundry and terrorism financing. There also must be specified a chain of communication, by the steering body as well as internal security service for reporting problems concerning money laundry and terrorism financing.</p> <p>8.2 In case of detection of suspicious operations, these are recorded by the professional participant through filling out of the special forms and/or presenting data, according to the legislation in force, with the subsequent direct report to the Center.</p> <p>8.3 Professional participants will report to the Center and national Commission about suspicious activities or about the cases of fraud, which essentially affect the security,</p>

	<p>stability or reputation of the professional participant.</p> <p>8.4 Professional participant is obligated to immediately inform the Center about any suspicious activity or transaction, in preparation, in progress or already accomplished. The data concerning the suspicious transaction are reflected in a special form that is issued by the Center in maximum 24 hours.</p> <p>8.5 Professional participant fills out a special form for the accomplished transaction or transactions in progress performed via an operation with a value of above 500 thousand lei, as well as performed via a number of operations in the interval of 30 calendar days, of the mentioned value. The form is issued by the Center the latest on the 15th of the month immediately following the month of administration reporting month.</p> <p>8.6 Professional participant, following the decision of the Center, ceases the execution of the suspicious operations in the time limit indicated in the decision, but no longer then 5 working days.</p> <p>8.7 Professional participant and its employees are obligated not to communicate the transmission of information to the Center to the natural or legal persons performing the activity or transaction.</p> <p>The reporting obligation applies also in the case of FT.</p> <p>Also according to the Law No190-XVI law No 190-XVI as of 26.07.2007 on prevention and combating money laundering and terrorism financing and</p>
(Other) changes since the last evaluation	

3. Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 3 (Confiscation, freezing and seizure of proceeds of crime)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The confiscation of the body (“ corpus”) of the offence should be unequivocally provided for, both in (stand-alone) money laundering and in terrorism financing cases</i>
Measures taken to implement the Recommendation of the Report	<p>The Law No 136-XVI of 19 June 2008 improves the confiscation regime, bringing clarity to goods that must be confiscated.</p> <p>The 1st par. of art. 106 of the Criminal Code was amended by including additionally after the words “do not exist anymore”, the words “cannot be found”. This amendment will ensure a better protection of the purposes of the special confiscation by creating the possibility to confiscate the equivalent value of the proceeds from crime, considering the fact that usually these are hidden by the offender.</p> <p>Amendment of the par. 2 letter a) will ensure that will be confiscated not only the goods obtained as a result of committing an offence provided in the Criminal Code, but also the incomes (yields) from those assets, excepting the assets and incomes that must be returned to their legal owner.</p> <p>The new introduced letter f) to the par. 2 expressly provides for the confiscation of assets converted or transformed, partially or totally, from assets resulting from offences (proceeds) and from the incomes (yields) obtained from these assets.</p>

	<p>By introducing letter g), art. 106 of the CC expressly cover and ensure the confiscation of the <i>corpus</i> of the terrorist financing offence, indicating the confiscation of assets (goods) used or intended to finance terrorism. Thus, the clarification of this aspect of the confiscation regime for financing of terrorism cases, brings clarity and for the money laundering as a stand alone offence.</p> <p>From the par. 2, letter d) the word “obviously” was excluded from the expression “obtained obviously by committing an offence”. This amendment was introduced with the purpose of reducing the necessary evidences for proving that the assets that are to be confiscated were obtained by committing an offence</p> <p>Additionally to that, it is an initiative to create a new jurisprudence on confiscation which will also clarify this aspect. The national experts sent a request in this respect to the Supreme Court of Justice and to the National Institute of Justice, with detailed explanation of the MONEYVAL recommendations, which is now under examination in the Criminal Panel of the Supreme Court of Justice.</p> <p>In order to clarify the issue of confiscation of the proceeds that were mixed up with legally obtained assets, it was introduced a new par. - (2¹) which states that “If the assets resulting or obtained from committing an offence and incomes from these assets have been mixed with the legally obtained assets, this part of assets or their exchange value that corresponds to the value of assets resulting or obtained from committing an offence and incomes from these assets shall be confiscated”.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Further develop the full protection of the interests of the bona fide third party within the context of the criminal proceeds confiscation proceedings;</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>The protection of the bona fide third party should be consistent with the Palermo Convention. In this context, the Law 136-XVI of 19 June 2008 amends the art. 106 of the Criminal Code on the confiscation regime as it is provided in the art. 12 of the Palermo Convention. The above mentioned comments describe more detailed the new amendments. Also, pursuant to the par. 8, art. 12 of the Palermo Convention saying that the confiscation and seizure provisions shall not be construed to prejudice the rights of bona fide third parties, the existing legal framework is offering the full protection of the bona fide third party according to the existing provisions of the Civil and Criminal Proceedings Codes.</p> <p>The criminal procedure is intended to protect any natural or legal person from the any damage caused by crimes. Thus, a civil action in the criminal proceedings may be started upon the request of natural persons or legal entities who suffered material, moral or, if applicable, professional reputation damage directly from the action (action or failure to act) prohibited under the criminal law or related to its commission. Any other interest of civil nature which is not related directly to the action (action or failure to act) prohibited under the criminal law or related to its commission can be protected in civil proceedings.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Steps should be taken to solve the practical problems sometimes caused by freezing and seizure (administration of assets pending confiscation, application to less tangible products such as company shares – appointment of a civil administrator, conversion to stable financial products, etc.)</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>The practical aspects of the seizure and confiscation procedures are regulated by the Regulation on registering, assessment and selling of the confiscated assets, assets without owner, perishable or with limited validity goods, <i>corpus delicti</i>, assets transferred in state possession based on heritage and of treasure, approved by Government Decision No 972 of 11 September 2001.</p> <p>The responsible authority for the registering, assessment and selling of the mentioned assets are state fiscal (tax) authorities. Once they have registered the goods, they are responsible for keeping their integrity.</p>

	<p>In the same time, it was approved the Joint Order No 190/332/348/126 of 2 August 2006 of the General Prosecutor's Office, Ministry of Internal Affairs, Customs Service and the Centre for Combating Economic Crimes and Corruption on the approval of Instructions on the way of withdrawing, record keeping, keeping and submission of corpus delicti, attached to the criminal cases, of the valorous objects and of other goods by the criminal investigation authorities and prosecutor's office during the criminal investigation.</p>
Recommendation of the MONEYVAL Report	<i>The anti-laundering office is encouraged to make more frequent requests under its own powers for transactions to be suspended.</i>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the latest statistical data the FIU has issued</p> <p>In 2005 - 37 of decisions were issued by the FIU</p> <p>In 2006 - 32 of decisions were issued by the FIU</p> <p>In 2007- 41 of decisions were issued by the FIU</p> <p>In 2008 - 88 of decisions were issued</p>
Recommendation of the MONEYVAL Report	<i>More efforts should be made to familiarize law enforcement and judiciary authorities with these measures.</i>
Measures taken to implement the Recommendation of the Report	<p>On the 27 of June 2008, the plan of initial training of judges and prosecutors of the National Institute of Justice, the responsible authority for training the judges and prosecutors, was amended in order to increase the number of hours, especially practical internship, on the confiscation regime.</p> <p>As regards to the continuous training, there were organized the following training seminars, including with the support of the MOLICO project.</p> <p>On 14-15 of April 2008 it was organized a seminar for judges and prosecutors on the issue of combating money laundering and financing of terrorism where was addressed also the issue of special confiscation.</p> <p>On 1-5 of September 2008, the representatives of the general Prosecutor's Office attended a initial training seminar on combating of corruption, money laundering and financing of terrorism at the Joint Vienna Institute, being an exercise of training of trainers for the new training program of the National Institute of Justice.</p> <p>Also, starting with January 2009, the National Institute of Justice will implement the new training program for judges and prosecutors on corruption, money laundering and financing of terrorism, drafted recently with the support of MOLICO project, which includes as well the confiscation issue.</p>
Recommendation of the MONEYVAL Report	<i>To consider reducing the burden of proof by reversing (or sharing) it following conviction and for purposes of confiscation.</i>
Measures taken to implement the Recommendation of the Report	<p>The Ministry of Justice initiated a draft on amending the art. 46 (3) of the Constitution of the Republic of Moldova in order to exclude from the 3rd par. the last sentence "The effective presumption is that of legal acquirement". This amendment was necessary in order to create the legal base for introducing in the legal framework of the Republic of Moldova the institution of civil confiscation which involves sharing or reversing of burden of proof. This draft was approved by the Government Decision No 96 of 30 January 2006 and was accepted by the Constitutional Court in its opinion when seized by the Government.</p> <p>This initiative was discussed a lot in mass-media and the civil society played an active role in the decisions on the further promotion of this draft. The NGOs protecting human rights were against this legislative initiative. As an example, we can give the opinion of 10.04.2006 of the Transparency</p>

	<p>International Moldova as one of the most active and important organization in Moldova. It stated that the amendment of the art. 46 (3) will breach the rights guaranteed by art. 46 of the Constitution, art. 11 (1), 17 of the Universal Declaration of Human Rights, art. 6 of the European Convention of Human Rights and Fundamental Freedoms.</p> <p>Also, the representatives of some political fractions were against this initiative. Thus, taking in consideration that for the Constitution's revision is necessary the votes of 2/3 of the members of the Parliament, condition that obviously could not have been met, the draft could not be further promoted.</p>
(Other) changes since the last evaluation	

Recommendation 4 (Secrecy or confidentiality of financial institutions)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The question of lawyers' professional confidentiality should be reviewed.</i>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the art.4 i) of the Law No. 190-XVI as of 26.07.2007 on prevention and combating of money laundering and terrorism financing the layers are considered as reporting entity and in relation with the art.12 p. (2) (3) the providing by the layers of the information cant be qualified as disclosure of the professional secret.</p> <p>In accordance with the order nr. 117 from 20.11.2007 official Gazette nr. 198/202/731 from 21.12.2007 on reporting the activities and transactions that are subject of the Law on prevention and fight against money laundering and financing of terrorism the special reporting forms were elaborated for the lawyers. See the annex 12 of the report</p> <p>In these respect following the recommendation of the experts in October 2007 consultation with the Bar of Lawyers were made and received positive opinions as far as the obligation and special forms for reporting is concerned.</p>
Recommendation of the MONEYVAL Report	<i>The Law on the National Securities Commission should provide the NSC the explicit authority to exchange information with other foreign competent authorities on AML/CFT issues.</i>
Measures taken to implement the Recommendation of the Report	<p>Thus, the Article 5 from the Law refers to:</p> <p>(1) National Commission has the right to cooperate with the corresponding specialized international organizations and be their member.</p> <p>Through the Law no.192-XVI from 07.06.2007 the article no. 5 was completed with the paragraph:</p> <p>(2) National Commission has the right to provide assistance and to exchange information with the non-banking financial market and its participants, with specialized international organizations and similar authorities from other states.</p>
Recommendation of the MONEYVAL Report	<i>The evaluators were not provided any additional information regarding the insurance sector. In any case, it is recommended that the law on insurance should provide similar authority on international information exchange related to AML/CFT purposes to the Ministry of Finance.</i>
Measures taken to implement the Recommendation of the Report	<p>The Law on the National Securities Commission no.192-XVI from 07.06.2007 entitle the NCFM as the authority of the insurance sector.</p> <p>Thus, the Article 4 refers to:</p> <p>(1) The authority of the National Commission refers to the participants (subjects) of the non-banking financial market: the issuers of securities, investors, insurance institutions, self-regulatory organizations on the securities market, National Bureau of Motor Insurer of the Republic of Moldova, members of lending and savings associations, and clients of micro-financing organizations and professional participants of non-banking financial market.</p> <p>(2) Professional participants of the non-banking financial market (here-and-after referred to as the professional participants) are the professional participants of the securities market, professional</p>

	participants of insurance market, non-state pension funds, lending and savings associations, micro-financing organizations, mortgage organizations and credit bureaus.
(Other) changes since the last evaluation	

Recommendation 6 (Politically exposed persons)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Turning to Recommendation 6, no specific measures are in place. There is thus a need to either amend the AML Law, or to adopt specific regulations for the banking and non-banking financial sector regarding the various requirements of Recommendation 6 on politically exposed persons and to complement the NBM Recommendations on all those issues.</i>
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Measures taken to implement the Recommendation of the Report	<p>Politically exposed persons are now subject to the Law.</p> <p>According to art.3 of the law, politically exposed persons are natural persons who are or have been entrusted with prominent public functions, immediate family member.. These are at least persons entrusted with state responsibility functions, whose appointment or election is regulated by the Constitution, Parliament, President or Government.</p> <p>According to the Law, the reporting entities comply with the measures of enhanced due diligence at establishment and carrying out of business relations with politically exposed persons (art.6 (5)).</p> <p>“The Article 6 (5) Regarding transactions or business relationships with politically exposed persons, reporting entities ensure:</p> <p>a) respective procedures, in accordance with the risk, for politically exposed persons’ determination;</p> <p>b) approval obtaining from management bodies for concluding or monitoring of business relations with such persons;</p> <p>c) adequate measure adoption in order to determine the source of the goods implied in business relation or transaction;</p> <p>d) enhanced and permanent monitoring of business relation.”</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.4 and p.6.2.6 of Recommendations establish requirements related to internal policies regarding customer identification, business relations with politically expose persons.</p>
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(Other) changes since the last evaluation	
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Recommendation 7 (Correspondent banking)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Turning to Recommendation 7, no specific measures are in place. There is thus a need to either amend the AML Law, or to adopt specific regulations for the banking and non-banking financial sector regarding the various requirements of Recommendation 7 on correspondent banking relationships, and to complement the NBM Recommendations on all those issues.</i>
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Measures taken to implement the Recommendation of the Report	<p>According to the Law, the reporting entities comply with the measures of enhanced due diligence at establishment and carrying out trans-frontier banking relations (art.6 (4)).</p> <p>“(4) Regarding trans-frontier banking relations, financial institutions undertake one or several of the following actions:</p> <p>a) accumulation of sufficient information regarding a correspondent institution in order to fully acknowledge the nature of its activity and ascertain out of available public information its reputation and monitoring quality;</p> <p>b) policy evaluation regarding prevention and combating money laundering and terrorism financing applied by the correspondent institution;</p>
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	<p>c) approval obtaining from management bodies before setting new relations with correspondent banks; d) ascertain of the fact that, regarding correspondent accounts, the institution has checked the ID of the clients, whose operations are effected via its accounts; has applied permanent security measures and is able to furnish, at request, relevant data regarding security.”</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.4 and p.6.2.6 of Recommendations establish requirements related to internal policies regarding trans-frontier banking relations. At present the Instruction on opening of the accounts abroad, approved by the decision of the Council of Administration of the NBM No 279 as of 13.11.2003 stipulates: it shall be forbidden to the banks from the Republic of Moldova to open accounts in „shell” banks from abroad, as they are defined according to the documents of the Basel Committee for banking supervision. While opening the account abroad the bank from the Republic of Moldova shall examine the bank from abroad with regard to its physical presence and from the point of view of performing the banking supervision by the body authorized by the law, to which the bank from abroad is subject to, by identifying the name and address of the mentioned supervision body. (item.1.8 of Instruction).</p>
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Turning to Recommendation 8, no specific measures are in place. There is thus a need to either amend the AML Law, or to adopt specific regulations for the banking and non-banking financial sector regarding the various requirements of Recommendation 8 on non face to face transactions and to complement the NBM Recommendations on all those issues.</i>
Measures taken to implement the Recommendation of the Report	<p>According to the Law, the reporting entities comply with the measures of enhanced due diligence at establishment and carrying out electronic transfers (art.6 (6) b)). The Article 6 (3) of the AML/CFT Law stipulates as well that in the case then the juridical or physical person is not present personally at the identification procedure, reporting entities undertake one or several type of measures:</p> <ul style="list-style-type: none"> a) guarantee that the identification of the person is attested by documents, data or supplementary information; b) additional check and certification of furnished documents or their confirmation by a financial institution; c) guarantee that the first payment of the operation is effected via an opened account on behalf of the person from the financial institution. <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.4 and p.6.2.6 of Recommendations establish requirements related to internal policies regarding electronic transfer operations. At present the Instruction on opening of the accounts abroad, approved by the decision of the Council of Administration of the NBM No 279 as of 13.11.2003 stipulates: it shall be forbidden to the banks from the Republic of Moldova to open accounts in „shell” banks from abroad, as they are defined according to the documents of the Basel Committee for banking supervision. While opening the account abroad the bank from the Republic of Moldova shall examine the bank from abroad with regard to its physical presence and from the point of view of performing the banking supervision by the body authorized by the law, to which the bank from abroad is subject to, by identifying the name and address of the mentioned supervision body. (item.1.8 of Instruction).</p>

(Other) changes since the last evaluation

Recommendation 11 (Unusual transactions)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>It is recommended to introduce a general enforceable obligation to pay special attention to all complex and unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.</i>
Measures taken to implement the Recommendation of the Report	According to article 5 (2) c) of the AML/CFT Law identification procedures comprise gaining of information regarding the nature and the purpose of the transaction of the business relationship, as well as complex and unusual transactions.
Recommendation of the MONEYVAL Report	<i>Financial institutions should also be required by law, regulation or other enforceable means to examine the background and purpose of such transactions and set forth their findings in writing and make them available for competent authorities and auditors for at least 5 years.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.5 (2) c) and d) of the Law, the reporting entities apply identification measures regarding the natural or legal persons, including the beneficiary owner obtaining of information regarding the purpose and the nature of the transaction or the business relationship, including conducting ongoing monitoring of the transaction or of the business relationship, including the examination of transactions concluded throughout the course of the respective relationship, to ensure that the transactions being conducted are consistent with the information of the reporting entity regarding the legal or the natural persons, the business and the risk profile, including, when necessary, the source of funds and ensuring that the documents, data or information held are updated.</p> <p>According to art.7 (1) of the Law, the reporting entities keep the accounting of the information and the documents of the legal and natural persons and of the beneficiary owner, the register of identified natural and legal persons, the archive of accounts and primary documents, including business correspondence, for at least 7 years, after the business relationship ending or bank account closing. The reporting entities keep the accounting of all the transactions for at least 7 years after the transactions are ended.</p> <p>According to art.7 (2) of the Law, the reporting entities respond completely and promptly to the requests of the Centre for Combating Economic Crimes and Corruption and other empowered authorities, regarding the existence, of business relations and their nature, between these entities and certain natural and legal entities, at the present moment and during the previous 7 years.</p> <p>According to art.8 (1) of the Law, the reporting entities are obliged to inform immediately the CCECC, about any suspect activity or transaction, which is being prepared, performed or finalized not later than 24 hours.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.4 of Recommendations establishes that financial institutions shall have procedures regarding possession and storage of the information.</p>
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP – concerning Rec. 6, 8 – 11; concerning Rec. 5 see above)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Clear and direct obligations as defined in recommendation 6 should be expressly adopted.</i>
Measures taken to implement the Recommendation of the Report	As mentioned in the art. 3 of the Law nr. 190-XVI of 26.07.2007 “Concerning prevention and combating of money laundry and terrorism financing” the <i>politically exposed persons</i> are natural persons who are or have been entrusted with prominent public functions, immediate family member these are at least persons entrusted with state responsibility functions, whose appointment or election is regulated by the Constitution, Parliament, President or Government; Article 5.5 of the NCFM Decision regarding the Recommendations no. 63/5 from 25.12.2007,

	<p>mentions the subjects of specific identification of clients by the professional participant:</p> <ul style="list-style-type: none"> a) fiduciary accounts; b) corporative securities; c) clients' accounts opened by professional intermediaries; d) politically exposed persons
Recommendation of the MONEYVAL Report	<i>Moldova should adopt specific measures concerning non face to face business transactions and a general requirement to deal with the misuse of technological developments.</i>
Measures taken to implement the Recommendation of the Report	<p>As defined in the Chapter VI of the NCFM Order regarding the Recommendations no. 63/5 from 25.12.2007, the point 6.2 stipulate: Professional participant must apply the means of high precaution in case of a natural or legal person, implicated in the transaction, not being personally present for the identification and must take the following measures:</p> <ul style="list-style-type: none"> a) guarantee that the identity of the person is established through additional documents, data and information; b) additionally verify and certify the provided documents; c) guarantee that the firsts payment of the operations is performed through an account opened in the name of the person.
Recommendation of the MONEYVAL Report	<i>Relevant authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, and to develop guidance relevant to the individual sectors.</i>
Measures taken to implement the Recommendation of the Report	<p>Urgent steps were taken in the moment when NCFM adopted the Decision nr. 63/5 of 25.12.2007 (<i>Official Monitor nr. 30-31/74 of 12.02.2008</i>) concerning the Recommendations for the application of the measures of preventions and combating of money laundry and terrorism financing on the financial non-banking market.</p> <p>CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBP.</p> <p>Type-Program of carrying out the control of the activity of professional participants on the non-banking financial market related to the prevention and combating money laundering and financing of terrorism approved by NCFM through Order no. 56 from 15 august 2008 shall raise awareness within supervision.</p> <p>Also, concerning developing guidance relevant to individual sectors, National Commission of Financial Market, along with MOLICO has organized training seminars for its employees and professional participants on the nonbanking financial market. During the seminars the experts of the European Council have presented the experience of the regulating authorities in the banking sector regarding the measures to prevent and combat the money laundering and terrorism financing. National experts from the Centre for Combating Economic Crimes and Corruption and Anticorruption Office of the Prosecutor have presented the objectives and the regulations of the Republic of Moldova according to the international standards. 70 officials of the professional participants on the securities market took part at the seminars as well as 60 specialists of the insurance companies and insurance brokers. With respect to Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the safety transmission of the electronic special formulas, National Commission of Financial Market and Centre for Combating Economic Crimes and Corruption was performed a seminar for 60 officials of the professional participants on the nonbanking financial market including: brokerage companies, independent registrars, fiduciary companies and insurance companies.</p>
(Other) changes since the last evaluation	

Recommendation 14 (Protection and no tipping-off)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>It is also recommended to clarify the issue of sanctions in the AML Law in case of non compliance with art. 4(1) (g) (prohibition of tipping off).</i>
Measures taken to implement the Recommendation of the Report	The Rec.14 is implemented in the art 8, para.5 and art.12 para.2 and art.15 (1) of the Law.190-XVI from 26.07.2007.
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls and compliance)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The question of the existence of internal controls in the non-banking sector affecting all AML Law obligations remains open and once responsibility for supervising the implementation of the AML Law has been clarified, the Moldovan supervisory authorities must ensure that internal controls are in place in all reporting financial entities.</i>
Measures taken to implement the Recommendation of the Report	NCFM ensures the internal controls are in place in all reporting financial entities first of all through its Recommendations for the application of the measures of preventions and combating of money laundry and terrorism financing on the financial non-banking market. NCFM Order on Type-Program of carrying out the control of the activity of professional participants on the non-banking financial market related to the prevention and combating money laundering and financing of terrorism ensures the control in all reporting financial entities.
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP concerning R. 15 & 21; concerning R. 13 see above)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Moldova should ensure that requirements under Recommendation 11 and 21 apply to DNFBPs, subject to the qualifications in Recommendation 16.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the Recommendations concerning the application of the measures of prevention and combating of money laundry and terrorism financing on the financial non-banking market approved by the Decision of the National Commission of Financial Market nr. 63/5 of 25.12.2007, chapter 6 includes the means of precaution: 6.1 Professional participant apply the means of identification establishing their amplitude accordingly to the risk associated to the type of client, business relation, good or transaction. Professional participant must be able to proof to the Centre and National Commission that the amplitude of the precaution means is adequate, considering the risks of money laundry and terrorism financing. 6.2 Professional participant must apply the means of high precaution in case of a natural or legal person, implicated in the transaction, not being personally present for the identification and must take the following measures: d) guarantee that the identity of the person is established through additional documents, data and information; e) additionally verify and certify the provided documents; f) guarantee that the firsts payment of the operations is performed through an account opened in the name of the person.

	<p>6.3 Performing (recording) the transactions with the participation of a legal person resident of an off-shore zone, this legal person will present the following information:</p> <p>a) series, number and the issuing date of the identity act, address and other necessary data for the identification of the representative of the legal person;</p> <p>b) the act of representation (the proxy letter, order, excerpt from the statute of the association etc.), justified in the way established by law, that will contain the name and the powers of the representative of the legal person;</p> <p>c) data of legal identification (act of registration of the legal person), address and other necessary data for the identification of a legal person;</p> <p>d) documents that confirm the identification of the founders of the legal person, up to the level of establishing the founders – natural persons.</p> <p>6.4 A special attention has to be applied in the cases of nonresident clients, as well as clients or beneficiary owners who receive funds from abroad, at the same time following the provisions of the Law concerning the prevention and combating money laundry and terrorism financing.</p> <p>Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the reporting activities or transactions that fall under the incidence of the Law regarding the prevention and combating of money laundering and terrorism financing, the safety transmission of the special formulas shall define the process of suspicious transactions reporting guidance.</p> <p>According to the Centre for Combating Economic Crimes and Corruption Order no. 118 from 20.11.2007 “on approval of the Guide to Suspect Activities or Transactions under the incidence of the Law on Prevention and Combating of Money Laundering and Terrorism Financing” are defined the criteria that is and adequate official awareness and information measure.</p>
Recommendation of the MONEYVAL Report	<i>The authorities should make sure that all DNFBPs are required to set up internal procedures, policies and controls to prevent ML and FT. The DNFBPs should also be required to either have a program for employee training or have some other access to (compulsory) training either provided by the orders and associations or by the authorities.</i>
Measures taken to implement the Recommendation of the Report	The approval of Type-Program of carrying out the control of the activity of professional participants on the non-banking financial market related to the prevention and combating money laundering and financing of terrorism in order to activate and streamline operations prevention and combating money laundering and financing of terrorism on the non-banking financial market, as well in order to comply with the requirements of international standards in this field, having as a ground the Article 10 of Law nr.190-XVI from 26.07.2007 “On prevention and combating money laundering and financing of terrorism”, section 3.01 of the Action Plan for Implementing the National Strategy of Prevention combating money laundering and financing of terrorism for 2008, approved by Government Decision nr.864 of 14.07.2008 “On approval of amendments which are operating in Government Decision nr.632 of 05.06.2007”(hereinafter National Action Plan for 2008), and section 10 of Action Plan of the National Commission of Financial Market on Implementing the National Strategy of Prevention combating money laundering and financing of terrorism for 2008, approved by Order nr.48 from 29.07.2008.
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>The AML Law should include a clear list of administrative penalties applicable to the different breaches of the AML Law, possibly with reference to the sanctions available in the Code of</i>
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	<i>Administrative Penalties.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the provisions of the art. 10.(3) and art.15 (1) the violation of the provisions of the present law refers to the disciplinary, administrative, civil or penal liability in accordance with the legislation in force. Thus the Administrative Code establish in the art.. 162¹⁵ the administrative sanctions for violating of the provisions of the AML/CFT Law. Till the adoption of such a provision the FIU had applied 9 sanctions in total amount of 72 000 lei (approximately 5500 Euros).
(Other) changes since the last evaluation	

Recommendation 18 (Shell banks)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>There should be explicit requirements (in law, regulation or other enforceable means) which oblige financial institutions to discontinue existing correspondent banking relationships with shell banks, if any, as required by Criterion 18.2</i>
Measures taken to implement the Recommendation of the Report	According to art.3 of the Law, shell bank is a financial institution, having no physical presence, not exercising an actual management and not being unaffiliated to any regulated financial group. According to article 6 (7) of the Law, financial institutions are not aloud to conclude or continue business relations with shell banks or with a bank that is known as allowing shell banks to use its accounts. For a timely and righteous execution of the measures and procedures regarding the internal control of the licensed banks, according to the p.2 of the NBM's Decision no. 94 from 25.04.2002, p. 6.2.6 of the Recommendations stipulates requirements regarding the internal policy procedures which stipulates that financial institutions are not aloud to conclude or continue business relations with shell banks or with a bank that is known as allowing shell banks to use its accounts.
Recommendation of the MONEYVAL Report	<i>The examiners have not been provided with sufficient information that financial institutions are required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks and consequently, they recommend to insert in the law or regulation clear provisions on shell banks, covering essential criteria for recommendation 18.</i>
Measures taken to implement the Recommendation of the Report	According to art.3 of the Law, shell bank is a financial institution, having no physical presence, not exercising an actual management and not being unaffiliated to any regulated financial group. According to art.6 (4), financial institutions should ensure that corresponding banks obey the international and national norms in the field of combating money laundering and terrorism financing. According to art.6 (7) of the Law, Financial institutions are not aloud to keep anonymous accounts or those on fictive names; conclude or continue business relations with shell banks or with a bank that is known as allowing shell banks to use its accounts. For a timely and righteous execution of the measures and procedures regarding the internal control of the licensed banks, according to the p.2 of the NBM's Decision no. 94 from 25.04.2002, p. 6.2.6 of the Recommendations stipulates requirements regarding the internal policy procedures which stipulates that financial institutions are not aloud to keep anonymous accounts or those on fictive names; conclude or continue business relations with shell banks or with a bank that is known as allowing shell banks to use its accounts.
(Other) changes since the last evaluation	

Recommendation 20

(Other non financial companies and professions and secure fund management techniques)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The limit on cash payments imposed on legal entities is a positive initiative which Moldova ought to extend to payments by individuals, bearing in mind the problems specific to the country (corruption, cash-based economy, cash of sometimes suspect origin brought into Moldova, etc.).</i>
Measures taken to implement the Recommendation of the Report	<p>For implementing the recommendation of the expert team as far as the reduction of the cash payment on 22 of May 2008 was amended the art.10 (5) of the Law 845-XII from 03.01. 1992 witch foresees the following:</p> <p>5. To the enterprises and organisations, indifferent of their type property and legal organisation form, that perform cash payments in sum exceeding 1000 lei for each transaction and discharge a sum greater than 10000 lei monthly in cash for taxes and custom duties, according to their financial obligations, by encroaching the established mode of performing wire transfers, as well as those that perform cash payments and wire transfers through intermediaries, indifferent of the sum size of the payment, bodies of the State Fiscal Office and Centre for Combating Economic Crimes and Corruption will apply penalties in size of 10 percent from the paid sums, and the penalties will be made income for state budget. The mentioned penalties are not applied to the payments with citizens, farms, enterprise patentees and with public national budget, but in case of taxes and custom duties – only in stipulated limits, also, at the effectuation of payments by the mentioned persons with public national budget, with enterprises and organisations, as well as at the effectuation of the payments by the enterprises and organisations which rights at this chapter are regulated different than in the normative acts of National Bank of Moldova, excepting the cases of payment effectuation through intermediaries. Hereby, the word "intermediary" represents the person paid by another person, in cash or transfer, without having direct financial obligations to this. The term of presentation of the report regarding the use of cash received for acquisition of agricultural products, package and goods from the population, as well as for travel expenses, will not exceed 30 calendar days from the date of receiving. Unused cash have to be returned to the enterprise not more than in 5 days from the expiration of the term of presentation of the report regarding the use of cash. For the use of cash in other scope than the designated scope and/or for not returning in term the cash to the enterprise, bodies of the State Fiscal Office and Centre for Combating Economic Crimes and Corruption will apply penalties in size of 10 percent from the sums of cash in other aims and/or from the sum of cash not returned in term to the enterprise.</p>
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>A specific requirement should be introduced by Law, Regulation or other enforceable means to ensure that financial institutions proactively examine business relationships and transactions with persons from countries that do not apply or insufficiently apply FATF recommendations.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.6 (6) a) of the Law, reporting entities shall adopt enhanced security measures when natural or legal persons receive or sent goods from/to the countries that have no norms regarding money laundering and financing of terrorism, have inadequate norms regarding this subject, perform enhanced offence and corruption risks and are implied in terrorist activity.</p> <p>The list of persons from countries that have no norms regarding money laundering and terrorism financing, have inadequate norms regarding this subject, was approved by CCECC by Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks,</p>

	<p>according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.3 of Recommendations establishes that financial institutions shall undertake reasonable measures for checking out the identity of non resident clients, as well as of the clients or the effective beneficiaries who receive funds from abroad, simultaneously considering the provisions of mentioned Law.</p>
Recommendation of the MONEYVAL Report	<p><i>If transactions with persons from countries which insufficiently apply the FATF Recommendations have no apparent economic or visible lawful purpose, the background and purpose should be examined and written findings should be made available for competent authorities. This requirement should be covered by Law, Regulation or other enforceable means.</i></p>
Measures taken to implement the Recommendation of the Report	<p>If it is ascertained that applied enhanced measures, in accordance with art.5 and art.6 of the Law, the clients that carry out transactions with persons from countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain, do not present the respective acts for identification of physical or juridical persons or the data of received information aren't authentic, as regard to art.6 (8) and art.8 of Law, the reporting entities report this operations to CCECC.</p> <p>According to art.6 (6) a) and art.8 of the Law, the reporting entities examine the transaction of their clients that perform operations with persons from countries that have no norms regarding money laundering and terrorism financing, and informs the CCECC in due time.</p> <p>According to art.6 (8) of the Law, the reporting entities are obliges to refrain from account opening, setting business relations, stop or refuse transaction conclusion in case there haven't been presented respective acts for identification of physical or juridical persons.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.6 of Recommendations establishes the measures to identify the clients that carry out transactions with persons from countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain and reports them in accordance with p.8 of recommendations.</p>
Recommendation of the MONEYVAL Report	<p><i>A mechanism should be set up to enable a state agency to apply counter-measures if a foreign country fails to comply with FATF recommendations on a continuing basis, as well as to specify such measures.</i></p>
Measures taken to implement the Recommendation of the Report	<p>According to art.4, 6, 8 and 11 of the Law, CCECC is the authority that elaborate the list of countries where can be fabricated drugs, countries that bear a high degree of risk because of high level of criminal offences and corruption, countries and/or off-shore zones, countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain.</p>
Recommendation of the MONEYVAL Report	<p><i>The Moldovan authorities should also envisage adopting a more targeted approach to advising financial institutions on potentially problematic jurisdictions, other than the NCCT countries and territories and offshore zones, which would involve them in making their own decisions in respect of individual states. They should also provide legal measures needed for implementing additional counter-measures under criterion 21.3.</i></p>
Measures taken to implement the Recommendation of the Report	<p>According to art.4, 6, 8 and 11 of the Law, CCECC is the authority that elaborate the list of countries where can be fabricated drugs, countries that bear a high degree of risk because of high level of criminal offences and corruption, countries and/or off-shore zones, countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain.</p> <p>According to art.6 (6) a) and b) of the Law, reporting entities shall adopt enhanced security measures when natural or legal persons receive or sent goods from/to the countries that lack norms regarding money laundering and financing of terrorism, have inadequate norms regarding this subject, perform enhanced offence and corruption risks and are involved in terrorist activities and regarding wire transfers, if there is lack of sufficient information about sender's ID and transactions encouraging anonymous persons.</p> <p>According to art.6 (4) of the Law, reporting entities apply identification measures regarding their scope in accordance with the risk associated to each type of client, business relation, goods or transaction in case of trans-frontier banking relations.</p>

	<p>In this regard the CCECC issued Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions which stipulates the list of countries in countries where can illegally be produced drugs, countries that bear a high degree of risk because of high level of criminal offences and corruption, countries and/or off-shore zones, countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain.</p> <p>With the aim to implement the measures and procedures regarding internal control of licensed banks, according to p.2 of NBM Decision no.94 of 25.04.2002, p.6.2.6 of Recommendations establishes customers' identification measures that conduct trans-frontier banking relations.</p>
(Other) changes since the last evaluation	

Recommendation 23 (Regulation, supervision and monitoring)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Thirdly, the effectiveness of the supervision system would benefit greatly from clarification. The recommendation made in this connection during the second round evaluation deserves repetition: state clearly in the various provisions of Article 8 which control bodies are being referred to, and list them in order to clarify the anti-laundering responsibilities;</i>
Measures taken to implement the Recommendation of the Report	<p>Article 10 of the Law establishes public authorities and their functions regarding supervision of the reporting entities on combating money laundering and terrorism financing domain.</p> <p>Article 11 of the Law stipulates the main responsibilities of the Centre for Combating Economic Crimes and Corruption.</p>
Recommendation of the MONEYVAL Report	<i>Once the applicational scope of Article 8 paragraph 2 has been extended to all the AML Law requirements, the supervisory authorities should swiftly ensure that they are implemented, and not just with regard to the reporting and identification obligation (see recommendations in the preceding section);</i>
Measures taken to implement the Recommendation of the Report	<p>After the approval of the Law on Prevention and Combating Money Laundering and Terrorism Financing, NCFM drawn up the Recommendations concerning the application of the measures of prevention and combating of money laundry and terrorism financing on the financial non-banking market approved by the Decision of the National Commission of Financial Market nr. 63/5 of 25.12.2007 at the same time ensuring the swift implementation. Thus, the point 2 refers to the responsibility of the professional participants.</p> <p>The point 2.1 refers to: the steering bodies of the professional participant are responsible for the elaboration, approval and assurance of the implementation of an adequate own program concerning the prevention and combating of money laundry and terrorism financing, on which the timely detection of the suspicious operations will depend. Possession of such a program constitutes the most efficient mean through which the professional participant can protect itself from being implicated into transactions that can facilitate illegal activities, as well as to assure the conformation to the legal norms applicable to reporting of the suspicious activities.</p> <p>The point 2.2 encompass: the steering bodies of the professional participant are responsible for the conformation of its activities to the provisions of the legislation in force concerning the prevention and combat of money laundry and terrorism financing.</p> <p>The measure to ensure the implementation of the supervisory authority is strongly defined through the NCFM Order on Type-Program of carrying out the control of the activity of professional participants on the non-banking financial market related to the prevention and combating money laundering and financing of terrorism.</p>
Recommendation of the	<i>The licensing legislation should require a check on the origin of funds and the personal competence of</i>

MONEYVAL Report	<i>persons applying for an insurer's license (and the other entities subject to the AML Law).</i>
Measures taken to implement the Recommendation of the Report	<p>As the NCFM supervises the insurance sector, the Law on insurance no. 407-XVI of 21.12.2006, requires for licensing insurers (reinsurers):</p> <p>(1) The insurance (reinsurance) activity can be performed only by insurers (reinsurers) which have obtained a license for activity according to the Law no.451-XV of July 30, 2001 concerning licensing of certain types of activity, as well as in conditions of this law.</p> <p>(2) The license is given for an unlimited period of time.</p> <p>(3) In order to obtain the license, the insurer (reinsurer) shall present, in addition to documents required by the Law on licensing of certain types of activity, the following documents and information:</p> <p>a) the document of property or the rent contract for the office in which it will perform the licensed activity;</p> <p>b) a bank certificate confirming the full depositing of the minimum social capital;</p> <p>c) a written declaration of the provenience of the means deposited into social capital;</p> <p>d) the insurance conditions for each class of insurance separately, to which model insurance contracts policies, insurance fees and their structure shall be attached;</p> <p>e) the technical base for calculation of insurance premiums and technical reserves, legalised by an actuary;</p> <p>f) the reinsurance program proposed to support the insurance class, including the details concerning the ownership and the financial situation of the reinsurer;</p> <p>g) the business-plan according to the category and class of insurance, prepared for the first 3 financial years, which should include: projections of administrative expenses, especially current general expenses and fees, projections of insurance premiums and insurance compensations, calculation of financial resources required to cover the insurance liability and the solvability margin, investment policy, assets portfolio, the evaluation and diversity of assets, risk management.</p> <p>(4) The Chamber of Licensing shall decide upon issuance of the license within 30 working days from the date the application and attached documents were received.</p> <p>(5) If the insurer submits an application for re-issuance of the license in order to include a new class of insurance, he must attach to the application for reinsurance the documents indicated in para. (3) letters d)-g).</p> <p>(6) The licensing fee for the insurance activity is 10 000 lei (800 Euro), paid to the state budget revenue.</p> <p>(7) The insurer (reinsurer) is required to place on a visible spot the copy of the license.</p> <p>(8) Subscribing additional risks from another class of insurance based on the license received in conditions of this law shall be performed in conditions provided in annex no.1 of section C.</p>
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Once the various designated non-financial businesses and professions have been listed by name in the AML Law, it will again be necessary to clarify the powers of the supervisory bodies (in particular the different departments of the Ministry of Finance which are involved in controlling gaming, pawnbrokers, and dealers in precious stones and metals) in order to ensure that all DNFBPs are adequately supervised for AML/CFT purposes.</i>
Measures taken to implement the Recommendation of the Report	<p>In accordance with the art. 10 of the AML/CFT Law the supervisory bodies are listed .</p> <p>(1) The supervision of the manner of execution of the present law is insured by the following public authorities empowered to supervise the reporting entities, according to the competence established by law:</p> <p>a) Center for Combating Economic Crimes and Corruption;</p> <p>b) National Bank of Moldova;</p>

	<p>c) National Financial Market Commission; d) Ministry of Justice; e) Ministry of Informational Development; f) Ministry of Finance; g) Customs Service;</p> <p>(2) The public authorities, empowered to execute the supervision of the reporting entities, according to their competence, approve recommendations, verify and monitor the application of the provisions of the present law on observing the requirements regarding the collection, the recording, the keeping, the identification and the presentation of the information on the carrying out of the transactions, as well as the carrying out of the measures and procedures related to the internal control.</p> <p>(3) In case of non-observance of the procedures of transaction registration, in accordance with the provision of the present law, the authorities empowered to supervise the reporting entities can apply the rectifying measures and sanctions, established by the law, and upon the identification of indexes of money laundering or financing of terrorism, inform immediately and submit the respective materials to the Center for Combating Economic Crimes and Corruption. The application of the mentioned sanctions does not exclude the possibility of application, according to the legislation in effect, of other measures for the purpose of combating money laundering and financing of terrorism.</p> <p>(4) For the purpose of preventing and combating of money laundering and terrorism financing, the authorities empowered to supervise the reporting entities, are obliged:</p> <p>a) to determine whether the reporting entities apply written policies, practices and procedures, including strict “Know-Your-Customer” rules, with the aim of promoting high ethical and professional standards in the respective sector and preventing this from being used, intentionally or unintentionally, by organized criminal groups or their associates;</p> <p>b) to determine whether reporting entities comply with their own policies, practices and procedures targeted towards the detection of the activity of money laundering and terrorism financing;</p> <p>c) to provide information on money laundering and terrorism financing activities to the reporting entities, including new methods and trends in this area;</p> <p>d) to identify the possibilities of money laundering and terrorism financing of the reporting entities, to undertake, as necessary, proper measures to prevent the illegal usage of these and to inform the reporting entities about the possible abuses.</p> <p>(5) The Public Administration authorities, according to the competence established by law, shall undertake proper measures, in order to prevent the institution of the control over the reporting entity or the obtaining of the control stock and/or of controlling parts, by organized criminal groups or their associates.</p>
Recommendation of the MONEYVAL Report	<i>In the case of the legal and accounting professions, their professional associations should be given an active role to play.</i>
Measures taken to implement the Recommendation of the Report	No changes
(Other) changes since the last evaluation	

Recommendation 25 (Guidelines and Feedback)

Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>The CCCEC and the supervisory authorities should be authorized to provide guidance to the reporting institutions regarding recent ML/FT typologies and transactions used to enhance the capacity of these institutions to detect suspicious transactions.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.10 (4) c) of Law, the authorities empowered to supervise the reporting entities, are obliged to provide information on money laundering and terrorism financing activities to the reporting entities, including new methods and trends in this area and according to art.11 (1) i) of the Law, CCECC should provide methodological supplies for reporting entities in the area of prevention countering money laundering and terrorism financing.</p> <p>Thus in these respect was issued CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law.</p> <p>The FIU Staff provide training to the reporting entities on a regular basis at the national level thus in 2006 were organized and provided 16 trainings for banking sector.</p> <p>In 2007 were organized and provided 18 trainings to the reporting entities in banking and securities area.</p> <p>In 2008 were organized and provided 22 trainings for the reporting entities inclusively for banks and insurance, securities and notaries.</p> <p>Also with the support of the MOLICO PROJECT were organized the Conference “Risk based approach in anti-money laundering activities of banks”, 13 June 2008, Chisinau</p> <p>Representatives of all commercial banks in Moldova, as well as regulatory authorities discussed the practical experience of implementing of the risk based approach during the conference organised by MOLICO in co-operation with the National Bank of Moldova and the Centre to Combat Economic Crimes and Corruption.</p> <p>During the conference there were discussed issues of newly applied risk based approach that should allow financial institutions and supervisory authorities to be more efficient and effective in their use of resources and minimise burdens on customers.</p> <p>Training on anti-money laundering requirements for notaries, 26-28 June, Cahul, Chisinau, Balti</p> <p>A series of three trainings on anti-money laundering requirements for notaries involving notaries from all over the country has been organized in Cahul, Chisinau and Balti. During the seminars there were presented current AML regulations that should be applied by Moldovan notaries, as well as European experience in AML activities of notaries.</p> <p>Workshop “Effective implementation of customer due diligence requirements”, 24-25 July 2008, Chisinau</p> <p>Representatives of all commercial banks in Moldova, as well as regulatory authority discussed the practical experience of implementation of customer due diligence during the conference organised by MOLICO in co-operation with the National Bank of Moldova and the International Monetary Fund. This event was organised as a follow-up of the Conference “Risk based approach in anti-money laundering activities of banks” that took place on 13 June 2008 in Chisinau.</p> <p>AML/CFT regulations for non-banking financial sector and AML/CFT training framework, 22 February 2008, Chisinau</p>
Recommendation of the MONEYVAL Report	<i>The CCCEC/the OPCML and the various entities in charge of supervision should make a greater publication effort, bearing in mind the many sectors subject to the AML Law. Resources are apparently limited for the publication of documents on paper, but the examiners were able to observe that computerisation is making rapid progress in Moldova and it would be easy to use the CCCEC site as a</i>

	<i>documentary resource.</i>
Measures taken to implement the Recommendation of the Report	<p>According to the art.11 (1) m) of the Law, the CCECC is invested with functions to collect and analyse statistic material regarding the efficiency of the prevention and countering money laundering and terrorism financing system.</p> <p>According to art.4, 6, 8 and 11 of Law, CCECC is the authority that elaborate the list of countries where can be fabricated drugs, countries that bear a high degree of risk because of high level of criminal offences and corruption, countries and/or off-shore zones, countries that have no norms regarding money laundering and terrorism financing or have inadequate norms regarding this domain and place them on its web site.</p> <p>The FIU on the regular basis issues report of activity, Thus on the web site is published the year reports on the activity of the FIU were are indicated the major typologies identifying during the analysis of the STRs provided by the competent authorities.</p> <p>In this respect also with the support of the MOLICO Project the CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law was published and delivered to all reporting entities. Also the National Strategy of prevention and fight against money laundering and financing of terrorism was published and delivered to competent authorities.</p>
Recommendation of the MONEYVAL Report	<i>Steps should also be taken to ensure that information is properly circulated in the various sectors</i>
Measures taken to implement the Recommendation of the Report	the CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law was published and delivered to all reporting entities.
Recommendation of the MONEYVAL Report	<i>Furthermore, information should be provided in the sphere of financing of terrorism, without neglecting important sectors.</i>
Measures taken to implement the Recommendation of the Report	<p>According to art.14 (4) of the Law, The list of persons and entities involved in terrorist activities are elaborated, actualized and published by the Service of Intelligence and Security in the Official Gazette of the Republic of Moldova.</p> <p>Art. 14(5) stipulate the main reasons a person or entity could be included in the list of the persons affiliated to terrorist activity.</p> <p>the CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law was published and delivered to all reporting entities.</p>
Recommendation of the MONEYVAL Report	<i>Moldova should provide more specific, timely and systematic feedback to reporting entities and should develop further its effort to raise AML/CFT awareness within the DNFBPs, especially through sectoral and practical guidelines</i>
Measures taken to implement the Recommendation of the Report	<p>the CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law was published and delivered to all reporting entities.</p> <p>Training aimed to instruct members of the National Commission for Financial Market (NCFM) on issues related to national regulations on AML/CTF, best practices for AML/CTF in non-banking sector and securities market. Also, during the event AML/CTF general training framework for non-banking sector has been presented. The training involved 75 participants from the NCFM.</p> <p>Money-laundering typologies and frauds on securities market, 21 March 2008, Chisinau</p> <p>The training aimed to instruct professional participants on securities market on the AML system and</p>

	<p>requirements according to the national legislation, reporting standards and international experience, as well as application of the new Guide on suspicious transactions.</p> <p>The training was attended by around 90 representatives of reporting entities from securities market. Money-laundering typologies and frauds in insurance industry, 24 March 2008, Chisinau</p> <p>The training aimed to instruct reporting entities in insurance industry on the AML system and requirements according to the national legislation, reporting standards and international experience, as well as application of the new Guide on suspicious transactions.</p> <p>The training was attended by around 90 representatives of reporting entities from insurance industry. National Commission of Financial Market, along with MOLICO has organized training seminars for its employees and professional participants on the non banking financial market. During the seminars the experts of the European Council have presented the experience of the regulating authorities in the banking sector regarding the measures to prevent and combat the money laundering and terrorism financing. National experts from the Centre for Combating Economic Crimes and Corruption and Anticorruption Office of the Prosecutor have presented the objectives and the regulations of the Republic of Moldova according to the international standards. 70 officials of the professional participants on the securities market took part at the seminars as well as 60 specialists of the insurance companies and insurance brokers. With respect to Centre for Combating Economic Crimes and Corruption Order nr. 117 from 20.11.2007 regarding the safety transmission of the electronic special formulas, National Commission of Financial Market and Centre for Combating Economic Crimes and Corruption was performed a seminar for 60 officials of the professional participants on the non banking financial market including: brokerage companies, independent registrars, fiduciary companies and insurance companies.</p>
(Other) changes since the last evaluation	

Recommendation 26 (The FIU)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The examiners recommend that within the CCCEC, the identity and independence of the OPCML are strengthened to bring it more into convergence with the criteria for and characteristics of FIUs generally, concentrating on the prevention of money laundering</i>
Measures taken to implement the Recommendation of the Report	In accordance with the FIU Charter of the Egmont Group the FIU implemented the criteria for an characteristics of FIU and in May 2008 at the Egmont Plenary Meeting held in Seoul the FIU of Moldova became member with full right of the Egmont Group.
Recommendation of the MONEYVAL Report	<i>For this purpose, the FIU should have a secure computer system and specific databases and be directly accorded the same powers as those usually accorded to an FIU, in particular those of exchanging information without prior agreement, signing co-operation memoranda under its own name, and asking for operations to be suspended without the intervention of the CCCEC director.</i>
Measures taken to implement the Recommendation of the Report	<p>During 2007 it was enhanced the level of data protection through installing a security system, that authorized the access just from the office are the staff of the FIU are carrying out their activity.</p> <p>During 2008, MOLICO project in Republic of Moldova achieved computer systems and high-level secure software for processing and storage of the confidential information. The technical infrastructure and software that belong now to the FIU help to the effectuation of an efficient, productive, qualitative and operative work. In this framework with the support of the MOLICO project the following measures were organized.</p> <p>Creation of the new CCCEC website</p> <p>Testing of SPSS software, 21 May 2007, Chisinau</p> <p>The SPSS analytical software has been presented by the specialized Romanian company and tested with the representatives of the General Department for prevention, analytics and prognosis, the FIU and</p>

	<p>the Anti-corruption Prosecutor Office. Testing of i2 software, 24 May 2007, Chisinau The i2 analytical software has been presented by the specialized Estonian company and tested with the representatives of the General Department for prevention, analytics and prognosis, FIU and the Anti-corruption Prosecutor Office. 12 April – go Case presentation. Council of Europe expert presented go Case software to Moldovan law enforcement involved in creating the informational system of law enforcement and justice bodies. This software aims to monitor criminal cases from the moment of their initiation till submitting them to the court for examination. Study Visit to the software exhibition “Docflow -2008”, 12-13 May 2008, Moscow, Russian Federation Workshop on data security for FIU, 18-19 September 2008, Vadul lui Voda The workshop gathered the Council of Europe experts and Moldovan FIU IT specialists to support improvement of Moldovan FIU systems for data protection, assuring data quality and development of the emergency recovery solutions. Visit to the Exhibition “Security Technologies”, Moscow / Russia, 7-9 February 2007</p> <p>In order to be able to undertake needs analyses for the equipment that has to be procured for the CCCEC (Prevention Department and FIU) and the Anti-corruption prosecutor office, one representative from each of these institutions attended the exposition “Security Technologies” held in Moscow from 7th to 9th February to review the specification, capabilities and prices of available equipment. They provided written reports upon their return, which are currently in the process of translation. A final review will be undertaken when these are available. Conference “International cooperation and experience on anti-money laundering and terrorist financing”, 14-15 March 2007, Chisinau Delivery of IT equipment MOLICO project provided IT equipment (servers, network equipment, computers, printers etc) for the two and half million lei to the Center for Combating Corruption and Economic Crime and the Anti-Corruption Prosecutor’s Office and organized a press conference on this occasion on 19 September. Delivery of hardware was the first phase of support for Moldovan agencies in building modern IT system for prevention and combating of corruption, money laundering and terrorist financing. The second phase will include enhancing of existing analytical system of the CCCEC and the Anti-Corruption Prosecutor’s Office.</p> <p>3 representatives of the CCCEC participated in the Docflow exhibition in Moscow with the purpose to get experience of building IT systems for document workflow and management of money laundering and corruption cases.</p>
Recommendation of the MONEYVAL Report	<i>The OPCML's identity should also be established more clearly in legislation, in particular in the AML Law, which refers only to the CCCEC.</i>
Measures taken to implement the Recommendation of the Report	According to the art. 11 of Law nr. 190-XVI from 27.06.2007 “On prevention and control of money laundering and financing terrorism” in the framework of CCECC was created a special subdivision (OPCML) the major exclusive competence of which is financial analysis of suspicious transactions reports and of those limited and cumulative established in accordance with legislation in force.
Recommendation of the MONEYVAL Report	<i>Once that identity is established, the other relevant standards must be implemented as a whole, in particular:</i> <ul style="list-style-type: none"> - <i>protection of information held by the FIU (confidentiality)</i> - <i>the elaboration of periodical reports, which include statistics, typologies and trends as well as information regarding its activities</i> - <i>giving guidance to the subjected entities on the reporting procedure.</i>
Measures taken to implement the	According with the <i>Regulation of the OPCML</i> all the information that is received by the FIU is strictly confidential and it is used for researching and analyses only. Only OPCML staff can access the

<p>Recommendation of the Report</p>	<p>information received from reporting entities. FIU issues annual public report which contains statistics, typologies and trends. thus such reports were issued in 2005,2006,2007 and the reports are available on the web site www.cccec.md. Also, FIU quarterly reports for Government of FIU’s activity. In the same time the CCECC Order no. 118 of 20.11.2007 (OM no.203-206/741 of 28.12.2007) regarding approval of Guidelines of suspicious activities or transactions, that are overseen in the law on prevention and combat of money laundering and terrorism financing shall be a urgent step to raise awareness of the relevant provisions of the AML Law was published and delivered to all reporting entities.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>It is also recommended that the OPCML’s powers be reviewed. In addition to its analytical tasks, it might benefit from a general power of supervision on compliance with the obligations laid down in the AML law. The latter does not make express provision for this, and this supervisory power seems to derive from the powers of the CCCEC.</i></p>
	<p><i>In accordance with the art. 11 of the Law of Law nr. 190-XVI from 27.06.2007 “On prevention and control of money laundering and financing terrorism” are established the obligations of the FIU in the framework of the CCCEC. Thus the FIU has the following attributions:</i></p> <ul style="list-style-type: none"> a) to collect (store), to analyze and to process the information on suspect transactions and other activities, provided by the reporting entities, according to the provisions of the present law; b) to carrying out operative investigation measures, according to the laws in effect; c) to collaborate and exchange information with public administration authorities, the intimation of the competent authorities regarding the causes and the conditions favouring the commission of illicit actions, to be taken measures established by legislation; d) to disseminate information and documents to criminal investigation authorities and to other competent authorities, when there are reasonable suspicions that the transaction has the purpose of money laundering and financing of terrorism or other crimes that generate proceeds; e) to develop cooperation and information exchange with similar foreign authorities, international organizations dealing with money laundering and financing of terrorism issues; f) to elaborate the proposals for harmonizing the legislation with relevant international regulations; g) to participate at the realization of the National strategy of preventing and combating of money laundering and terrorism financing; h) to create and to ensure the good functioning of the information system, in its area of activity; i) to provide methodological supplies for reporting entities in the area of prevention countering money laundering and terrorism financing; j) to request and to receive additional information from the reporting entities, public authorities, for assessing the suspect nature of the transactions; k) to inform the reporting entities, as frequently as possible, about the results of the examination of the provided information, to publish periodically activity reports; l) at the request of other authorities empowered to supervise the reporting entities to fulfil the control and the verification of the observance of the present law by the reporting entities; m) to collect and analyze statistic material regarding the efficiency of the prevention and countering money laundering and terrorism financing system, including the number of suspect transactions declaration, number of criminal cases and convicted persons, data on transactions freezing, seizure and confiscation of the proceeds obtained from money laundering and terrorism financing; n) to exercise other functions, according to the tasks provided by law. <p><i>In the same time in accordance with the provisions of the art.10 of the AML/CFT law the CCCEC, has invested with attributions of supervisions of the reporting entities.</i></p>
<p>(Other) changes since the last evaluation</p>	

Recommendation 27 (Criminal prosecution authorities)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>There should be more in-depth analysis of the phenomenon of and trends in money laundering and its institutional framework, including sectors which are not universally regarded as vulnerable to laundering but about which the examiners sometimes heard fairly firm risk allegations (gaming, outside as well as within casinos, real estate, insurance, pawnbrokers etc.)</i>
Measures taken to implement the Recommendation of the Report	No changes
Recommendation of the MONEYVAL Report	<i>The results of investigation and intelligence work on the financing of terrorism should be more fully shared between the SIS and the CCCEC, which also has preventive powers in the field</i>
Measures taken to implement the Recommendation of the Report	According to article 11(l), law nr. 190-XVI from 27.06.2007 “On prevention and combating money laundering and terrorism financing”, CCECC share information with other law enforcement institutions especially with SIS and General Prosecutors Office, in case if shared material consist information about ML/FT. Additional, CCECC has signed cooperation agreements with Intelligence Service, General Prosecutors Office, Ministry of Interior Affairs, Customs Service
Recommendation of the MONEYVAL Report	<i>Moldova may consider to review, as a matter of urgency, the legal framework for the use of special investigation techniques and examine if the Code of Criminal Procedure should be amended to extend the use of special investigation techniques, including controlled deliveries, to a wider range of offences associated with AML/CFT</i>
Measures taken to implement the Recommendation of the Report	No changes
(Other) changes since the last evaluation	

Recommendation 29 (Supervisory authorities)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>The Moldovan authorities might perhaps envisage providing for the anti-laundering section to have explicit powers to monitor the implementation of the AML Law whatever the sector (by settling questions which competing powers between authorities could cause); this would enable shortcomings in a given sector to be compensated for.</i>
Measures taken to implement the Recommendation of the Report	Article 10 of the AML/CFT Law identifies the public authorities which have supervision functions of the reporting entities and stipulates their functions and responsibilities in regard to the implementation of the Law.
Recommendation of the MONEYVAL Report	<i>Moldova should address the various shortcomings in the field of supervision and monitoring of the whole financial sector (in particular the explicit designation of the supervisory bodies, adequate powers to monitor and ensure compliance, full coverage of AML/CFT aspects in inspections of the whole financial sector, robust supervisory programmer for AML/CFT purposes with proper inspection procedures etc).</i>
Measures taken to implement the Recommendation of the Report	Art.10 of the Law oversees the bodies and their functions regarding supervision of reporting institutions in respect with the combating of money laundering and terrorism financing. and at their turn the listed competent authorities elaborate programmer for AML/CFT purposes with proper inspection procedures.

	<p>In the supervisory process the NBM verifies the adequacy of internal policy and their application regarding the identification of legal entities and natural persons, their effective beneficiary, high risk profile customers and operations, record keeping requirements, reporting transactions. This is verified by NBM inspectors during on site inspections which are regularly undertaken. Inspection procedures of the banks in the area of anti money laundering and terrorism financing are stipulated in the On site Inspection Manual, which is an internal procedure of NBM and which is regularly updated. Comments regarding the compliance by the banks to the legal requirements are reflected in special compartments of the written reports following the NBM inspections and advise on improvement measures of internal policies are also given.</p> <p>Recommendations on developing programs by the banks of the Republic of Moldova on prevention and combat of money laundering and terrorism financing (the NBM Decision no.94 of 25.04.2002 (OM no. 59-61/143 of 02.05.2002)) are a general guideline for the banks in internal policy elaboration process.</p>
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The examiners recommend that within the CCCEC, the OPCML is given sufficient resources to discharge its main tasks, ie. the analysis of financial intelligence</i>
Measures taken to implement the Recommendation of the Report	In accordance with the Government decision nr. 117 from 18.02.2008 on the approval of the structure and the limited staff of the CCCEC and in accordance with the order nr.30 from 28.03.2008 additional staff was given to the OPCML. At the moment the entirely staff of the FIU are 19 persons plus 10 entitled with attributions from the staff of CCCEC in accordance with the order nr. 18-1 dated 10th February 2006 .
Recommendation of the MONEYVAL Report	<i>Law enforcement and prosecution: the authorities designated as responsible for AML/CFT need further resourcing;</i>
Measures taken to implement the Recommendation of the Report	No changes
Recommendation of the MONEYVAL Report	<i>Law enforcement and prosecution: Training must be developed/continued, with an emphasis on systematic recourse to financial investigations, the culture of the business world, the use of investigation techniques in a modern legal framework, analysis and use of computer techniques (involving in particular, but not only, the anti-laundering office).</i>
Measures taken to implement the Recommendation of the Report	<p>11-13 December– visit to the National Commission for Financial Monitoring of Ukraine a delegation consisting of 6 representatives from the CCCEC and 1 representative from the Ministry of Justice accompanied by MOLICO team leader and junior assistant visited State Committee of Financial Monitoring (SCFM) of Ukraine. On 11 and 13 December they met with SCFM Leadership, visited Legal, Analytical, IT and International Cooperation Departments. On 12 December Moldovan delegation attended the Round Table “Presentation of the legal opinion on the compliance of the draft Ukrainian AML legislation with the 3rd EU Directive and the Warsaw Convention”.</p> <p>The Conference gathered representatives from the Financial Intelligence Units and prosecutor offices from Romania, Bulgaria, Ukraine and Georgia.</p> <p>The participants examined and discussed experience of the EU newly accessed states in the field of combating money laundering. Each state presented its typologies. On the second day of the training a wider public attended the event to discuss problems within money transfer sector, off-shore banking and terrorist financing. The overall aim of the conference was to bring international experience and best practices in anti-money laundering field to Moldova.</p>

Workshop “Financial crime utilising the insurance industry and insurance products”, 17-18 October, Ljubljana, Slovenia

Representatives from the Financial Intelligence Unit and the National Commission for Financial Market participated in the workshop organised by the Centre of Excellence in Finance that presented the practical experience in the European Union, South-Eastern Europe and the United States of America in the field of regulatory framework for insurance fraud and money laundering. The event aimed to share the experience among participants from the EU, SEE and USA, raise awareness about the growing problems of insurance fraud and money laundering, brainstorm about effective regulatory responses and promote the adoption of best practice and implementation of international standards in insurance supervision.

Study visit to the Cypriot FIU for the Service to Prevent and Control Money Laundering, 20-23 November 2007, Nicosia, Cyprus

A joint study visit of the Moldovan and Ukrainian delegations to the Financial Intelligence Unit of Cyprus was organised and aimed at familiarising participants with the working procedures and functioning of the Cypriot FIU, establishing good cooperation relations in the view of signing a memorandum of cooperation. The delegations also visited Cypriot court, police and commercial bank for the complex view about the anti-money laundering system in the country.

FIU Regional Conference, 15-16 November 2007, Poland

MOLICO Project financed participation of two Moldovan delegates to the Regional Conference of the Financial Intelligence Units that gathered FIUs from about 15 European countries. During the meeting such issues as money-laundering and terrorist financing typologies, signing memorandums of understanding and enhancing international cooperation were discussed

Study visit to the Financial Intelligence Units of Netherlands, Poland and Italy, 20-26 January 2008, Zoetermeer/Netherlands, Warsaw/Poland and Rome/Italy

The Moldovan delegation consisting from IT and Financial Intelligence Unit specialists from the Centre to Combat Economic Crimes and Corruption participated in the study visit to the Financial Intelligence Units of Netherlands, Poland and Italy that aimed to acquire knowledge on the experience of foreign Financial Intelligence Units in building IT system and establishing internal procedures for analyses of reports on suspicious transactions, as well as to establish relationship for future bi-lateral cooperation between Moldovan and foreign counterparts in the area of counteracting money laundering and terrorist financing.

Training for judges and prosecutors on prevention and combating money laundering and terrorist financing, 14-15 April 2008, Chisinau

The training aimed to instruct prosecutors and judges on best practices in investigation of money laundering cases, as well as to present international experience in this area. Representatives of the FIU, the National Bank and the National Commission for Financial Market presented their bodies and its activity in anti-money laundering issues.

The event has been organised in cooperation with the Prosecutor Office and the National Institute of Justice. Working session of the Club of Investigative Journalists on anti-money laundering issues, 22 May 2008, Chisinau

The working session aimed to inform the journalists on anti-money laundering and counter-terrorist financing activities carried out by the Centre to Combat Economic Crimes and Corruption and to familiarise them with basic notions of money laundering and main AML typologies identified in Moldova.

Moldovan FIU presented and distributed to journalists its Annual Report for 2007 and a publication with national AM/CTF legislation in order to consult it when investigating and writing stories related to money laundering.

The event has been organised in cooperation with the Centre of Investigative Journalism.

Conference on exchange of information between FIUs, 18-19 September 2008, Vadul lui Voda

Financial Intelligence Units of nine countries discussed problems of international cooperation in the money laundering and terrorist financing cases during the Conference organised in Vadul-lui-Voda.

The Conference aimed to support Moldovan Financial Intelligence Unit as full member of Egmont Group and facilitate international exchange of information in money laundering and terrorist financing cases.

Representatives of Cyprus, Estonia, Israel, Latvia, Moldova, Poland, Romania, Russia, and Ukraine participated in the Conference.

II Regional Conference of Financial Intelligence Unit, 29-30 September 2008, Warsaw, Poland,

MOLICO supported participation of an FIU representative from Moldova at the conference that aimed to be a continuation of Regional conference organised last year with participation of representatives of 20 countries. The conference focused on issues concerning international combat with financing of terrorism, especially the issue of cyber-terrorism, as well as on discussion on usage of analytical and IT tools supporting generally the fight with money laundering and the financing of terrorism.

Study visit to FIUs from Austria, Slovakia and Hungary, 13-16 October 2008, Vienna, Bratislava, Budapest

The Moldovan delegation consisting from Financial Intelligence Unit specialists from the Centre to Combat Economic Crimes and Corruption participated in the study visit to the Financial Intelligence Units of Austria, Slovakia and Hungary that aimed to acquire knowledge on the experience of foreign Financial Intelligence Units in building IT system and establishing internal procedures for analysing the reports on suspicious transactions, as well as to establish relationship for future bi-lateral cooperation between Moldovan and foreign counterparts in the area of counteracting money laundering and terrorist financing.

Training for FIU on information exchange, 31 October 2008, Chisinau

As a follow-up of the International Conference on exchange of information for FIUs that took place on 18-19 September in Vadul lui Voda, MOLICO delivered training on exchange of information for Moldovan FIU staff. The training was based on the Guide on exchange of information elaborated by the CoE expert Mr. Romanov (Ukraine), which provided explanations and answers regarding the use of the Guide in the daily work.

Guide on internal procedures

The MOLICO expert (Poland) elaborated the Guide on internal procedures for Moldovan FIU that provides for internal rules on gathering information, circulation of information and documents, methodologies of analyses and analytical process, cooperation at the national and international level. The Guide supported by the annexes with example of internal procedures and samples of internal decisions was delivered to the Moldovan FIU.

Course on Insurance Supervision, lessons from international experience, Ljubljana, 22-23 October 2008

	MOLICO supported participation of representatives from the FIU and the National Commission for Financial Market at the training with the main objectives to share experience and lessons learned among participants from EU, SEE and USA; raise awareness about the growing problems of insurance fraud and money laundering; discuss case studies and brainstorm about the effective regulatory responses.
(Other) changes since the last evaluation	

Recommendation 32 (Statistics)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Detailed statistics should be kept on money laundering and terrorist financing investigations, prosecutions and convictions, as well as on seizures and confiscation; in particular, this would make it possible to assess the practice of the authorities in this sphere and ensure that a policy exists on the proceeds of crime</i>
Measures taken to implement the Recommendation of the Report	Statistics in relation to money laundering and terrorist financing investigations, prosecutions and convictions, as well as on seizures and confiscation are kept by the FIU . Thus refer to the data from the attached tables for the year 2005-2008 .
Recommendation of the MONEYVAL Report	<i>Better statistical data should be kept by all supervisory bodies, detailing the nature of AML/CFT violations detected and penalties imposed. Statistics of onsite visits and use of sanctions need reviewing collectively and on a coordinated basis, in order to have a clear picture of the level of AML/CFT compliance across the financial sector.</i>
Measures taken to implement the Recommendation of the Report	<p>The statistic data is gathered in the result of the performed controls of the professional participants on the nonbank financial market. During the last four years the National Commission of Financial Market has performed many controls and has undertook respective actions.</p> <p>The Statistic of the supervisory body are the following</p> <p style="text-align: center;"><u>National Bank of Moldova</u></p> <p>During 2005-2008 were performed 54 complex controls and 23 thematic controls. The aim of the controls included the examination of the internal procedures and policies of banks, their implementation in practice in order to determine if the banks are capable to detect the criminal and fraudulent activities and their methods of reporting the suspicious transactions.</p> <p>Throughout the control process we establish the competencies attributed to the administrative officers of the banks which are also entitled to carry on the activities of combating money laundering and terrorism financing, we also undertake supervision measures regarding the activity of the internal auditing linked to detection, reporting and removal of the deficiencies, as well as to examine the instructive process of the staff involved.</p> <p>A special attention is given to the plenitude and opportunity of the reports on limited and suspicious transactions, as according to statutory duties. With this aim, it is verified if banks maintain the information regarding identity and address of the person that have deposit account, the identity and address of the person in the name of which the deposit is maintained, the identity of the beneficiary</p>

owner of the account, the type of the transactions, the name and the addresses of the banks involved, date and transactions amount.

In order to support its requirements regarding internal activities of the banks orientated to combat of money laundering and terrorism financing, in the cases of discovering discrepancies the National Bank of Moldova imposes compulsory remedial measures or applies sanctions. So during the same period the National Bank of Moldova has imposed 7 remedial measures towards banks and has also applied sanctions in 4 cases.

National Commission of Financial Market

Thus, in the 2005 the NCFM has performed 8 complex controls of the professional participants: 1 nonbank broker, 1 securities estimation company and the assets referring to it, 4 issuers that hold the register on their own. As a result of the discovered divergences the following measures were taken: 5 warnings, 3 divergence prescriptions, 1 lawsuit on disputed administrative claims. During the 2005 were also performed thematic and paper control regarding the correctitude on the performed transactions on the secondary securities market involving 56 issuers, 27 of them were registered at Moldavian Stock Exchange and 29 on the off-exchange market. As the result of the performed controls NCFM has:

- adopted 2 decisions of sanctions application according to the law;
- issued 6 orders from which: 1-suspending the clearing and settlement with the securities, 1-blocking the personal account at the registrar, 2-suspending the circulation of the securities, 1-unblocking the personal account, 1-ceasing the order action;
- applied 5 administrative sanctions of persons involved in transactions with securities.

In the 2006 the NCFM performed 15 complex controls of the professional participants that perform intermediary activity on the financial market: 3 commercial banks, 5 independent registrars, 5 brokerage companies, 1 fiduciary company, Moldavian Stock Exchange. As the result of the performed controls NCFM issued 15 Decisions thorough which took the following measures:

- suspension of the activity license of 2 professional participants;
- prescriptions for 14 professional participants elimination of the discovered divergences in the established term;
- 13 warnings;
- 4 leaders of the professional participants were suspended the license of the qualification certificate.

Were performed controls upon the transactions performed with securities of 34 issuers and 1 thematic control regarding the analysis of the information regarding the affiliate persons. As the result of the performed controls NCFM has:

- 2 decisions regarding the suspension of the qualification certificate with the right to activate on the financial market;
- 10 orders regarding suspension of the activity, account blocking/unblocking;
- 2 warnings;
- 9 administrative sanctions;
- collaboration of the NCFM along with the Center for Combat Economic Crimes and Corruption in order to discover the infractions of the involved persons with the securities and fractions regarding the money laundering.

In 2007 during the performed controls, NCFM, for financial market supervision and control, protection the investors interests and the public interests. NCFM performed 11 complex controls of the professional participants on the nonbank financial market: 5 commercial banks, 4 independent

	<p>registrars, 2 brokerage companies. As the result of the performed controls NCFM has issued 11 Decisions regarding:</p> <ul style="list-style-type: none"> - prescriptions for 9 professional participants elimination of the discovered divergences in the established term; - 11 warnings; - 1 decision regarding the suspension of the qualification certificate with the right to activate on the financial market; <p>NCFM, in this period performed thematic controls and paper control regarding the performed transactions, in the result NCFM has issued:</p> <ul style="list-style-type: none"> - 2 decision regarding the suspension of the qualification certificate with the right to activate on the financial market; - 9 orders regarding suspension of the activity, account blocking/unblocking; - 1 warning; - 3 administrative sanctions; <p>During 10 months of the 2008, NCFM performed 9 controls from which 6 thematic controls and 3 complex controls. In the result of the controls the NCFM took the necessary measures: decision regarding the suspension of the qualification certificate with the right to activate on the financial market, orders regarding suspension of the activity, account blocking/unblocking; warning, administrative sanctions.</p> <p>NCFM collaborates with the Center for Combat Economic Crimes and Corruption and Office of the Prosecutor General, regarding different aspects including combating money laundering and terrorism financing. NCFM informs and presents information at the demand and not only. The suspicious transactions are reported immediately with respect to the Law no.190.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Moldova should keep accurate, detailed and up-to-date statistics on mutual legal assistance and extradition, both on incoming and outgoing requests.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Since February 2008 the Ministry of Justice improved its statistics and started to place all the data on each month on its web-site. The statistics include the number of incoming and outgoing requests on both civil and criminal cases, transfers, extradition, recognitions, civil status acts, etc. and on each country separately.</p> <p>The General Prosecutor's Office keep a more detailed statistic data on the MLA provided on each article of the Criminal Code for each countries separately, with specification of the reasons of refusing MLA requests and of failing in providing MLA in due time for both incoming and outgoing requests.</p>
<p>(Other) changes since the last evaluation</p>	<p>In order to implement point 3, letter g) of the UN RES 1373 (2001) (g) which requires to "Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists" it was excluded the declaration made in the Law on ratification of the European Convention on extradition according to which the Republic of Moldova has the right to decide, according to the given circumstances, if the attempt on the life of president of a state or one of the members of his/her family is to be considered or not political offence.</p> <p>On 26 of July 2007 the Republic of Moldova has ratified (Law 188-XVI) the Strategic Agreement of cooperation between Moldova and Europol.</p> <p>Moldova has established 2 contact points for cooperation with Eurojust and had prepared and submitted to Eurojust the draft agreement for cooperation which should be discussed in December 2008</p>

Recommendation 33 (Legal persons – beneficial owners)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Moldova should introduce controls on the origin of funds as a preliminary to registering legal persons and issuing licences to companies presenting AML/CFT risks (insurance, gaming etc.).</i>
Measures taken to implement the Recommendation of the Report	<p>As the NCFM supervises the insurance sector, it introduced controls in the Law on insurance no. 407-XVI of 21.12.2006 for licensing insurers (reinsurers) in order to control the origin of funds as a preliminary to register legal persons:</p> <p>(1) The insurance (reinsurance) activity can be performed only by insurers (reinsurers) which have obtained a license for activity according to the Law no.451-XV of July 30, 2001 concerning licensing of certain types of activity, as well as in conditions of this law.</p> <p>(2) The license is given for an unlimited period of time.</p> <p>(3) In order to obtain the license, the insurer (reinsurer) shall present, in addition to documents required by the Law on licensing of certain types of activity, the following documents and information:</p> <p>a) the document of property or the rent contract for the office in which it will perform the licensed activity;</p> <p>b) a bank certificate confirming the full depositing of the minimum social capital;</p> <p>c) a written declaration of the provenience of the means deposited into social capital;</p> <p>d) the insurance conditions for each class of insurance separately, to which model insurance contracts policies, insurance fees and their structure shall be attached;</p> <p>e) the technical base for calculation of insurance premiums and technical reserves, legalised by an actuary;</p> <p>f) the reinsurance program proposed to support the insurance class, including the details concerning the ownership and the financial situation of the reinsurer;</p> <p>g) the business-plan according to the category and class of insurance, prepared for the first 3 financial years, which should include: projections of administrative expenses, especially current general expenses and fees, projections of insurance premiums and insurance compensations, calculation of financial resources required to cover the insurance liability and the solvability margin, investment policy, assets portfolio, the evaluation and diversity of assets, risk management.</p> <p>(4) The Chamber of Licensing shall decide upon issuance of the license within 30 working days from the date the application and attached documents were received.</p> <p>(5) If the insurer submits an application for re-issuance of the license in order to include a new class of insurance, he must attach to the application for reinsurance the documents indicated in para. (3) letters d)-g).</p> <p>(6) The licensing fee for the insurance activity is 10 000 lei, paid to the state budget revenue.</p> <p>(7) The insurer (reinsurer) is required to place on a visible spot the copy of the license.</p> <p>(8) Subscribing additional risks from another class of insurance based on the license received in conditions of this law shall be performed in conditions provided in annex no.1 of section C.</p>
Recommendation of the MONEYVAL Report	<i>Moldova should also consider a more general reform aimed at developing machinery for financial audit and approval of company accounts by professional auditors.</i>
Measures taken to implement the Recommendation of the Report	<p>Professional participants on the nonbanking financial market shall be subject to independent audit. Law on insurance no. 407-XVI of 21.12.2006 clearly establishes by article no. 40:</p> <p>(1) The activity of insurers (reinsurers) shall be subject to annual external audit performed by an audit organisation or by an individual auditor holding the license for audit activity in insurance.</p> <p>(2) The audit organisation or the individual auditor shall verify the annual financial statements of the insurer (reinsurer) according to the legislation in force and audit standards harmonised with international audit standards, and will submit to the insurer (reinsurer) the control act concerning annual financial statements, accompanied by the accounting expertise report.</p> <p>(3) The accounting expertise report by the audit organisation or by individual auditor shall be attached to the annual report of the insurer (reinsurer) and shall be published together with this, in conformity</p>

	<p>with this law.</p> <p>In accordance with the Law on the securities market no. 199 from 18.11.1998, Article 53. Requirements to Professional Participants on the Securities Markets: (3) The legal person obtains license for professional activity on securities markets if it cumulatively meets the following conditions: j) has contract concluded with an independent auditor.</p>
(Other) changes since the last evaluation	

Recommendation 35 (Conventions) and Special Recommendation I (UN instruments)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<p><i>As regards the transposition and scope of UN instruments, some of the problems mentioned earlier in the report may cause difficulties (eg. the use of special investigation techniques in judicial proceedings for purposes of co-operation with other countries). All in all, there are some formal deficiencies that need attention (see supra legal issues), but the main issue to be addressed is how to implement the Conventional requirements in an efficient way.</i></p>
Measures taken to implement the Recommendation of the Report	<p>The Government of the Republic of Moldova made a serious effort in order to implement the UN instruments. Thus, a series of legislative measures were adopted and series of strategic documents and implementation plans were approved to cover the issues regulated by the international instruments. Some of the progress registered was mentioned already in relation to some other recommendations of the present report. Thus, we intend to structure the progresses on some components and emphasize once again the measures for the aspects described already (see supra legal issues) and to give a more detailed description regarding new aspects.</p> <p><i>a) Anti- money laundering measures:</i></p> <ul style="list-style-type: none"> - A new AML/CFT Law was adopted; - In order to implement the new AML/CFT Law, the Warsaw Convention and the Palermo Convention, it was adopted a Law on amending certain legislative acts (Law 243); - It was adopted the National Strategy for combating money laundering and financing of terrorism and also and Action Plan for its implementation . <p><i>b) Anti-terrorism and terrorism financing measures:</i></p> <ul style="list-style-type: none"> - The fundamental revision of the national legislation for its compliance with the requirements established by the international conventions against terrorism and terrorism financing, UN Security Council Resolutions, has been achieved by the adoption of Law No 136-XVI of 19.06.2008 (a detailed description see in comment provided for SR II). The introduced amendments implement fully the required criteria for the Financing of terrorism offence, established by the TF Convention and cover all the aspects of the 9 international Conventions mentioned in the Annex of the TF Convention. - A new body for coordinating the anti-terrorist measures was established by the Decision of the Intelligence and Security Service No 1295 of 13 November 2006 – Anti-terrorist Centre of the Intelligence and Security Service; - It was adopted the Order of the Intelligence and Security Service No 75 of 14.11.2007 on the lists of persons and entities involved in terrorist activities, elaborated based on the lists of the UN Security Council Resolution 1267 (1999) and of the Joint Position 2001/931 of the Council of EU of 27 December 2001.

c) *Anti-corruption measures:*

All legislative initiatives developed in previous years were adopted in 2008.

- The Parliament has adopted a new Law on combating and prevention of the corruption (Law 90-XVI of 25.04.2008);
- Also, it was adopted the Law on code of conduct of the civil servant (Law no 25-XVI of 22.2008);
- It was adopted the Law on conflict of interests (Law no 16-XVI of 15.02.2008);
- Further implementation the National Strategy for preventing and combating corruption and its 2005-2009 Implementation Action Plan (adopted by Parliament's Decision no 421-XV of 16.12.2004);
- It was approved and implementing the Code of Ethics and Deontology of the police officer (by Government Decision no 481 of 10.05.2006)
- Also, it was started the drafting of the Code of conduct for government officials, etc

d) *Measures against illicit use of drugs and narcotic substances;*

In order to implement the Vienna Convention, after the amendment of the Criminal Code, Code on administrative contraventions, Criminal Procedure Code (introduced by Law no 277-XVI of 4 November 2005), a series of Government Decisions were approved, as follows:

- The GD no 79 of 23 January 2006 on the approval of lists of narcotic, pshihotropic substances, and of plants which contains these identified substances in the illicit traffic, which defines the quantity of substance based on which the offence of illicit drug trafficking can be qualified for each narcotic, psychotropic substance;
- The GD no 85 of 25 January 206 on the implementation of the Informational automatic system "State nomenclature of drugs". According to this act, all natural persons and legal entities that produce, import or sell drugs, have to be connected to this system;
- GD no 128 of 06.02.2006 on technical conditions established for the rooms and spaces where the narcotic, psychotropic substances and precursors are kept, which purpose is to increase the security of the narcotic, psychotropic substances and precursors stocks;
- The GD no 216 of 27.02.2006 on the transit of the narcotic, psychotropic substances and precursors on the territory of the Republic of Moldova;
- The GD no 1382 of 08.12.2006 on the approval of the Regulation on regulating the activities of cultivation of plants that contains narcotic or psychotropic substances;
- Also, it was approved by the GD no 314 of 17.03.2007 the Measures on combating the narcomany and narcobusiness for 2007-2009 years;
- Also, by the Order of the Ministry of Internal Affairs no 10 of 11 March 2008, it was approved the strategic concept for narcomany prevention, for preventing and combating the illicit narcotic, psychotropic substances, for a period of 5 years.

e) *Measures against trafficking in human beings:*

- On 23 of March 2008, the Government approved (Decision no 472) a new national Plan for 2008-2009 years for combating and preventing trafficking in human beings. By the same GD it was approved the new Regulation of the National Committee for combating trafficking in human beings;
- It was approved the GD no 234 of 29.02.2008, based on which it were created territorial commissions for preventing and combating trafficking in human beings;
- On 23.05.2008 it was signed the Memorandum on the procedures of cooperation in domain of assistance the traffic victims and potential victims, concluded between the General Prosecutor's Office, Ministry of Internal Affairs, Ministry of Social, Family

	<p>and Child Protection and the Centre for preventing the women trafficking, the International Centre “La Strada”, the Mission of the International Organization for Migration;</p> <ul style="list-style-type: none"> - On 07.08.2008 the Government approved the Regulation on the procedure for readmission of the children and adults – victims of the trafficking in human beings, illicit traffic of migrants and of the unaccompanied children; - Based on the GD no 847 of 11 July 2008, it was created the Centre for assistance and protection of traffic victims and potential victims. It was created based on the existing Centre of the International Organization for Migration; - On 30 of July 2008, the Government approved the Regulation on the procedure for victims readmission; - It was drafted and soon it will be approved by Government Decision the National Strategy of the national reference system in domain of assistance the traffic victims and potential victims; <p>There were undertaken a lot of raising awareness measures in this filed. For example, only in 2008 were organized about 30 seminars for strengthening the capacities of the enforcement authorities and for the information of the civil society. The representatives of the Ministry of Internal Affairs have attended more than 12 seminars organized by USA Embassy, U.K. Embassy, the ILO, etc.</p>
(Other) changes since the last evaluation	

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The capacity of the financial supervision bodies (including the National Securities Commission and the supervisory entities of the Ministry of Finance and the Licensing Chamber) to exchange information and cooperate with their foreign counterparts should be enhanced.</i>
Measures taken to implement the Recommendation of the Report	<p>As defined in the article 5 of the Law on National Commission of Financial Market no. 192 from 12.11.1998, information exchange and cooperation with their foreign counterparts are defined in the points:</p> <p>(1) National Commission has the right to cooperate with the corresponding specialized international organizations and be their member.</p> <p>(2) National Commission has the right to provide assistance and to exchange information with the non-banking financial market and its participants, with specialized international organizations and similar authorities from other states.</p> <p>NCFM presented the draft for the modification and completion of the Law on National Commission of Financial Market no. 192 from 12.11.1998. NCFM recommend to modify the article no. 5 as follows:</p> <p>a) Within the paragraph (1), to change the words “to cooperate with the corresponding specialized international organizations” with the words “to take part in the activity of the corresponding specialized international organizations”;</p> <p>b) The paragraph number 2 to modify as follows: “(2) National Commission has the right to provide, in the reciprocity conditions, assistance to supervisory authorities from other states: a) to present public or unpublicized information regarding nonbanking financial market, subjects of supervision of the National Commission of Financial Market; b) to co-operate with authorities which holds information regarding the object of an investigation.”</p>
Recommendation of the MONEYVAL Report	<i>As part of the reinforcement of its organizational autonomy, the OPCML should be able to exchange information directly with its foreign counterparts, and if possible enter into agreements itself for this purpose .</i>
Measures taken to	In accordance with the art. 11 e) of the Law nr. 190/XVI from 26.07.2008 the FIU has the right to t

implement the Recommendation of the Report	develop cooperation and information exchange with similar foreign authorities, international organizations dealing with money laundering and financing of terrorism issues. The quality of the EGMONT Group members give the same ability to exchange information with their foreign counterparts using a secure web for this purpose.
(Other) changes since the last evaluation	

Recommendation SR.III (Freezing and confiscation of terrorist assets)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>It is recommended to urgently adopt the various measures required by SR.III and the United Nations Security Council Resolutions (clear legal structure for the conversion of designations under RES 1267 and RES 1373, national authority to consider requests for designations under 1373, procedures for systematically checking whether designated persons have funds or other assets – as defined in the IN Note to SR.III with a view to freezing them without delay - procedures for listing and de-listing, procedure to follow up on foreign freezing decisions, procedures to challenge a listing decision and to release part of the frozen assets for legitimate purposes, etc).</i>
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Measures taken to implement the Recommendation of the Report	<p>There were conducted the fundamental revision of the national legislation for its compliance with the requirements established by the international conventions against terrorism and terrorism financing, UN Security Council Resolutions, has been achieved by the adoption of Law No 136-XVI of 19.06.2008 (a detailed description see in comment provided for SR II). The introduced amendments implement fully the required criteria for the Financing of terrorism offence, established by the TF Convention and cover all the aspects of the 9 international Conventions mentioned in the Annex of the TF Convention.</p> <p>A new body for coordinating the anti-terrorist measures was established by the Decision of the Intelligence and Security Service No 1295 of 13 November 2006 – Anti-terrorist Centre of the Intelligence and Security Service;</p> <p>It was adopted the Order of the Intelligence and Security Service No 75 of 14.11.2007 on the lists of persons and entities involved in terrorist activities, elaborated based on the lists of the UN Security Council Resolution 1267 (1999) and of the Joint Position 2001/931 of the Council of EU of 27 December 2001. It was published in the Official Monitor and placed on the web-site of the Antiterrorist Centre (www.antiteror.sis.md). The Order states the obligation of updating the lists according to the changes intervened in the UN and EU lists. Thus, the Order has been changed several times and the last amendment concerned Annex 1 and was introduced by the by ISS Order No 24 of 10.03.2008.</p> <p>The AML/CFT Law provide also the appropriate measures:</p> <p>“The Article 14. (1) The reporting entities are obliged to freeze, at the decision of the Centre for Combating Economic Crimes and Corruption, the carrying out of the transaction, for the period specified in the decision, but for not more than five working days. If the mentioned period is not sufficient, the Centre for Combating Economic Crimes and Corruption can request, on motivated grounds, before the expiration of the term, from the General Prosecutor Office or the court, to extend the term of freezing or seizing the goods.</p> <p>(2) The reporting entities freeze transactions with goods for two working days, excepting the account supplying transactions of the persons and entities involved in terrorist activities, in financing and helping in other ways, depending or directly controlled legal entities by this kind of persons and entities, of the natural and legal entities which act in the name or at the indication of this kind of persons and entities, including the means derived or generated by the property owned by the mentioned persons or directly or indirectly controlled, as well as natural and legal entities associated to them, by immediately informing the Centre for Combating Economic Crimes and Corruption, but not later than 24 hours from the receiving of the request. If in the mentioned term of 2 days they do not receive the decision of freezing of the transaction from the Centre for Combating Economic Crimes and</p>
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	<p>Corruption, the reporting entities perform the transaction.</p> <p>(3) After the receiving and verification of the information mentioned in paragraph (2), the Centre for Combating Economic Crimes and Corruption dispose, in dependence of the case, the freezing of suspect transactions on term till 5 working days, execute by emergency necessary actions for the examination of the discovered case, by notifying the reporting entity about the decision that was taken.</p> <p>challenge</p> <p>(4) The list of persons and entities involved in terrorist activities are elaborated, actualized and published by the Service of Intelligence and Security in the Official Gazette of the Republic of Moldova.</p> <p>(5) As a basis for including a person or organization in the list mentioned at the paragraph (4) serve:</p> <p>a) lists elaborated by the international organizations to which the Republic of Moldova is a party and by the bodies of the European Union regarding the persons and entities involved in the terrorist activities;</p> <p>b) definitive decision of a court from the Republic of Moldova, regarding the declaration of the organization from the Republic of Moldova or from other state as being terrorist;</p> <p>c) definitive decision of a court regarding the cessation or suspension of the activity of the organization involved in terrorist or extremist activities;</p> <p>d) definitive decision of a court regarding the person's condemnation for the committing terrorist act or other crime with terrorist character;</p> <p>e) ordinance of beginning criminal investigation in respect to a person that committed terrorist act or other crime with terrorist character.</p> <p>f) definitive criminal decision pronounced by a foreign court recognized, in the established manner, by the national courts, in respect to the persons and entities involved in terrorist activities.</p>
Recommendation of the MONEYVAL Report	<i>It is recommended that clear guidance to all financial and non financial sector operators and adequate official awareness and information measures are developed on those measures and for detecting terrorist assets.</i>
Measures taken to implement the Recommendation of the Report	See above
Recommendation of the MONEYVAL Report	<i>It is also recommended to ensure that adequate monitoring of compliance with SR.III. is taking place in practice.</i>
Measures taken to implement the Recommendation of the Report	A new body for coordinating the anti-terrorist measures was established by the Decision of the Government No 1295 of 13 November 2006 – Anti-terrorist Centre of the Intelligence and Security Service. Its staff consists of 18 persons. It is an autonomous unit of the Intelligence and Security Service. The Centre is structured in 4 bureaus: Monitoring and analyzing bureau, Coordination, planning and forecast bureau, Legal assessment bureau and Informational resources bureau. The Anti-terrorist Centre is responsible for monitoring of compliance with SR.III.
(Other) changes since the last evaluation	<p>Additionally, the Workshop “Combating the terrorist financing. Implementation of UN Security Council Resolutions”, 5 November 2008,</p> <p>Conference on Combating Financing of Terrorism, 1-3 October 2008, Davos, Switzerland</p> <p>MOLICO supported participation of representative from Security and Intelligence Service, Centre for Combating Economic Crimes and Corruption, National Commission for Financial Market and Ministry of Interior at the at the conference on combating terrorist financing that followed-up the conference on the same topic organised in Giessbach, Switzerland on 15-17 October 2007 and attended by Moldovan representatives.</p> <p>The conference was organised by the Basel Institute on Governance and the International Centre for Asset Recovery. It was focused on issues concerning confiscation and recovery of terrorist assets, the role of financial intelligence in counteracting TF, cooperation between law enforcement and private sector, the use of technology in CTF, as well as collection and analysis of information on terrorists.</p>

Recommendation SR.VI (AML/CFT requirements for money/value transfer services)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Moldova should remain vigilant where the machinery for transferring funds, or remittances, is concerned and ensure that all operators (whether affiliated to foreign or national money transfer networks) also discharge their AML/CFT obligations in respect of funds transferred by Western Union, Moneygram or other arrangements.</i>
Measures taken to implement the Recommendation of the Report	In Republic of Moldova the money transfers (inclusive through Western Union and other rapid transfer systems) are performed by licensed banks and through money-order by postal offices. The banks are supervised, inclusive within the legal domain of ML and FT by NBM. Also as the art. 4 and 10 of the AML/CFT Law foresees that the post offices are subject of the law and are supervised by the Ministry of Informational Development.
Recommendation of the MONEYVAL Report	<i>Requirements identified under R.5-11, 13-15, 21 are not implemented by the Post office and those under R.17, 24, 25 do not apply to the Post office, which is a part of this sector. Measures should be taken to address adequately these requirements.</i>
Measures taken to implement the Recommendation of the Report	In accordance with the art.4. 1) the post offices are subject of the AML/CFT Law. Thus all the provisions of the AML/CFT Law in the framework of the Rec. 5-11, 13-15,21 apply to post offices as well.
(Other) changes since the last evaluation	

Recommendation SR.VII (Wire transfers)

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>Legislative changes are required to address issues relevant to compliance with criteria VII.2 and VII.3 regarding use of credit and debit cards as a money transfer instrument, and with criteria VII.4, VII.5, VII.7, VII.8 and VII.9 regarding all the banking sector.</i>
Measures taken to implement the Recommendation of the Report	According to art.5 (1) b) of law, the reporting entities apply identification measures regarding the natural or legal persons, including the beneficiary owner upon the carrying out of occasional transactions amounting at least 50 000 lei and electronic transactions amounting at least 15 000 lei, in both cases when the transaction is made meaning a single or many operations. According to art.6 (6) b) of Law, reporting entities shall adopt enhanced security measures regarding wire transfers, if there is lack of sufficient information about sender's ID and transactions encouraging anonymous persons. In accordance with the Report on the 3rd Complex Evaluation of Republic of Moldova regarding combat of money laundering and terrorism financing (Strasbourg, October 2, 2007), NBM has initiated projects in view of amendment and supplementation of the Regulation on bank cards which have been presented for evaluation to the banking community and to the public. Taking into account all the incoming suggestions the given projects have been completed and are due to be presented to the Council of Europe for examination and approval.
(Other) changes since the last evaluation	

Recommendation SR.VIII (Non-profit organisations)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Moldova should implement the requirements covered by criteria VIII.1 and VIII.3.</i>
Measures taken to implement the Recommendation of the Report	Taking in consideration the Order of the Intelligence and Security Service (ISS) No 75 of 14.11.2007, amended with regard to Annex 1 by ISS Order No 24 of 10.03.2008, as a result of the activity of the working group created within the Ministry of Justice, it was decided to introduce an additional

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preventive measure for the misuse of the NGO's and religious cults. This measure consists in mandatory checking if the NGOs' and religious cults' founders are not included in the lists approved by the Order No of the Intelligence and Security Service. In this respect, the Regulation of both Political parties and non-governmental organizations and Religious cults Divisions will be amended in order to establish the ISS Order and the Law on combating the terrorism as the guiding acts in their activity, according to their competences.

An important amendment made in order to enhance the control of the NPOs' activity was the amendment introduced by Law No 178-XVI of 20 July 2007 regarding art. 16 of the Law on public association (Law No 837-XIII of 17 May 1996). Par. 2 of this art. introduce a mandatory rule saying that the members of the administration body of the NPO can not be in the same time members of the control and revision body.

Due to this provision, all NPO must hire an accountant or to conclude a contract with an audit company in order to exercise the control of the NPO's activity. The control and revision body, according to the statute of the organization which has to be in compliance with the established form approved by the Political parties and non-governmental organizations, must prepare yearly a detailed report on the use of the obtained and spent financial resources, owned assets, etc. and present it to the General Assembly of the organization. These reports are checked by the representatives of the Political parties and non-governmental organizations Directorate during the on-site control visits and by the Certification Commission under the Ministry of Justice, when deciding upon conferring the certificate of public utility.

A more detailed assessment of these reports, including separate investigations, is carried out by the State Fiscal Inspectorates, when carrying out the verifications for tax purposes and when deciding upon recommending an NPO which respects the provisions of the art. 52 of the Fiscal Code (Title II), for being recognized as a non-commercial organization with relief from taxation.

For clarification, we mention that on 24.04.2008, based on the art. 31 of the Law on public associations, by the new Order No 177 of the Minister of Justice was approved the Regulation on the organization and functioning of the Certification Commission, published in the Official Monitor No 86-87, art. 263. This Commission is under the Ministry of Justice and is established for certification for public utility of the non-commercial organizations, one of the main benefits of such status being the relief from taxation. The commission consists of 9 members as follows: 3 members appointed by the President of the Republic of Moldova, 3 members appointed by the Parliament and 3 by the Government. The organizations can apply for obtaining such a certificate after at least 6 months of activity.

The letter requesting the certification addressed to the Ministry of Justice must be accompanied by a set of documents, including the narrative and financial report on the performed activity during the last 6 months before the date of application, which confirms its activity of public utility, and the letter of advice from the State Fiscal Inspectorates.

In the letter of advice (opinion), the State Fiscal Inspectorates must refer, besides others, to the assessment made with regards to the use of the financial means and assets of the organization, according to the purposes established in the statute, regulation or other constitutive document. Also, SFI must check if the organization performs an entrepreneurial activity, according to its statute, the profit obtained and used for achieving the purposes established in the statute.

The Certification Commission exercises the control of the activity of the certified non-commercial organizations, based on the information and requests coming from the natural and legal persons, and

from the law enforcement and fiscal (tax) authorities (point 25 of the Regulation). According to its regulation, organizations are obliged to respond to any requests of the Commission (points 26 and 27) and also, during the control activity, it can involve experts in any needed area (point 28). Depending on the results of the control, the Commission may initiate a trial for retiring the certificate of public utility (point 29).

In 2006 was launched in Moldova the UNDP project “Increasing financial sustainability of Civil Society Organization in the Republic of Moldova” (until the end of 2009 year). One of its main objectives is to create a favourable legal and fiscal environment and mechanism for civil society development through a comprehensive analysis of current legislation, drafting laws on the related framework, NGO development and changing public opinion.

The project’s experts analyzed the relevant legal framework and developed in 2007 a *Study on the analysis of the legal framework regarding the non-commercial organizations in the Republic of Moldova* and a *Study on the development of the of the non-governmental organizations in the Republic of Moldova*.

According to the recommendations of the reports there were drafted two Laws on non-commercial (non-profit) organizations and on the non-commercial (non-profit organizations of public utility which were discussed during a series of round tables with the participation of the civil society.

In order to raise the awareness of the NPOs about the risk of terrorist abuse, the national experts from the Ministry of Justice informed the Coordinator Committee of the UNDP project “Increasing financial sustainability of Civil Society Organization in the Republic of Moldova” which consists of the representatives of the most important NGOs, on the MONEYVAL recommendations, the criteria of the Special Recommendation VIII and on the International Best Practices of 11 October 2002.

As a result, with the support of the project, on 30 October 2008 it was organized a round table with the representatives of the civil society during which it was explained the existing international standards, best practices and the MONEYVAL recommendation. As a result of discussion it was agreed to develop a Nation Account Standard for the non-profit sector and to amend the draft of the Ethic Code of the Non-governmental organizations in order to cover the specific criteria for reducing the risk of misuse of the NPOs. As an example it will be taken the Framework for a Code of Conduct for NPOs to promote transparency and accountability best practices, contained in the Communication of the European Commission *The Prevention of and Fight against Terrorist Financing through enhanced national level coordination and greater transparency of the non-profit sector* (COM (2005) 620 final of 29.11.2005).

The new draft of the Code of Ethic for non-commercial organizations has to be adopted during the general assembly on 8-9 December 2008.. Also it will be created a NGOs’ Council which will be responsible for interpretation and monitoring of implementation of the Ethic Code.

Also, in order to improve the monitoring and control competences of the Ministry of Justice of the NPOs’ activity, especially by analyzing the yearly submitted reports coming from the NPOs and the transparency of the activity of the NPOs, with the support of the same UNDP project, it was elaborated the Concept of the Automatic Informational System – State Register of the Non-Commercial (non-profit) Organizations, which must be placed on the web-site of the Ministry of Justice until the end of this year, and which will make available all the information regarding the existing NPOs, including their reports of activity and will allow on-line reporting.

It was introduced criminal liability for the NPOs by the amendment of the art. 21 of the Criminal Code

	<p>(by the Law No 136-XVI of 19 June 2008) which covers now all legal entities, except public authorities. Additionally, after amendment, art. 21 is applicable to articles 279 <i>Terrorism financing</i>, 279¹ <i>Recruitment, training or provision of other support for terrorist purposes</i>, 279² <i>Instigation for terrorist purposes or public justification of terrorism</i> and 292 <i>Manufacturing, purchase, processing, storage, shipment, usage or neutralization of the explosive and radioactive materials</i> of the Criminal Code, thus making possible to convict an NPO for committing or involvement in committing such offences.</p> <p>In the same context, art. 24 of the Law on combating the terrorism was amended by Law 136-XVI – art. 24 The liability of the legal entities for carrying out terrorist activities. It provides expressly that it is prohibited in the Republic of Moldova the creation and the activity of the legal entities which purposes or actions are directed for promoting, justifying, financing or supporting the terrorism or for committing offences with terrorist character.</p> <p>According to the par. 2 of the same art., the legal entity is considered to be terrorist and is wound up (liquidated) and its activity is prohibited, based on the irrevocable court decision, at the request of the General Prosecutor or of its subordinated prosecutors, when on behalf or the interest of the legal entity, is carried out the organization, preparation, financing or is committed an offence with terrorist character, as well as when this acts where accepted, sanctioned, approved or used by the administration body or person with such competences of the legal entity. Court decision on winding up (liquidation) of the legal entity (prohibition of the activity) must be extended and to its branches and representatives. When recognizing a legal entity as terrorist, its assets must be confiscated, according to the Criminal Code of the Republic of Moldova. Par. 3 of the same art. states that these provisions apply and to the foreign legal entities and international organizations, as well as to their offices, branches and representatives situated in the Republic of Moldova.</p> <p>Moldova continues to make efforts in order to develop a strong civil society and an equal partnership between state and civil society and one of the most important initiatives taken in this regard is the elaboration of the Strategy on creation of the framework (conditions) for the development of the civil society during 2008-2011 which is examined by the Parliament in order to be adopted. Some of the measures provided in this Strategy started to be implemented already and the two draft Laws mentioned before on non-profit organizations and non-profit organizations of public utility can be given as an example in this respect.</p>
(Other) changes since the last evaluation	<p>On the 11.05.2007 the Parliament has adopted the Law No 125- of 11.05.2007 on religious cults and their component parts, which took in consideration the recommendations of the Council of Europe’s experts. The Ministry of Justice was established as the responsible authority for registering the cults, additionally to the competence of registration the political parties and NGO’s. This responsibility was transferred to the Ministry from the Service of Cults under the Government, thus ensuring a better coordination and monitoring of this sector.</p> <p>Art. 15 (3) of the mentioned Law states that financial-economical activity of the religious cults is under state control and that tax legislation is covering and their activity.</p> <p>Art. 24 of the same Law provides the cases when the activity of the religious cults and their component parts can be suspended up to 1 year:</p> <ul style="list-style-type: none"> - When carrying out actions which breach the Constitution of the Republic of Moldova, the present Law and other normative acts; - When carrying out actions which threaten state security, public order, the life and security of human beings; - Derogation from the purposes established in the statute; - When it is notified by the Ministry of Justice during a year on the necessity stop the breaching of the present Law. <p>Art. 24(3) and (4) establish the right of the Ministry of Justice to notify in written form the</p>

	<p>administration of the religious cults or their component parts on the indentified cases of breach of law and to establish a reasonable term in order to stop these activities as well as to initiate a trial in order to suspend their activity.</p> <p>According to art. 25 of the Law, the activity of the religious cults and their component parts can be stopped by the decision of a court when these carry out serious acts or repeatedly perform acts provided by art. 24 or do not respect the previous court decision on suspending the activity. The Ministry of Justice can initiate a trial in order to stop the activity of a particular organization.</p>
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4. *Specific Questions*

1. Have the authorities considered adopting an overall AML/CFT strategy or otherwise please describe which aspects of the anti-money laundering policies and/or programmes have the highest priority and why?

The Republic of Moldova approved the National Strategy of Prevention and fight against money laundering and financing of terrorism and the Action Plan for its implementation by the governmental decision nr. 632 from 05.06.2007.

The Strategy has the *goal* to identify specific methods of combating money laundering and terrorism financing in different areas of activity.

The objectives of the present Strategy are the following:

a) Harmonization of the national legislation with international standards and experience for money laundering and terrorism financing.

The domestic anti-money laundering and terrorism financing regime must be adjusted to the recommendations of the Financial Action Task Force (FATF) on combating money laundering and terrorism financing and also to the relevant directives of the European Union and to the recommendations of the MONEYVAL Committee.

b) Preventing and combating of using suspect and limitative financial operations for the aims of money laundering and terrorism financing by national and transnational organizations;

The existing national mechanisms need to be improved for the minimization, and the exclusion of the phenomenon of legalizing illegally originated proceeds, through creation and implementation in the activity of the organization carrying out financial operations of essential criteria of suspicion, as well as of supervising mechanisms.

c) Institutional strengthening for supervision of implementation of relevant legislation and rising of efficiency of the activity by settling an efficient system of inter-institutional cooperation;

d) Strengthening of technical capacities and information systems of the OMLPC of the CCECC;

In order to carry out the functions of the OMLPC of the CCECC, laid down according to the law, rises the necessity of creation and consolidation of internal mechanisms of analysis and investigation, inclusively by supplying with technical equipment and software systems.

e) Raising of public awareness regarding the impact of these negative phenomenon on the

entire society and on each citizen.

Informing the public regarding the risks and negative effects of the money laundering and terrorism financing phenomenon, as well as the transparency of the bodies empowered to prevent and combat these, represents a component of the mechanisms of counteracting of the above-mentioned phenomenon.

f) Intensification of international co-operation;

The activities of money laundering and terrorism financing proliferate all over the world. Therein, the combat of this phenomenon can be realized only through maximum intensification of international cooperation.

The objectives of the Strategy will be achieved through the realization of a detailed action plan specifying the relevant measures, responsible institutions and the execution deadline.

2. Have sanctions been imposed (whether administrative or criminal) specifically for AML/CFT infringements, at the instigation of financial sector supervisors, since the adoption of the 3rd report? If so, please indicate the main types of AML/CFT infringement detected by financial sector supervisors since the adoption of the 3rd report.

On 14.02.2007 the administrative sanctions for AML/CFT infringements were included in the Administrative Code by the **Article 162¹⁵**. Infringement of the legislation on prevention and combating of money laundering and terrorist financing.

For non-dissemination or dissemination of incomplete or erroneous information on the activities or transactions, which fall under the incidence of the Law on prevention and combating of money laundering and terrorist financing - Will be applied a fine to the deciding factors sized from one to three hundreds conventional units. For the same actions performed with the aim of gaining profit - Will be applied a fine to the deciding factors sized from one to three thousands conventional units.[Art.162¹⁵ introduced by the Law nr.243-XVI of 16.11.2007, in force from 14.12.2007]

Since the adoption of the art. **162¹⁵** on administrative sanctions for AML/CFT infringements the FIU applied sanctions in 9 cases for not reporting and reporting of erroneous information in total amount of 74.000 lei (equivalent to 5,7 thousand Euros).

3. With reference to the tax amnesty legislation (as adopted), please update the Committee on the adoption of any additional legal texts and issuance of any guidance to assist institutions in the application of KYC/CDD measures within the tax amnesty process (eg. when an application can be referred, when to report to the FIU in the tax amnesty context because of suspicions of money laundering, etc) as well as on the implementation of these legal norms.

In order to improve the AML/CFT system and to accomplish the recommendations set forth in the 3rd round detailed assessment report on Moldova on anti-money laundering and combating the financing of terrorism (MONEYVAL) regarding duty of vigilance, including stronger or reduced identification measures (R.5 to 8), record keeping and wire transfer rules (R.10 & SR.VII), monitoring of transactions and business relationships (R11 & 21), fictitious banks (R. 18) the NBM approved a series of modifications and completions to the Recommendations on developing programs by banks of the Republic of Moldova on prevention and combat of money laundering and terrorism financing. (http://www.bnm.md/files/index_3196.pdf) (Annex)

The respective draft was presented to the IMF expert (Mr. G. Lombardo), essentially approved by him, with some objections regarding the assessment with the provisions of the Law no.190-XVI dated 26 July 2007 on prevention and combat of money laundering and terrorism financing and that utterly were taking into consideration.

At the same time the necessary modifications and completions were made in accordance with the

provisions of the art.26 and 32,alin.(2),p.1.c) of the Law no.1164-XIII of April 24, 1997 for enforcing Titles I and II of the Tax Code and according to the FATF recommendations and BASEL Committee Principles regarding prevention and combat of money laundering to the NBM Decision no.207 dated August 15, 2007 on some peculiarities of financial institutions activity related to the process of capital legalization and transfer/export from the Republic of Moldova of legalized funds by individuals. (http://www.bnm.md/files/index_3200.pdf) The aim of the respective modifications and completions is to determine the requirements for identification of the legalization subjects during the banks' activity on legalization of money means. The modifications and completions proposed are similar to those approved by NBM CA Decision no.281 of 07.11.2007 of Recommendations on developing by banks from Republic of Moldova of programs on prevention and combat of money laundering and terrorism financing. (http://www.bnm.md/files/index_3196.pdf)

Additional please refer to the statistical data for the legalized capital during the 2007 and 2008 are the following:

In 2007- 103,0 million lei (approximately 7.9 million Euros)

And in 2008 – 71 million lei (approximately 5.4 million Euros)

5. *Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)*⁵

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the / or are fully applied and since when.	The Third Directive and the Implementation Directive are not fully implemented in the national legislation.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 rd Directive ⁶ (please also provide the legal text with your reply)	The provision of the art. 3 of the Law 190/XVI from 26.07.2007 on prevention and fight against money laundering and financing of terrorism, definition of beneficial owner corresponds to the definition of beneficial owner in the 3 rd Directive ⁷ <i>beneficial owner</i> – natural person (s) who ultimately holds or controls the natural or the legal person, on whose behalf a transaction or activity is carried out and/or which who ultimately owns or controls a legal entity through direct or indirect ownership or control at least 25 % of shares or voting rights in that legal entity .

Risk-Based Approach	
Please indicate the extent to which financial institutions	The provision of the Law 190/XVI from 26.07.2007 on prevention and fight against money laundering and financing of terrorism, art. 5 and art.6 refers

⁵ For relevant legal texts from the EU standards see Appendix II

⁶ Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

⁷ Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

<p>have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.</p>	<p>indirectly to the risk based approach.</p> <p>Article 5. The identification requirements of the natural and legal persons and of the beneficiary owner</p> <p>(2) The security measures reside on the following:</p> <p>a) identification and verification of the identity of natural or legal person, of the beneficiary owner, on the basis of the documents, data or information obtained from a reliable and independent source for the possibility of activity or transaction report in accordance with art.8. There shall be required ID presentation at account opening or business relation concluding; in case when the account is opened or the transaction is concluded by an entrusted person, there shall be additionally required the proxy, legalized in the according way;</p> <p>b) identification, as necessary, of the beneficiary owner and the approval of adequate and risk based measures to verify his/her identity, in order for the reporting entity to be convinced of the identity of the beneficiary owner, inclusively as far as the natural and legal person are concerned, for a better understanding of their structure of ownership and control of these persons;</p> <p>c) obtaining of information regarding the purpose and the nature of the transaction or the business relationship;</p> <p>d) conducting ongoing monitoring of the transaction or of the business relationship, including the examination of transactions concluded throughout the course of the respective relationship, to ensure that the transactions being conducted are consistent with the information of the reporting entity regarding the legal or the natural persons, the business and the risk profile, including, when necessary, the source of funds and ensuring that the documents, data or information held are updated.</p> <p>Article 6. Enhanced security measures (CDD)</p> <p>(1) Reporting entities apply identification measures(CDD) regarding their scope in accordance with the risk associated to each type of client, business relation, goods or transaction. Reporting entities have to be able to demonstrate to competent authorities, including monitoring bodies the fact that the scope of security measures is adequate, taking in consideration money laundering and terrorism financing risks.</p>
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Politically Exposed Persons	
<p>Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and</p>	<p>The criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive⁹ are foreseen in the art.3 of the Law 190/XVI from 26.07.2007 on prevention and fight against money laundering and financing of terrorism .</p> <p>More than that beyond the provisions of the Directive, national PEPs are also subject of the provisions of the AML/CFT Law.</p>

the Implementation Directive ⁸ are provided for in your domestic legislation (please also provide the legal text with your reply).	<i>politically exposed persons</i> - natural persons who are or have been entrusted with prominent public functions, immediate family members, being at least persons entrusted with state responsibility functions, whose appointment or election is regulated by the Constitution, Parliament, President or Government;
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“Tipping off”	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	The provision of tipping off is implemented in the art 8, para.5 and art.12 para.2 and art.15 (1) of the Law.190-XVI from 26.07.2007.
With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	The provision of tipping off is implemented in the art 8, para.5 and art.12 para.2 and art.15 (1) of the Law.190-XVI from 26.07.2007.

“Corporate liability”	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	After the amendment of the art. 21 of the Criminal Code by the Law No 136-XVI of 19 June 2008, the corporate criminal liability was extended to all legal entities, excepting public authorities. Beside that, the art. 243 (1), after amendment introduced by the Law No 243-XVI of 16 November 2007, establishes a punishment for legal entities – a fine of between 7.000 and 10.000 conventional units with the deprivation of the right to practice (exercise) a certain activity or winding up the legal entity.
Can corporate liability be applied where the infringement is	Yes. Art. 21, par. 3 lit. c) states that The legal entity, except the public authorities shall be criminally liable for an act provided by the criminal law if: c) an act that causes or threatens to cause considerable damages to a person, to the society or to the state, was committed for the benefit of this

⁸ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

⁹ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	legal entity or was allowed, sanctioned, approved, used by the body or the person empowered with functions of administrating the legal entity.
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DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	No provision in relation to the mentioned fact.

6. Statistics

a. Please complete - to the extent possible - the following tables:

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	37	39	2	2	1	1	0	0	12	1,8 million lei (138550 Euros)	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	32	32	2	2	0	0	0	0	33	2,7 million Lei (207690 Euros)	0	0
FT	0	0	0	0	0	0	0	0	0	00	0	0

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	41	46	4	4	0	0	0	0	15	1,05 million lei	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

1.01. 2008– 09.2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	88	88	0	0	0	0	0	0	6	2,9 million lei (223970 Euros)	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

b. STR/CTR

Explanatory note:

The statistics under this section should provide an overview of the work of the FIU.

The list of entities under the heading “*monitoring entities*” is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.

The information requested under the heading “*Judicial proceedings*” refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.

“*Cases opened*” refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term “cases open” is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons		
commercial banks	1 639 804	40212	2														
insurance companies	41	0	0														
notaries	117	0	0														
currency exchange	18	0	0														
broker companies	28	0	0														
securities' registrars	72	6	0	177	0	37		0	0	0	0	1	1	0	0		
lawyers	0	0	0														
accountants/auditors	0	0	0														
company service providers	0	0	0														
Total	1 640080	40218	2														

2006															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
commercial banks	7020653	217049	1	193	0	32	0	0	0	0	0	0	0	0	
insurance companies	83	0	0												
notaries	359	0	0												
currency exchange	34	2	0												
broker companies	32	0	0												
securities' registrars	84	0	0												
lawyers	0	0	0												
accountants/auditors	0	0	0												
company service providers	0	0	0												
Total	7020906	217051	1												

2007															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
commercial banks	9302392	177677	0	197	0	41	0	0	0	0	0	0	0	0	
insurance companies	147	4	0												
notaries	359	0	0												
currency exchange	34	0	0												
broker companies	27	2	0												
securities' registrars	84	3	0												
lawyers	0	0	0												
accountants/auditors	0	0	0												
company service providers	0	0	0												

others (please specify and if necessary add further rows)	0	0	0												
Total	9303092	177682	0												

2008															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
		cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
commercial banks	6300000	190000	0												
insurance companies	210	7	0												
notaries	275	0	0												
currency exchange	32	0	0												
broker companies	270	12	0												
securities' registrars	290	3	0												
lawyers	2	0	0												
accountants/auditors	3	1	0	303	0	88	0	0	0	0	0	0	0	0	0
company service providers															
Casino	2	0	0												
Lombard	0	0	0												
Leasing companies	16	0	0												
Total	6300900	190023	0												

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT system	Recommended action (in order of priority)
1. General	
2. Legal system and other related measures	
Criminalisation of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • The text of Article 243 should formally cover the laundering by the author of the predicate offence. • The issue of the foreign predicates to money laundering (subject to dual criminality or not) could also be further addressed, either in law or by way of creating jurisprudence. This would help to clarify the wording and avoid possible interpretations at variance with current accepted opinion. • It should also make it clear what evidence is required concerning the associated offence and criminal intent. • The corporate criminal liability under article 21(3) CC should apply beyond the commercial legal entities, to include non-commercial and non-profit legal persons. • A serious effort needs to be made to increase the effectiveness of the system, particularly in the judiciary phase. The implementation aspect is presently quite unsatisfactory, however, and needs to be addressed by a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements. • Such measures should be accompanied by awareness-raising and information aimed at police officers, prosecutors and judges (publications, internal memoranda, guidelines, instructions, training courses etc.) which would also emphasize the need to prevent abuses of the plea bargaining system in cases of money laundering or serious crime. The revision process should be used to reconsider overall consistency (include a general reference to financial assets, property and income and the links between aggravating circumstances).
Criminalisation of Terrorist Financing (SR.II)	<p>The examiners recommend taking legislative and other steps that prove necessary to ensure that:</p> <ul style="list-style-type: none"> • the financing of terrorism under Article 279 (in conjunction with Article 278) also covers organisations and persons recognised as engaging in terrorist activities, even in the absence of (preparation of) a specific terrorist act; • the terrorist acts provided for in Articles 278 and 279 include the acts provided for in the international conventions to which the 1999 Convention refers; • the form of support given includes all types of funds

	<p>whether material or non-material;</p> <ul style="list-style-type: none"> the scope of Article 21 (corporate criminal liability) is extended to make it applicable to Articles 278 and 279.
Confiscation, freezing and seizure of proceeds of crime (R.3)	<ul style="list-style-type: none"> The confiscation of the body (“ corpus”) of the offence should be unequivocally provided for, both in (stand-alone) money laundering and in terrorism financing cases; Further develop the full protection of the interests of the <i>bona fide</i> third party within the context of the criminal proceeds confiscation proceedings; Steps are taken to solve the practical problems sometimes <i>caused</i> by freezing and seizure (administration of assets pending confiscation, application to less tangible products such as company shares – appointment of a civil administrator, conversion to stable financial products, etc.) The anti-laundering office is encouraged to make more frequent requests under its own powers for transactions to be suspended. More efforts are made to familiarise law enforcement and judiciary authorities with these measures. To consider reducing the burden of proof by reversing (or sharing) it following conviction and for purposes of confiscation.
Freezing of funds used to finance terrorism (SR.III)	<ul style="list-style-type: none"> It is recommended to urgently adopt the various measures required by SR.III and the United Nations Security Council Resolutions (clear legal structure for the conversion of designations under RES 1267 and RES 1373, national authority to consider requests for designations under 1373, procedures for systematically checking whether designated persons have funds or other assets – as defined in the IN Note to SR.III with a view to freezing them without delay - procedures for listing and de-listing, procedure to follow up on foreign freezing decisions, procedures to challenge a listing decision and to release part of the frozen assets for legitimate purposes, etc). It is recommended that clear guidance to all financial and non financial sector operators and adequate official awareness and information measures are developed on those measures and for detecting terrorist assets. It is also recommended to ensure that adequate monitoring of compliance with SR.III. is taking place in practice.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> The examiners recommend that within the CCCEC, the identity and independence of the OPCML are strengthened to bring it more into convergence with the criteria for and characteristics of FIUs generally, concentrating on the prevention of money laundering, and that it is given sufficient resources to discharge its

	<p>main tasks, ie. the analysis of financial intelligence.</p> <ul style="list-style-type: none"> • For this purpose, the FIU should have a secure computer system and specific databases and be directly accorded the same powers as those usually accorded to an FIU, in particular those of exchanging information without prior agreement, signing co-operation memoranda under its own name, and asking for operations to be suspended without the intervention of the CCCEC director. • The OPCML's identity should also be established more clearly in legislation, in particular in the AML Law, which refers only to the CCCEC. • Once that identity is established, the other relevant standards must be implemented as a whole, in particular: <ul style="list-style-type: none"> - protection of information held by the FIU (confidentiality) - the elaboration of periodical reports, which include statistics, typologies and trends as well as information regarding its activities - giving guidance to the subjected entities on the reporting procedure. • It is also recommended that the OPCML's powers be reviewed. In addition to its analytical tasks, it might benefit from a general power of supervision on compliance with the obligations laid down in the AML law. The latter does not make express provision for this, and this supervisory power seems to derive from the powers of the CCCEC.
<p>Criminal prosecution and investigation authorities or other competent authorities (R.27, 27, 30 & 32)</p>	<ul style="list-style-type: none"> • There should be more in-depth analysis of the phenomenon of and trends in money laundering and its institutional framework, including sectors which are not universally regarded as vulnerable to laundering but about which the examiners sometimes heard fairly firm risk allegations (gaming, outside as well as within casinos, real estate, insurance, pawnbrokers etc.); • The results of investigation and intelligence work on the financing of terrorism should be more fully shared between the SIS and the CCCEC, which also has preventive powers in the field; • Detailed statistics should be kept on money laundering and terrorist financing investigations, prosecutions and convictions, as well as on seizures and confiscation; in particular, this would make it possible to assess the practice of the authorities in this sphere and ensure that a policy exists on the proceeds of crime; • Moldova may consider to review, as a matter of urgency, the legal framework for the use of special investigation techniques and examine if the Code of Criminal Procedure should be amended to extend the use of special investigation techniques, including

	<p>controlled deliveries, to a wider range of offences associated with AML/CFT;</p> <ul style="list-style-type: none"> • Training must be developed/continued, with an emphasis on systematic recourse to financial investigations, the culture of the business world, the use of investigation techniques in a modern legal framework, analysis and use of computer techniques (involving in particular, but not only, the anti-laundering office).
3. Preventive measures – financial institutions	
Risk of money laundering or terrorist financing	
Secrecy or confidentiality of financial institutions (R.4)	<ul style="list-style-type: none"> • The question of lawyers' professional confidentiality should be reviewed. • The Law on the National Securities Commission should provide the NSC the explicit authority to exchange information with with other foreign competent authorities on AML/CFT issues. • The evaluators were not provided any additional information regarding the insurance sector. In any case, it is recommended that the law on insurance should provide similar authority on international information exchange related to AML/CFT purposes to the Ministry of Finance.
Duty of vigilance, including stronger or reduced identification measures (R.5 to 8)	<p>Most steps are required to increase the level of compliance with the FATF Recommendation 5 which is one of the fundamental Recommendations of the FATF. The examiners advise that obligations in the AML/CFT methodology marked with an asterisk are put in the AML Law.</p> <ul style="list-style-type: none"> • It is strongly recommended to amend the AML Law (and consequently the various existing sector-specific regulations) in order to implement the various requirements of Recommendation 5, and to ensure that the following mechanisms are duly taken into account: <ul style="list-style-type: none"> • Identification of beneficial owners • “Know your customer” policies • On-going due diligence in respect of the business relationship • enhanced due diligence mechanisms for specific high-risk customers, including PEPs • modalities for the verification of identification • consequences of problems occurring during the identification process • applicability to existing customers • The examiners strongly advise to include in the AML

	<p>law or regulation a definition of “beneficial owner” on the basis of the glossary to the FATF Methodology. Financial institutions should take reasonable measures to verify the identity of beneficial owners using relevant information or data obtained from reliable sources.</p> <ul style="list-style-type: none"> • The legal status of the 2002 NBM Recommendations as a key regulation for banks should not be disputable. The Moldova authorities are advised to address this issue so as to avoid controversies and take the necessary measures to ensure that the text contains mandatory obligations for banks which are enforceable by the NBM and are fully in compliance with the FATF recommendations. • Turning to Recommendations 6 to 8, no specific measures are in place. There is thus a need to either amend the AML Law, or to adopt specific regulations for the banking and non-banking financial sector regarding the various requirements of Recommendation 6 on politically exposed persons, of recommendation 7 on correspondent banking relationships, of Recommendation 8 on non face to face transactions, and to complement the NBM Recommendations on all those issues. • In the further development of the NBM recommendations, the NBM is encouraged to carefully analyse the current legislative limitations and existing practice to avoid introducing mandatory requirements for banks in situations that are prohibited in any event or are not applicable. • It is also recommended to extend more largely the 2002 NBM Recommendations on money laundering and the AML Law to the issue of terrorist financing regarding the due diligence mechanisms.
Third parties and business generators	N/A
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> • The AML law requires financing institutions to keep information on identified customers, archive of accounts and primary documents regarding limited and suspicious financial transactions for a period of 5 years from the date when the transaction was carried out. The provisions of the AML law should cover the entire transactions carried out by financial institutions, and not exclusively those regarding suspicious transactions and transactions in excess of the set amounts by the law. • A general requirement to maintain all relevant records for 5 years after the termination of the account or business relationship should be established. • Competent authorities should be given proper powers to enable them to request, in specific cases, financial institutions to keep all necessary records for a longer period as determined these authorities.

	<ul style="list-style-type: none"> • The AML law and sector specific legislation or regulation should clearly require financial institutions to maintain such information and data on clients and transactions so that it can be made available on a timely basis to the competent authority. • Legislative changes are required to address issues relevant to compliance with criteria VII.2 and VII.3 regarding use of credit and debit cards as a money transfer instrument, and with criteria VII.4, VII.5, VII.7, VII.8 and VII.9 regarding all the banking sector.
Monitoring of transactions and business relationships (R11 & 21)	<ul style="list-style-type: none"> • It is recommended to introduce a general enforceable obligation to pay special attention to all complex and unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. • Financial institutions should also be required by law, regulation or other enforceable means to examine the background and purpose of such transactions and set forth their findings in writing and make them available for competent authorities and auditors for at least 5 years. • A specific requirement should be introduced by Law, Regulation or other enforceable means to ensure that financial institutions proactively examine business relationships and transactions with persons from countries that do not apply or insufficiently apply FATF recommendations. • If transactions with persons from countries which insufficiently apply the FATF Recommendations have no apparent economic or visible lawful purpose, the background and purpose should be examined and written findings should be made available for competent authorities. This requirement should be covered by Law, Regulation or other enforceable means. • A mechanism should be set up to enable a state agency to apply counter-measures if a foreign country fails to comply with FATF recommendations on a continuing basis, as well as to specify such measures. • The Moldovan authorities should also envisage adopting a more targeted approach to advising financial institutions on potentially problematic jurisdictions, other than the NCCT countries and territories and offshore zones, which would involve them in making their own decisions in respect of individual states. They should also provide legal measures needed for implementing additional counter-measures under criterion 21.3.
Suspicious transaction and other reporting (R.13-14, 19, 25 & SR.IV & SR IX)	<ul style="list-style-type: none"> • Instead of a specific and exhaustive list of suspicious transactions, the preventive law should make suspicion

	<p>that funds are proceeds from crime or are linked or related to, or are used for financing of terrorism the only mandatory basis for making an STR, regardless of transaction amount.</p> <ul style="list-style-type: none"> • The CCCEC and the supervisory authorities should be authorised to provide guidance to the reporting institutions regarding recent ML/FT typologies and transactions used to enhance the capacity of these institutions to detect suspicious transactions. • A fully comprehensive provision should be introduced by law or regulation requiring financial institutions to report to the FIU whenever they suspect or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism, in line with SR IV. • The Moldovan authorities should also clarify the situation in respect of the application and scope of Article 4. 1(g) and make it clear that it applies to all reports of operations subject to an upper limit, under both articles 4.1(b) and article 5.1(a) to (e). This would avoid the risk of confusion and non-reporting. • It is also recommended to clarify the issue of sanctions in the AML Law in case of non compliance with art. 4(1) (g) (prohibition of tipping off). • The question of a single form for reporting all transactions whatever the reporting entity should be seriously considered, and the policy whereby entities are only bound by their obligations if a form and a CCCEC instruction exist should be abandoned. • The declaration obligation should extend to all bearer negotiable instruments. Furthermore enhanced awareness-raising of the customs should bring a more effective focus on recovery of criminal assets.
Internal controls, compliance and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> • The question of the existence of internal controls in the non-banking sector affecting all AML Law obligations remains open and once responsibility for supervising the implementation of the AML Law has been clarified, the Moldovan supervisory authorities must ensure that internal controls are in place in all reporting financial entities.
Fictitious banks (R. 18)	<ul style="list-style-type: none"> • There should be explicit requirements (in law, regulation or other enforceable means) which oblige financial institutions to discontinue existing correspondent banking relationships with shell banks, if any, as required by Criterion 18.2.; • The examiners have not been provided with sufficient information that financial institutions are required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be

	<p>used by shell banks and consequently, they recommend to insert in the law or regulation clear provisions on shell banks, covering essential criteria for recommendation 18.</p>
<p>The supervisory and oversight system - competent authorities and self-regulating organisations (R. 17, 23, 29 & 30).</p>	<ul style="list-style-type: none"> • Firstly, the AML Law should refer to the OPCML rather than to the Centre as regards FIU aspects. • Secondly, the AML Law should include a clear list of administrative penalties applicable to the different breaches of the AML Law, possibly with reference to the sanctions available in the Code of Administrative Penalties. • Thirdly, the effectiveness of the supervision system would benefit greatly from clarification. The recommendation made in this connection during the second round evaluation deserves repetition: state clearly in the various provisions of Article 8 which control bodies are being referred to, and list them in order to clarify the anti-laundering responsibilities; the Moldovan authorities might perhaps envisage providing for the anti-laundering section to have explicit powers to monitor the implementation of the AML Law whatever the sector (by settling questions which competing powers between authorities could cause); this would enable shortcomings in a given sector to be compensated for.
<p>Financial institutions - market entry and ownership/control (R.23)</p>	<ul style="list-style-type: none"> • Once the applicational scope of Article 8 paragraph 2 has been extended to all the AML Law requirements, the supervisory authorities should swiftly ensure that they are implemented, and not just with regard to the reporting and identification obligation (see recommendations in the preceding section); • The licensing legislation should require a check on the origin of funds and the personal competence of persons applying for an insurer's licence (and the other entities subject to the AML Law).
<p>AML/CFT Guidelines (R.25)</p>	<ul style="list-style-type: none"> • The CCCEC/the OPCML and the various entities in charge of supervision should make a greater publication effort, bearing in mind the many sectors subject to the AML Law. Resources are apparently limited for the publication of documents on paper, but the examiners were able to observe that computerisation is making rapid progress in Moldova and it would be easy to use the CCCEC site as a documentary resource. • Steps should also be taken to ensure that information is properly circulated in the various sectors. • Furthermore, information should be provided in the sphere of financing of terrorism, without neglecting important sectors.
<p>Ongoing supervision and monitoring (R.23,</p>	<ul style="list-style-type: none"> • Moldova should address the various shortcomings in

29 & 32)	<p>the field of supervision and monitoring of the whole financial sector (in particular the explicit designation of the supervisory bodies, adequate powers to monitor and ensure compliance, full coverage of AML/CFT aspects in inspections of the whole financial sector, robust supervisory programme for AML/CFT purposes with proper inspection procedures etc).</p> <ul style="list-style-type: none"> • Better statistical data should be kept by all supervisory bodies, detailing the nature of AML/CFT violations detected and penalties imposed. Statistics of onsite visits and use of sanctions need reviewing collectively and on a coordinated basis, in order to have a clear picture of the level of AML/CFT compliance across the financial sector.
Money or securities transfer services (SR.VI)	<ul style="list-style-type: none"> • Moldova should remain vigilant where the machinery for transferring funds, or remittances, is concerned and ensure that all operators (whether affiliated to foreign or national money transfer networks) also discharge their AML/CFT obligations in respect of funds transferred by Western Union, Moneygram or other arrangements. • Requirements identified under R.5-11, 13-15, 21 are not implemented by the Post office and those under R.17, 24, 25 do not apply to the Post office, which is a part of this sector. Measures should be taken to address adequately these requirements.
4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Duty of vigilance and keeping of documents (R. 12)	<ul style="list-style-type: none"> • First of all, Moldova should take steps to clarify the drafting of the AML law by listing more precisely the non-financial activities and professions (abolishing the catch-all form which applies to all operators effecting transactions outside the financial system). • Urgent consultations are needed with the profession of lawyer in order to determine their obligations under the AML Law. • All changes regarding the CDD and record keeping requirements for financial institutions should be put in place for DNFBPs. • Clear and direct obligations as defined in recommendation 6 should be expressly adopted. • Moldova should adopt specific measures concerning non face to face business transactions and a general requirement to deal with the misuse of technological developments. • Relevant authorities should take urgent steps to raise awareness of the relevant provisions of the AML Law as they apply to the DNFBPs they supervise, and to develop guidance relevant to the individual sectors.
Monitoring of transactions and business	<ul style="list-style-type: none"> • Moldova should ensure that requirements under

relationships (R12 & 16)	Recommendation 11 and 21 apply to DNFBPs, subject to the qualifications in Recommendation 16.
Declaration of suspect operations (R. 16)	<ul style="list-style-type: none"> • Moldova should ensure that the reporting form is available rapidly for all designated non-financial businesses and professions subject to the AML Law (at the same time as clarifying the precise list thereof). • Additional measures should be taken to ensure that all DNFBPs comply with their reporting obligations. • More outreach and guidance is developed for all DNFBPs to explain the reporting obligation.
Internal controls, compliance & audit (R.16)	<ul style="list-style-type: none"> • The authorities should make sure that all DNFBPs are required to set up internal procedures, policies and controls to prevent ML and FT. The DNFBPs should also be required to either have a program for employee training or have some other access to (compulsory) training either provided by the orders and associations or by the authorities.
Regulation, supervision and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> • Once the various designated non-financial businesses and professions have been listed by name in the AML Law, it will again be necessary to clarify the powers of the supervisory bodies (in particular the different departments of the Ministry of Finance which are involved in controlling gaming, pawnbrokers, and dealers in precious stones and metals) in order to ensure that all DNFBPs are adequately supervised for AML/CFT purposes. • In the case of the legal and accounting professions, their professional associations should be given an active role to play. • Moldova should provide more specific, timely and systematic feedback to reporting entities and should develop further its effort to raise AML/CFT awareness within the DNFBPs, especially through sectoral and practical guidelines.
Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • The limit on cash payments imposed on legal entities is a positive initiative which Moldova ought to extend to payments by individuals, bearing in mind the problems specific to the country (corruption, cash-based economy, cash of sometimes suspect origin brought into Moldova, etc.).
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Moldova should introduce controls on the origin of funds as a preliminary to registering legal persons and issuing licences to companies presenting AML/CFT risks (insurance, gaming etc.). • Moldova should also consider a more general reform aimed at developing machinery for financial audit and approval of company accounts by professional auditors.
Legal Arrangements – Access to beneficial	Not applicable

ownership and control information (R.34)	
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • Moldova should implement the requirements covered by criteria VIII.1 and VIII.3.
6. National and International Co-operation	
National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • Greater use should be made of co-ordination machinery to clarify problems and potential policies in the AML/CFT field. • This would be an opportunity to obtain a more precise picture of AML/CFT responsibilities and of which sectors were being used for laundering, to ensure that these sectors were properly supervised, to consider the resources needed by the supervisory departments and agencies and to assemble more statistics. • Beside the importance of a dialogue with the private non-banking sector (see <i>supra</i>), the interaction with all supervisory authorities is essential as a tool for effective compliance by and guidance for the relevant sectors.
Special UN conventions and resolutions (R. 35 & SR. I)	<ul style="list-style-type: none"> • As regards the transposition and scope of UN instruments, some of the problems mentioned earlier in the report may cause difficulties (eg. the use of special investigation techniques in judicial proceedings for purposes of co-operation with other countries). All in all, there are some formal deficiencies that need attention (see <i>supra</i> legal issues), but the main issue to be addressed is how to implement the Conventional requirements in an efficient way.
Mutual legal assistance (R. 32, 36-38, SR. V)	<ul style="list-style-type: none"> • Although there are no incidents recorded that give a concrete indication of the existence of legal obstacles jeopardizing an effective mutual legal assistance provision, the identified domestic legal shortcomings should be remedied – in particular with regard to the ML and TF offences and special investigation techniques including controlled delivery (see <i>supra</i>) – to ensure that full assistance can be given.
Extradition (R. 32, 37 & 39, SR. V)	<ul style="list-style-type: none"> • Certain legal uncertainties (see <i>supra</i> on the ML and TF offence) might interfere with the extradition possibilities, such as the dual criminality requirement. Though this should not be a major problem however since the deficiencies in the formal qualification of the offences do not necessarily have the same negative impact in extradition procedures, where the criminal conduct as such prevails over the formal text, it is important to have a clear and undisputed legal basis to avoid unnecessary controversy and interpretation problems. • Moldova should keep accurate, detailed and up-to-date statistics on extradition, both on ingoing and outgoing requests.

Other forms of co-operation (R. 32 & 40, RV.V)	<ul style="list-style-type: none"> • The capacity of the financial supervision bodies (including the National Securities Commission and the supervisory entities of the Ministry of Finance and the Licensing Chamber) to exchange information and cooperate with their foreign counterparts should therefore be enhanced; • As part of the reinforcement of its organisational autonomy, the OPCML should be able to exchange information directly with its foreign counterparts, and if possible enter into agreements itself for this purpose .
7. Other issues	
Other relevant measures and issues in the AML/CFT framework	<ul style="list-style-type: none"> • An overall AML/CFT strategy should be adopted, to make it possible to: <ul style="list-style-type: none"> - analyse the money laundering phenomenon and trends in Moldova; - strengthen policies to combat this risk (with a view to identifying sectors requiring closer attention); - apply the AML Law with immediate and full effect without the need to modify it to take account of shortcomings and lack of precision in particular areas (absence of penalties, absence of clearly designated supervisory authorities, absence of a clear list of subject entities, problem of forms not yet adopted, problem of the effectiveness of all the measure apart from those relating to identification and reporting etc.); as matters now stand, the AML Law is often perceived as being purely declaratory; - improve the arrangements for communicating reports to encourage reporting and ensure that urgent measures (suspension of transactions, freezing of assets etc.) can be applied. • Machinery for regular, broader consultation (also involving the private sector) would help to alleviate the difficulties which arise in practice. • As financial institutions could in future consider relying on intermediaries or other third parties to perform some of the elements of the CDD process or to introduce business, it would be advisable for the Moldovan authorities to cover all the essential criteria in respect of recommendation 9. • It may be useful for Moldovan authorities to examine the issue of trusts and legal arrangements in the light of R. 34 and consider elaborating, if necessary, any relevant guidance to financial institutions and/or investigative authorities.
General structure of the AML/CFT system – structural elements	<ul style="list-style-type: none"> • Moldova should step up its efforts to make its institutions corruption-proof and implement the recommendations of the relevant international bodies (eg. the Group of States against Corruption – GRECO). In particular, it should attach particular importance to the central authorities

	<p>(police, customs, prosecuting authorities, courts) but also to the bodies which play an important part in AML/CFT supervision or detecting cases of money laundering, including the various administrative supervision services. Repeated administrative or police checks on subject entities should be a risk indicator (extortion, corruption, etc.).</p>
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APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60/EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2

Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

- (a) the spouse;
- (b) any partner considered by national law as equivalent to the spouse;
- (c) the children and their spouses or partners;
- (d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

- (a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
- (b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.

APPENDIX III LIST OF ABBREVIATIONS AND ACRONYMS

AML	anti-money laundering
AML/CFT Law financing	Law on preventing and combating money laundering and terrorism financing
CCCEC	Center for Combating Economic Crimes and Corruption
CC	Criminal Code
CDD	Customer Due Diligence
CFT	Combating the financing of terrorism
CPC	Criminal Procedure Code of Moldova
DNFBPs	Designated Non-Financial Businesses and Professions
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
GD	Government decision
GRECO	Group of States against Corruption
KYC	Know your customer
ML	Money laundering
MOLICO	Project against corruption, money laundering and terrorist financing in the Republic of Moldova
MLA	Mutual legal assistance
NBM	National Bank of Moldova
NBM CA	Governing Board of the National Bank of Moldova
NCFM	National Commission of Financial Market
NPO	non profit organisation
OPCML	Office for Prevention and Combating of Money Laundering
OM	Official Monitor
STRs	Suspicious transactions reports
TF	Terrorist financing
UN	United Nations
UNDP	United Nations Development Programme