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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

SELECT COMMITTEE OF EXPERTS
ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES
(MONEYVAL)

THIRD ROUND DETAILED ASSESSMENT REPORT ON SLOVAKIA [1]

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

Summary

[1] Adopted by MONEYVAL at its 20th Plenary meeting (Strasbourg, 12-15 September 2006)

EXECUTIVE SUMMARY

1. The third evaluation of Slovakia by Moneyval took place from 8th -14th May 2005. The evaluation was based on the Forty Recommendations of the FATF and the 9 Special Recommendations of the FATF, together with the 2 Directives of the European Commission (91/308 EEC and 2001/97/EC).

2. The evaluation team comprised: Ms Yulia Tormagova, Deputy Head of the Legal Department, Federal Financial Monitoring Service, Russian Federation (Legal Evaluator); Mr Andres Palumaa, Financial Auditor, General Department Financial Supervision Authority, Estonia (Financial Evaluator); Mr René Bruelhart, Director Financial Intelligence Unit, Liechtenstein (Law Enforcement Evaluator); and Ms Concha Cornejo, Senior Adviser, Directorate General of the Treasury and Financial Policy, Spain (Financial Evaluator).The examiners reviewed the institutional framework, the relevant AML/CFT laws, regulations and guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and financing of terrorism through financial institutions and designated non-financial businesses and professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. The examiners found that real progress on several of the recommendations made by the previous examination team had still to be achieved. While some cooperation and coordination was taking place at the working level, the present examiners found that this was an area of significant weakness. There was an absence of leadership in the overall national fight against money laundering and terrorist financing. A co-ordinated national strategy on these issues was not apparent.

4. Act No. 367 (on protection against legalization of incomes from illegal activities) was last amended by Act 445/2002. The amended preventive law came into force on 1 September 2002. Reporting entities under the preventive law include banks and foreign branches of banks, insurance and the securities market, though there is no generic reference to financial institutions. Designated non-financial businesses and professionals (DNFBP) are also properly covered in line with the second EU Directive. In all, the FIU estimates that there could be 100,000 reporting entities. Of these, only the banks and insurance have regularly provided reports. A tiny number of reports have come from the securities market, and none from exchange offices, casinos and the various obliged professionals. It was unclear if all obliged persons were fully aware of their obligations.

5. The reporting obligation is based on ‘unusual business activity’. In the banking sector, it was explained that the relevant banking legislation allowed for a wide interpretation of ‘unusual business activity’, but it was unclear whether the same necessarily applies in the rest of the financial sector and in respect of DNFBP. Even if personal (as well as business) transactions are covered by this obligation in respect of all reporting entities, there is an urgent need to explain in guidelines what an ‘unusual business activity’ might mean for each of the entities which are not reporting or are under-reporting (and generally for the financial sector and DNFBP). It was apparent to the examiners that, for example, the casinos were unclear as to what is ‘unusual’ in

the context of their business. Attempted unusual business activity is not covered in the legal reporting obligation and this should be clarified.

The situation of money laundering and financing of terrorism

6. The money laundering situation has not changed appreciably in the years since the second evaluation. Banks remain the most frequently used financial institutions for money laundering. The Slovak authorities also consider the transfer of non-declared cash through the borders to be a prime money laundering vulnerability. The basic sources of illegal proceeds include illegal trafficking in mineral oils, frauds involving excessive deduction of VAT, illegal smuggling of immigrants to Western Europe, illegal cigarette smuggling, car theft (and subsequent legalisation of the stolen cars and equipment) and trafficking in drugs. Criminal activity is still characterised by a high level of organised crime and crime of an international character. A number of such groups are considered to be involved in laundering operations. However the very limited statistical information available to the evaluators does not show how many money laundering cases investigated or prosecuted in Slovakia represent laundering on behalf of organised crime (or how many predicate offences committed abroad resulted in money laundering prosecutions in Slovakia).

7. Slovakia recognises its general vulnerability to international terrorism as similar to that of other EU countries. Law enforcement and the intelligence service (SIS) monitor potential terrorist threats within Slovakia. However there have been no financing of terrorism enquiries, prosecutions or convictions. The reporting obligation in respect of financing of terrorism was described as stemming from Sec. 4 of the AML law, which now defines an unusual business activity as a legal action that may enable a legalisation or financing of terrorism. It is considered that the reporting duty in respect of financing of terrorism is not sufficiently clear in the law. Assuming all the reporting entities now understand there is such a duty, the breadth of the obligation has not been defined for them in any guidance and no reports concerning financing of terrorism have been made. The examiners consider that it should be clarified that the reporting obligation should apply where reporting entities suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations.

8. Slovakia has ratified the International Convention for the Suppression of the Financing of Terrorism, and generally follows the European Union implementation of the UN Security Council regulations. However a separate Slovakian regulation provides for international sanctions to be imposed on the so-called EU internals.

Overview of the financial sector and DNFBP

9. As at the time of the last report, the banking sector remains the most important component of the financial sector. As at the end of 2004, it amounted to 88.64% of financial market assets.

10. Banks are licensed and supervised by the National Bank of Slovakia (NBS). A bank accepts deposits and provides loans and may conduct other activities including cross-border fund

transfers, financial leasing, issuing of securities and financial brokerage. The market share of the five largest banks amounted to 65% approx of customer deposits.

11. The NBS also licenses and supervises (under the Foreign Exchange Act but not under the AML Act) foreign exchange business providers, which include simple bureaux de change and 2 foreign exchange business providers licensed to carry out cross-border and domestic transfer services, but only through licensed banks. The FIU supervises these outlets under the AML Act along with their other AML supervisory responsibilities in respect of DNFBP and financial institutions.

12. At the time of the third on-site visit the financial market authority (FMA) was responsible for licensing and supervision of the capital market, and insurance companies. As at 28th February 2005, there were 25 registered insurance companies and one branch of an insurance company from another member state on the Slovak insurance market. There were 268 legal persons and 110 natural persons registered as insurance brokers and 59 legal persons and 63 natural persons registered as insurance agents.

13. In March 2005 there were 38 investment firms (of which 14 were banks). There were also 160 natural persons and 51 legal persons acting as investment service providers. There were 10 local and 3 foreign management companies. There were also 8 pension fund management companies.

14. Turning to DNFBP, there are 4 operating casinos in Slovakia (2 companies authorised for the operation of casinos). At the time of the evaluation visit there were 625 real estate agencies which were members of the National Association of Real Estate Agencies and there were 29105 real estate agencies registered according to the Trade Licensing Act (and which are not obliged to register with the National Association). There were 617 legal and natural persons trading in gold and jewellery. There were 318 Notaries Public. There were 452 advocates authorised to practice law. 101 audit companies and 813 natural persons perform audit services. At the time of the evaluation visit there were 560 certified accountants and 125 non-certified accountants. There were 311 natural persons with licenses to provide tax advisory services. Domestic trust cannot be established in Slovakia, so no trust and company service providers were reported by the Slovakian authorities.

Commercial laws and mechanisms covering legal persons

15. Legal persons established for the purpose of undertaking business are either companies or partnerships. Legal persons officially come into existence on the date on which they are incorporated into the Commercial Register (or other register prescribed by law). There are limited liability companies and joint stock companies (which can be private or public). There is no requirement under the Commercial Code for details of shareholders to be publicly disclosed and recorded in the Commercial Register in the case of joint stock companies. Data on shareholders is disclosed in the Commercial Register only in the case of a private joint stock company which has only one shareholder.

Progress since the Second Round

16. The AML Law was further amended as outlined above. The number of reported unusual business operations has shown an overall gradual increase, though there was a slight dip in 2003.

17. In the years following the second on-site visit the staff in the FIU had increased to 38. But by May 2005 the position of the FIU within the Police structure had weakened. Under organizational changes within the Police, the FIU, which had been a department in the Financial Police, had become a division within the Bureau of Organized Crime, and was no longer headed at Director level. Staff numbers were reducing. There were 31 in post at the time of this on-site visit.

18. Convictions for money laundering have gradually increased. Between 2002 and 2005 (to the date of the on site visit) the examiners were advised there were 33 convictions under the money laundering offence in Article 252 of the Criminal Code. Complete information about the nature of these money laundering convictions was not available. It was understood that there were still no prosecutions or convictions for money laundering as an autonomous offence.

19. At the time of the previous (second) on site visit there were still many uncertainties and ambiguities about the forfeiture/confiscation legislation. Some of the legal difficulties identified at that time (such as forfeiture of substitute assets and legal authority for value confiscation) had been rectified by recent legislative amendments. But the examiners were not provided with information on concrete cases where confiscation had been applied in order to assess whether the legal changes had yet affected operational practice. Overall it was a particular concern that no property had been seized or frozen or forfeiture orders made in any money laundering case in the period under evaluation, and that statistics were not available.

20. The previous team considered that all entities needed the role and responsibilities of the compliance officer clarifying. The Recommendation of the National Bank of Slovakia (NBS 3/2003) contains some guidance regarding the position and role of the compliance officer, though this is not a binding, enforceable document. This evaluation team found that the general requirement of a compliance officer at management level still needs to be covered generally by enforceable means.

Legal systems and related institutional measures

21. Money laundering is criminalised by A. 252 of the Criminal Code. It is an "all crimes" offence, covering all the categories of offences in the Glossary to the FATF Recommendations with the exception of financing of terrorism in all its forms, as defined in SR 11 and its interpretative note. Though different English translations were provided of A 252, they each appear to show some inconsistencies with the language of the international instruments, which raise some uncertainties which may impede practical implementation. The Slovak authorities should satisfy themselves that all the language of Article 6(1) (a) and (b) of the Palermo Convention and Article 3 (1) (b) and (c) of the Vienna Convention are properly reflected in A. 252 Criminal Code. Knowledge that property is proceeds should be set out in the law. Given that there was uncertainty on this issue, it is strongly advised that it should be made clear in legislation or

guidance that knowledge can be inferred from objective factual circumstances. Corporate liability for money laundering is still inapplicable in Slovakia. The Slovak authorities should further consider criminal, civil or administrative sanctions in relation to legal persons for money laundering.

22. It appears that money laundering is usually prosecuted with the predicate offence and the majority of cases are thought to be self laundering. Car theft was said to be one of the major proceeds-generating predicate offences which was the subject of money laundering charges, though it was conceded that if the A 252 offence was not available these cases could have been prosecuted as receiving/handling. A high level of proof was thought to be required regarding the underlying predicate offence. The Slovak authorities should address the issue of evidence required to establish predicate crime in money laundering cases. It would be helpful to clarify in legislation or guidance that a conviction for money laundering is possible in the absence of a judicial finding of guilt and that this element of the money laundering offence can be proved by inferences drawn from objective facts and circumstances. Efficiency of money laundering criminalisation could be enhanced by placing more emphasis on third party laundering (particularly in respect of major proceeds-generating criminal offences other than car theft in Slovakia). It is advised that detailed statistics on money laundering investigations, prosecutions, convictions and sentences (and whether confiscation is ordered in these cases) should be maintained, which also show underlying predicates and whether the offence was prosecuted autonomously.

23. The Law on Confiscation and provisional measures, despite improvements, still does not clearly provide for forfeiture from third parties and for the protection of *bona fide* third parties. The examiners were concerned that forfeiture could be defeated by transfers to third parties as gifts or for undervalue. This aspect of the law needs further consideration. Although prosecutors indicated that more attention is now being given to confiscation, in the absence of any statistics, it appears that a judicial culture which routinely applies confiscation in major proceeds-generating cases still needs to be established. The Slovakian authorities should also address the legal seizure regime to ensure that it covers all indirect proceeds, substitutes etc which may be liable to confiscation in due course.

24. On 2 July 2002, Slovakia ratified the 1999 International Convention for the Suppression of the Financing of Terrorism. It is binding on Slovakia since 13 October 2002. The Slovak authorities pointed to the binding nature of this Convention, together with provisions of the Criminal Code, namely Articles 7, and 10 (which cover preparation of a crime and aiding and abetting), 94 (the offence of terrorism), and 185a (establishing or supporting a terrorist group) as the criminalisation of all relevant acts associated with terrorist financing. Criminalising terrorist financing on the basis of aiding and abetting principles is not in line with the Methodology. In any event, the examiners consider that the present incrimination is not wide enough to cover all the ways in which financing of terrorism is described in SRII and its Interpretative Note and recommend the introduction of an autonomous offence which explicitly addresses all the essential criteria.

25. There is an administrative procedure for freezing accounts under the United Nations Resolutions 1373 and 1267 under European Union legislation, though the definition of terrorist funds and

other assets in the European Union Regulations do not fully cover the full extent of the UN Resolutions especially regarding the notion of control of funds. Slovakia does have the legal capacity to act in relation to European Union internals and on behalf of other jurisdictions. It appeared that the banks were aware of their obligations to check the lists but at the time of the on-site visit no freezing orders had been made under the Resolutions. It was unclear how far checks were made in the financial sector beyond banks. Slovakia needs to develop guidance and communications mechanisms with all financial intermediaries and DNFBP and a clear and publicly known procedure for de-listing and unfreezing in appropriate cases in a timely manner. Currently, notwithstanding adequate administrative penalties, compliance with SR III is not adequately monitored.

26. The FIU's powers and duties are not clearly or separately defined in legislation distinctly from other police powers and duties. In terms of screening unusual business activity reports, it has access to all necessary databases, and, as a law enforcement FIU, has access to additional information to support its analyses under broad police powers. Its resources are basically adequate for its screening responsibilities, though not for other roles that an FIU normally undertakes – particularly outreach to and training of reporting entities, provision of guidance to reporting entities, publication of reports on AML/CFT typologies and trends. These activities are not seriously addressed by the Slovakian FIU and need to be. The FIU does not seem to be the driving force in the AML/CFT system or occupy a main leadership role, even though the FIU is notionally in charge of the system. It is isolated in that it rarely receives feedback on the reports it sends for further investigation to other police bodies. The resourcing of the FIU should be reassessed in order that it can take a much more proactive role on these issues. The outcomes of reports transmitted by the FIU to law enforcement need providing to the FIU to ensure that appropriate feedback procedures can be put in place to reporting entities. The FIU is also statutorily bound to report to the Tax authorities. 105 such notifications were made in 2004. It is important that a wide range of unusual business transactions beyond the tax predicate is passed to law enforcement for further investigation.

27. The FIU also has a significant role in supervision. Under S. 10 of the AML Law the Financial Police (the FIU) is tasked with the primary duty of oversight of financial institutions, and supervision of the implementation of AML measures under the AML Law. All supervisory authorities are required under S. 11 of the AML Law to inform the Financial Police of any violation of the AML Law immediately after its discovery. They, along with the prudential supervisors, perform inspections in financial institutions and the FIU has sole responsibility for supervision of DNFBP. 7 staff are engaged in supervisory duties and more human resources are also needed for that part of the FIU's remit.

28. Law enforcement has adequate powers but still needs more relevant training and guidance in money laundering cases (and financing of terrorism). They also need more policy and practical guidance to ensure proactive financial investigation in major proceeds-generating crimes - to produce more money laundering cases and confiscation orders. A clear policy stipulation to investigators and prosecutors is advised to ensure that the financial aspects of major proceeds-generating cases are pursued routinely in investigations. Since the second evaluation steps had been taken to set up a Special Prosecutor's Office (staff of which indicated to the examiners an intention to pursue an active strategy of asset recovery) and to introduce (shortly after the third

on site visit) a Special Court, serviced by the Special Prosecutors (to deal *inter alia* with serious cases of money laundering). This was welcomed by the examiners. Though at the time of the on site visit more coordination was still needed to join up the whole law enforcement effort.

Preventive Measures – Financial Institutions

29. The basic obligations in Act No 367 are broadly: customer identification in the case of transactions or linked transactions of 15,000 Euro and above and in the case of unusual business activity; record keeping; identifying unusual business activity and reporting unusual business activity; keeping information about reported unusual business activity confidential; delaying unusual business activity; and establishment of internal procedures and units/programmes of control. As noted, Act No 367 had been amended in 2002 largely to incorporate the requirements of the 2nd EU Directive and to cover the reporting of unusual business activity related to financing of terrorism. The latter provision needs greater clarification. The 'safe harbour' provisions in relation to those reporting unusual business activity should also be clarified to clearly cover all types of liability (civil and criminal).

30. At the time of the on site visit the Slovak authorities were awaiting the finalisation of the 3rd European Union Directive before amending the AML Law once more. Accordingly it was accepted that some (but not all) of the basic preventive obligations covered in the 2003 FATF Recommendations, and explained in the 2004 Methodology as needing to be required by Law or Regulation, were not then to be found in the AML Law or other primary or secondary legislation. With regard to Recommendation 5, there is, for example, no reference in the Insurance or Securities Laws or Regulations to the requirement to undertake Customer Due Diligence (CDD) when establishing business relations. There is similarly no reference in any Laws or Regulations to CDD measures when carrying out occasional wire transfers (which fully include the verification process) and in cases of doubts regarding the veracity or adequacy of previously obtained customer identification data. The notion of ongoing due diligence is also insufficiently embedded in the law. Likewise the definition of beneficial owner as set out in the FATF Recommendations in terms of establishing who ultimately controls the customer or exercises ultimate effective control over legal persons or arrangements is missing in primary or secondary legislation.

31. Equally, some of the other obligations on financial institutions which can be required by Law, Regulation or by other enforceable means have not yet been addressed by enforceable means by the Slovak authorities. Some of these preventive requirements are covered (in varying levels of detail) in the Recommendation of the NBS, This is non-binding and, as it is only addressed to banks, does not cover the whole financial sector. There is, for example, no enforceable guidance on how the verification process should apply to legal persons (especially non-resident legal persons). The timing of verification should be clarified across the whole financial sector. The need for enhanced due diligence in respect of higher risk customers needs to be incorporated into enforceable guidance across the whole financial sector. There is also no enforceable guidance on the requirements which should be in place additional to normal due diligence measures for politically exposed persons (Recommendation 6), and in relation to cross-border correspondent banking and other similar relationships (Recommendation 7).

32. With regard to Recommendation 9, the Act on Banks does not allow for the opening of bank accounts through intermediaries. The NBS indicated that it was not possible for intermediaries to conduct elements of the CDD process in respect of banks Outside of the banking sector there is some use of intermediaries. Agents and brokers in the insurance sector are obliged to refuse a contract which preserves anonymity and can perform elements of the CDD process. Similarly investment service providers are allowed to rely on intermediaries for elements of the CDD process. In both cases the ultimate responsibility for complying with the requirements of Recommendation 9 falls on the financial institutions, which could at the time of the on-site visit be sanctioned by the Financial Market Authority for breaches of the relevant requirements.

33. The majority of FATF record-keeping requirements are provided for by Slovakia. The Slovakian authorities consider that the dangers posed by wire transfers are mitigated by the existing control mechanisms under the Payment Act, by which the only payment system provider is the NBS. None-the-less the Slovakian authorities need to review the Payment Act in the light of SR VII and its Interpretative Note as not all requirements appeared to be clearly covered.

34. Currently Slovakia relies on general 'know your customer principles' in respect of the requirements of Recommendation 11. An enforceable requirement needs to be introduced in respect of all financial institutions to pay special attention to all complex, unusual, large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

35. The Act on Banks imposes licensing conditions which require banks with a physical presence in Slovakia. The general provisions of the Act, together with the relevant NBS Decree 9/2004, serve as a barrier against shell banks operating in Slovakia.

36. Specific provisions should, however, be created prohibiting financial institutions entering into or continuing correspondent banking relationships with shell banks and obliging financial institutions to satisfy themselves that respondent financial institutions do not permit their accounts to be used by shell banks.

37. Supervision of the financial sector was shared at the time of the on-site visit by the FIU, the NBS and the Financial Market Authority (for the capital market and insurance). There needs to be a general provision to ensure that CFT issues are addressed by the FIU and all prudential supervisory authorities. At present this is not covered. Since the last evaluation the NBS has made the AML issue a part of general on-site examinations in banks and there have also been thematic AML visits to banks. The Foreign Exchange Division of the NBS supervise exchange houses under the Foreign Exchange Act. They need to be empowered to conduct AML supervision in exchange houses. The NBS Banking Supervision Division supervises money laundering from the point of view of how banks prudentially manage the risks of money laundering. NBS Banking Supervision has an *aide-mémoire* for banking supervision, from which it was clear to the examiners that many of the issues in the Methodology which are insufficiently proscribed in the Slovak system as yet are examined, at least in banking supervision. A key finding of banking supervision has been improper identification of customers. The NBS has also noted that the quality of due diligence is not even across credit institutions. The NBS can impose sanctions both under the Act on Banks and under the AML Act. They indicated that they could

take action on the basis of breaches of licence requirements and in respect of activities covered by the Act on Banks dealing with prudential requirements, including requiring control and risk management systems. They have sanctioned money laundering infringements on this basis but had reported no AML breaches to the FIU. The AML issue was said to be included in the FMA's on-site inspections. The FIU had also performed some visits to a small range of financial institutions and fined banks for AML breaches. Given that all three authorities are able to sanction for some AML breaches, there is the possibility of some overlap and double sanctioning in the system. Clearer and more formal working arrangements on this issue could be developed to ensure that breaches found in inspection are always followed by relevant sanctions. A more coordinated approach to AML supervision and more AML supervision generally is required across the financial sector. All supervisory authorities need more resources and training on AML/CFT issues.

38. The fitness and propriety of future owners and significant shareholders in foreign exchange houses needs more enquiry.

Preventive measures – Designated non-financial businesses and professions (DNFBP)

39. The AML Law covers most categories of DNFBP. It covers all those in the FATF Recommendations and extends them in line with the 2nd EU Directive to traders in works of art (though not all high value goods dealers carrying out cash operations over 15000 Euro, as required by the Directive). Additionally postal enterprises have been designated on a risk based assessment, but not trust and company service providers. Trusts cannot be created in Slovakia. It was unclear whether any other persons act as company formation agents, other than lawyers (who are covered in the AML law).

40. As noted, reports from DNFBP were very rare (1 from a postal enterprise in 2002, and 5 from bookmakers between 2002 and 2004). There were none from casinos, lawyers or other professionals. More needs to be done to raise awareness and understanding of the width of the reporting obligations in DNFBP by outreach to the sector and through the issuing of guidance. Similarly more active promotion of Customer Due Diligence standards in DNFBP is required.

41. The same preventive obligations described above for financial institutions apply to DNFBP. What is not provided for in the AML Law is not provided for elsewhere. Some of the same issues in respect of the core preventive obligations which need to be in Law or Regulation discussed in the context of financial institutions arise also in the context of DNFBP and will not be repeated. Equally, the other relevant obligations in the Methodology that can be provided in Law, Regulation or by other enforceable means which are missing in relation to financial institutions are missing in relation to DNFBP (eg obligations on establishing customer relationships with politically exposed persons, and guidance regarding emerging technological developments). In the context of Recommendation 15, greater clarification of the role of compliance officers and the width of any exceptions from organising internal control is necessary in the context of DNFBP.

42. The AML Act provides (in line with the possibility provided for in the 2nd EU Directive) for identification of all clients on entry to a casino. The examiners understand that for the purposes of the FATF standard the casinos are able to link their CDD information through video recording when customers engage in transactions above 3000 Euro. The examiners consider in the circumstances that the FATF standard is broadly met. With regard to real estate agents involved in buying and selling property, identification of the customer in the limited sense it is provided for in the AML Law is covered in respect of transactions over 15000 Euro. The obligation is narrower than the FATF requirement, as real estate dealers should carry out CDD whenever they carry out transactions concerning the buying and selling of real estate whatever the size. Similarly, Customer due diligence should also be carried out by lawyers, notaries and other independent legal professionals and accountants in all the circumstances set out in Recommendation 12 and not simply in respect of transactions at or above the 15000 Euro threshold in the AML Law.

43. Supervisory and enforcement structures in relation to DNFBP are basically missing. It was unclear what the strategic plan was for monitoring DNFBP by the FIU. Casinos had not been controlled for AML purposes. Some sanctions had been imposed in other parts of the sector but the level of monitoring, given the size of the sector, is tiny. Given the limited resources of the FIU the further development of a more risk based approach may be helpful. More resources are, in any event, needed for monitoring and ensuring compliance by all DNFBP.

Legal persons and arrangements and non-profit organisations

44. Slovakian Law does not clearly provide for information about the beneficial ownership of companies in the way that 'beneficial owner' is defined in the Glossary to the FATF Recommendations (ie who ultimately owns or has effective control). This is particularly the case where one company buys shares in another company. There is no requirement to identify to the Commercial Register the beneficial owners of a company which holds shares in another registered company. Similarly foreign companies are registered in Slovakia. In relation to such foreign companies beneficial ownership information is not available. Some ownership information may be available in the company's books at the registered office. Information was sought but not provided on whether there is an up to date register of all shareholders at a company's offices, and whether it includes the beneficial owners of companies owning shares in that company. It seems therefore that Slovakian law does not require adequate transparency concerning beneficial ownership and control of legal persons. It is bound to be difficult and sometimes lengthy and cumbersome to seek to obtain such information through investigative measures (and possibly mutual legal assistance). It is recommended that Slovakia review its commercial, corporate and other laws with a view to taking measures to provide adequate transparency with respect to beneficial ownership.

45. No real analysis of the threats posed by the non profit sector in Slovakia in respect of terrorist financing had taken place. It is advised that this is undertaken. Moreover there was no evidence of a formal review of the adequacy of laws and regulations in the non-profit sector having been undertaken since SR VIII was introduced. Such a formal review should be undertaken and general guidance to financial institutions with regard to the specific risks of this sector should be

considered. Consideration should also be given to effective and proportionate oversight of this sector and to whether and how further measures need taking in the light of the Best Practices Paper for SR VIII.

National and international co-operation

46. The Slovak authorities advised that cooperation and coordination is an important part of the tasks of the FIU. There is a multi disciplinary group of experts on combating money laundering, chaired by the FIU, which has a predominantly law enforcement focus. Its main objective is to improve exchange of information on a national level including coordination in concrete cases. Notwithstanding this, coordination at the working level between the FIU and law enforcement seemed to be problematic, given the lack of feedback the FIU receives from police or prosecutors (or courts) in relation to the reports the FIU provide. There are also bilateral co-operation agreements between the FIU and the NBS and between the FIU and the Financial Market Authority. Notwithstanding these agreements, the examiners did not find that there was always sufficient co-ordination in practice on supervision and sanctioning or the co-ordination of inspection plans. While the existing mechanisms for co-operation point in the right direction, they appear not to be effective at present in ensuring all necessary co-ordination. As noted, the arrangements for supervision and sanctioning need greater co-ordination and the FIU needs feedback and statistical information on the cases it sends to law enforcement. Strategic co-ordination and collective review of the performance of the system as a whole needs developing in more detail. More detailed statistics are required across the board to assist proper strategic analysis.

47. The Vienna Convention, the Palermo Convention, and the 1999 United Nations Convention for the Suppression of the Financing of Terrorism and the Strasbourg Convention have all been ratified and brought into force, though there are still reservations about the effectiveness of implementation in some instances - particularly terrorist financing criminalisation and some of the preventive standards in Palermo.

48. Slovakia has general mutual legal assistance provisions covering judicial assistance, which are not applied in an overly strict way or made subject to unreasonable conditions. The width of the domestic financing of terrorism offence could severely limit mutual legal assistance based on dual criminality. Equally the lack of a comprehensive incrimination of financing of terrorism would render extradition difficult outside the EU context, where the European Arrest Warrant would apply. Of the statistics provided average response times were acceptable on mutual legal assistance requests but comprehensive statistics on legal assistance requests relating to money laundering and terrorist financing mutual legal assistance were not forthcoming. There were no statistics available to determine whether extradition was being handled without undue delay.

49. The FIU and supervisory authorities have broad capacities to exchange information with foreign counterparts. The keeping of statistical data on their information exchange is also advised.

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