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

THIRD ROUND DETAILED ASSESSMENT REPORT
ON CYPRUS¹

ANTI-MONEY LAUNDERING
AND COMBATING THE FINANCING OF TERRORISM

Memorandum
prepared by the Secretariat
Directorate General of Legal Affairs DG I

¹ Adopted by MONEYVAL at its 18th Plenary meeting (31 January – 3 February 2006).

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LIST OF ACRONYMS USED

AML Law	Anti-Money Laundering Law
BS&RD	Banking Supervision and Regulation Division of the CBC
CBA	Cyprus Bar Association
CBC	Central Bank of Cyprus
CCP	Code of Criminal Procedure
CCSSs	Co-operative Credit and Saving Societies
CDD	Customer Due Diligence
CFT	Combating the financing of terrorism
CSSDA	Co-operative Societies' Supervision and Development Authority
D-MTB	Directive for the Regulation of the Provision of Money Transfer Services
DNFBP	Designated Non-Financial Businesses and Professions
DRCOR	Department of the Registrar of Companies and Official Receiver
EAW Law	European Arrest Warrant and the Surrender Procedures between member States of the European Union Law
ETS	European Treaty Series/ CETS - Council of Europe Treaty Series 1.1.2004
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
G-Accountants	AML Guidance Note for accountants and auditors issued by the Institute of Certified Public Accountants of Cyprus in November 2004
G-Banks	AML Guidance Note to Banks issued by the CBC in November 2004
G-Insurers	AML Guidance Notes to life and non-life insurers operating exclusively outside Cyprus, issued by the Insurance Companies Control Service in March 2005

G-International / Financial / Trustee Businesses	AML Guidance Notes to International Financial Services Companies, International Trustee Services Companies, International Collective Investment schemes and their managers or trustees as appropriate, issued by the CBC in January 2005
G-Investment Brokers	AML Guidance Note to brokers, issued by SEC in September 2001
G-Lawyers	Draft AML Guidance Notes for lawyers issued by the Cyprus Bar Association in March 2005
G-MTB	AML Guidance Note to Money Transfer Businesses, issued by the CBC in January 2005
IBEs	International Business Enterprises
IBUs	International Banking Units
ICCS	Insurance Companies Control Service
ICPAC	Institute of Chartered Public Accountants of Cyprus
IN	Interpretative Note
IT	Information Technology
MLA	Mutual Legal Assistance
MLCO	Money Laundering Compliance Officer
MOKAS	Unit for Combating Money Laundering (Financial Intelligence Unit of Cyprus)
NCCT	Non-cooperative countries and territories
OGBS	Offshore Group of Banking Supervisors
PEP	Politically Exposed Persons
SEC	Cyprus Securities and Exchange Commission
STRs	Suspicious transaction reports
UCITS	Undertakings for Collective Investment in Transferable Securities

I PREFACE

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Cyprus was based on the Forty Recommendations of the FATF (2003) and the 9 Special Recommendations on financing of terrorism of the FATF, together with the two Directives of the European Commission (91/308/EEC and 2001/97/EC), in accordance with MONEYVAL's terms of reference and Procedural rules. The evaluation was based on the laws, regulations, and other materials supplied by Cyprus during the on-site visit from 3 to 9 April 2005 and subsequently. During the on-site visit, the evaluation team met with officials and representatives of all relevant Cyprus government agencies and the private sector. A list of the persons and bodies met is set out in Annex I to the mutual evaluation report.
2. The evaluation team comprised: Mr Lajos KORONA, Public Prosecutor, Budapest, Hungary (Legal Examiner); Dr Stephan OCHSNER, Chief Executive Officer, Financial Market Authority, Vaduz, Principality of Liechtenstein (Financial Examiner); Ms Daniela STOILOVA, Financial Intelligence Agency, Bulgaria (Law Enforcement Examiner); Mr Dennis EVANS, Section Head, Home Office, London (Legal Examiner); and Mr Richard WALKER, Deputy Director, Policy and International Affairs, Guernsey Financial Services Commission, Guernsey (Financial Examiner – representing the Offshore Group of Banking Supervisors (OGBS); and the MONEYVAL Secretariat. 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. This report provides a summary of the AML/CFT measures in place in Cyprus as at the date of the on-site visit or immediately thereafter. It describes and analyses these measures, and provides recommendations on how certain aspects of the systems could be strengthened (see Table 2). It also sets out Cyprus's levels of compliance with the FATF 40 + 9 Recommendations (see Table 1). Compliance or non-compliance with the EC Directives has not been considered in the ratings in Table 1.

II EXECUTIVE SUMMARY

1. The Third Evaluation of Cyprus by MONEYVAL took place from 3 to 9 April 2005. The evaluation was based on the Forty Recommendations of the FATF and the 9 Special Recommendations of the FATF, together with the two Directives of the European Commission (91/308 EEC and 2001/ 97/EC).
2. The evaluation team comprised: Mr Lajos KORONA, Public Prosecutor, Budapest, Hungary (Legal Examiner), Dr Stephan OCHSNER, Chief Executive Officer, Financial Market Authority, Vaduz, Principality of Liechtenstein (Financial Examiner); Ms Daniela STOILOVA, Financial Intelligence Agency, Bulgaria (Law Enforcement Examiner); Mr Dennis EVANS, Section Head, Home Office, London (Legal Examiner); and Mr Richard WALKER, Deputy Director, Policy and International Affairs, Guernsey Financial Services Commission, Guernsey (Financial Examiner – representing the Offshore Group of Banking Supervisors [OGBS]); and the MONEYVAL Secretariat. 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 Cyprus authorities have demonstrated resolve to reduce the vulnerability of financial institutions and DNFBP to money laundering. The Cyprus FIU (MOKAS) and the Central Bank of Cyprus (CBC) have been particularly active in this respect. Since the Second Round Evaluation, both authorities were reinforced and are now adequately staffed. The approach and attitude of MOKAS in building relationships with reporting institutions, together with the issuing of guidance and carrying out of on-site visits by the CBC to banks have been particularly important to the anti-money laundering framework. It was apparent to the evaluators that the supervisory authorities and financial institutions which they interviewed took their anti-money laundering activities seriously. There are a number of positive proposals in train which seek to satisfy those FATF Recommendations where enhancements to the Cyprus system have been identified by the authorities as necessary. This is especially true for the important abolition of the exception in relation to the identification duty of banks, when dealing with customers introduced by trustees or nominees, as identified in the second evaluation report. The evaluators also note that, in the areas of the Recommendations applying specifically to financial institutions (especially banks, which represent the large majority of the financial sector), the basic building blocks are in place, e.g. regarding the identification of the customer and the beneficial owner. The regime applying to banks is more sophisticated than the regimes which apply to the other financial institutions. For example the Guidance Notes which apply to banks contain provisions on ongoing due diligence and monitoring of complex and unusual transactions and PEPs. It appeared to the evaluators that these basic requirements (identification of the customer and the beneficial owner, ongoing due diligence and monitoring of complex and unusual transactions and PEPs) are implemented satisfactorily and efficiently by the financial institutions.
4. Nonetheless some of the basic preventive obligations, arising from FATF Recommendation 5, are currently referred to only in enforceable and sanctionable guidance, but not in primary or secondary legislation. These obligations include the general rule to identify the beneficial owner and some (but not all) of the occasions where CDD is required (including CDD regarding occasional wire transfers). The 2004 AML/CFT Methodology marks these obligations with an asterisk, denoting that they should be set out in Law or Regulation. On this basis, the evaluators' view, endorsed by the MONEYVAL Plenary, is that, in order for Cyprus to be fully in line with the Methodology, Criteria 5.2(c), (d) and (e), 5.3 and 5.4 (a),

5.5 and 5.5.2 (b) and 5.7 should be in law or secondary legislation and not just in supervisory guidance, even though these supervisory guidance notes are enforceable and sanctionable and that the present efficiency of the system in Cyprus is not hampered. It is the firm belief of the Cyprus authorities that circulars or guidance notes issued under the AML-Law constitute secondary legislation, as provided in the Methodology, and their view is set out in detail in the body of the report.

5. The Second Round Report stated also that the high number of offshore companies, known as international business enterprises (IBEs), registered as “brass-plate” companies with no place of business in Cyprus, raised concerns due to the difficulties in monitoring their activities. However, following a major tax reform in July 2002, a uniform rate of cooperation tax was fixed for all companies registered in Cyprus. As a consequence, the “offshore regime” was abolished. The Cyprus authorities consider that this development reduces Cyprus’ vulnerability to money laundering activities. In 2003, the vulnerability of the company sector was further reduced by requiring lawyers creating, operating or managing companies or organising the contributions necessary for the creation, operation or management of companies to comply with the provisions of the AML-Law on establishing AML procedures. Legal firms comprise the majority of the firms engaged in such business. However, to ensure the efficiency of the supervisory system, the guidance notes for lawyers in draft form at the time of the onsite visit should be issued ² and the evaluators strongly advise that onsite inspections should be undertaken by the Cyprus Bar Association.

The situation of money laundering and the financing of terrorism

6. The money laundering situation has not changed in Cyprus in the last four years. Proceeds of crime continue to be derived from both domestic and foreign predicate offences. Recorded domestic criminal offences for the last four years show that Cyprus has a relatively low level of domestic crime. That said, domestic crimes which generate illegal proceeds are: fraud (including the offence of “obtaining money or goods by false pretences”); burglary; theft; and drug trafficking offences. In relation to the latter, the Cyprus authorities state that there is no tradition of narcotic production or trafficking and a relatively limited local use of narcotic drugs. Organised crime groups are reported currently not to exist in Cyprus, and there is no established link between Cyprus residents and organised crime groups in other countries.
7. The Cyprus authorities also indicated that the police investigate numerous money laundering offences based on foreign predicates, and that they fully recognise that proceeds from foreign predicates may be laundered through Cyprus. The examiners were advised that there were some investigations and prosecutions in respect of money laundering based on foreign predicate offences, but none were successfully concluded. All the convictions recorded for money laundering offences during the relevant period since the second evaluation visit related to domestic predicate offences. At the time of this on-site visit at least 14 money laundering cases were reported as currently being before the courts, but there were difficulties in establishing precise information about all these cases, as the police do not always apprise the FIU of all money laundering investigations where the FIU has no direct involvement in obtaining interim orders. Only three of these 14 cases were said to emanate from the suspicious transaction reporting system and involved money laundering in respect of fraud and drug offences. The others were investigated independently of the STR regime.
8. Cyprus ratified the 1999 United Nations Convention for the Suppression of the Financing of Terrorism in November 2001. It was explained to the examiners that financing of terrorism is criminalised in Cyprus under sections 4 and 8 of the Ratification Law 29 (III)/2001 in respect

² These guidance notes have now been formally issued to the lawyers.

of the above-mentioned Convention. The practical consequences of this have not been tested in court, as yet.

9. The Council of Ministers Decision Number 54.374 of 4 October 2001 empowers the implementation of necessary measures to enforce United Nations Security Council Resolutions 1267, 1333, 1368, and 1373. Since 1 May 2004, Cyprus is also obliged to follow relevant European legislation on the freezing of terrorist assets. The Cyprus authorities have not frozen any accounts, as yet, in respect of any names, which appear on the United Nations lists issued under the above-mentioned Resolutions, or on the European Union (or US) lists, as no named person has been located in Cyprus.
10. MOKAS has jurisdiction to deal with financing of terrorism by virtue of the Ratification Law 29 III / 2001. There have been no STRs filed with MOKAS in respect of financing of terrorism. The issue of financing of terrorism had yet to be addressed in guidance to the reporting enterprises and this should be rectified. The Cyprus authorities have conducted some enquiries into financing of terrorism on behalf of other countries. All such enquiries made in Cyprus were thus externally generated, based on general requests addressed to all FIUs which are members of the Egmont Group (two in 2001; five in 2002; six in 2003; and two in 2004). If there were to be a domestic enquiry in future, MOKAS advised that they would deal with it, possibly in collaboration with other units. It is important for the Guidance Notes to deal explicitly with terrorist financing, so that reporting enterprises have information on this important topic and are aware, for example, of the need for vigilance in connection with financial activity which may not be derived from the proceeds of crime.

Overview of the financial sector and DNFBP

11. Banks licensed to carry on business in Cyprus may be classified into two categories: Domestic banks and International Banking Units (IBUs³). There are 14 domestic banks, of which 11 are commercial banks and 3 are specialised financial institutions. Six of the 11 commercial banks are foreign owned – two operate in the form of branches. There are 26 IBUs, of which 5 are local subsidiaries of foreign incorporated banks and 21 are branches of foreign incorporated banks. Both domestic banks and IBUs are subject to the same supervisory regime by the Central Bank (CBC). Under the Central Bank of Cyprus Law of 2002, the Central Bank is also the competent licensing and supervision authority for all legal persons whose business activities consist of the acceptance of money exclusively for transfer from and to Cyprus. At present six money transfer companies have been licensed to operate in Cyprus. The Central Bank also supervises banks in their carrying out of securities and capital markets business. Moreover, the CBC supervises under the Capital Movement Law 40 international independent financial advisers, six international trustee services companies and 200 feeder funds. Additionally 47 investment firms and 2 UCITS management firms are supervised by the Securities and Exchange Commission (SEC). There are also 362 credit institutions which comprise the co-operative sector. This sector is supervised by the Cooperative Societies' Supervision and Development Authority.
12. There are 43 licensed insurance companies operating in or from within Cyprus supervised by the Insurance Companies Control Service (ICCS).
13. A significant majority of customers in the banking, investment and insurance sectors would appear to be Cypriots resident in Cyprus.

³ The distinction between domestic banks and IBUs came to an end on 1 January 2006 by amending the banking businesses licences granted by CBC to the IBUs.

14. Cyprus also began operating in the late 1970s as an “offshore” financial centre and this business developed, mainly due to the existence of a wide network of treaties with around 40 countries for the avoidance of double taxation, and the low taxation rate (4.25 %) applicable to profits of international business enterprises. As such, Cyprus was an attractive destination for international business. In 2003, there were approximately 14,000 international business enterprises (IBEs) registered in Cyprus. The number of companies with a physical presence in 2003 was 2000. The evaluators were told that the majority of customers establishing companies and trusts would appear to be based outside Cyprus.
15. In 2002, legislation was passed abolishing the “offshore” regime, involving tax advantages for IBEs. From January 2003 new IBEs have the same tax status as domestic companies, as the 2002 legislation introduced a uniform rate of tax on companies (10 %), irrespective of their ownership and place of operation. Pre-existing IBEs which were in operation as at 31/12/2001, were given the option to maintain their existing tax status, only until the end of 2005. As from 1 January 2006, all IBEs can operate internally as well and the descriptive term IBEs no longer exists.
16. The Cyprus authorities advised that there are no *bureaux de change* and no casinos established in Cyprus. There are 238 real estate agents. There are estimated to be some 300 dealers in precious metals or precious stones.
17. There are 1,858 registered accountants in Cyprus. Accountants undertake audit, external accountancy and tax advisory activities. Accountants and auditors are supervised by the Institute of Certified Public Accountants of Cyprus.
18. The Cyprus Bar Association has advised that there are no notaries. Registered practising lawyers can deal with any legal subject. There are 1631 registered practising lawyers in Cyprus. All lawyers in practice are members of the Cyprus Bar Association, which is the supervisory authority for lawyers.
19. There are six trust and company service providers, which were licensed by the CBC as international trustee services companies. International trustee services companies (“ITCs”) were originally authorised under the Exchange Control Law and, on the repeal of the above law and its substitution by the Capital Movement Law of 2003, they continue to be regulated, as their original permits issued by the CBC remain valid until revoked. According to the Central Bank, the large majority of domestic trust and company service providers are lawyers. The register of approximately 136484 companies is maintained by the Department of Registrar of Companies and Official Receiver.
20. As noted above, the Cyprus authorities are firmly committed to legislation for the licensing and regulation of persons engaged in providing trust and company services in line with the Draft Third EU-Directive. It was envisaged that the CBC would be the supervisory authority.

Commercial laws and mechanisms governing legal persons

21. Cyprus has a strong tradition of company law. The process of improving and modernising company law is continuing as a result of Cyprus’s accession to the EU. The law provides for companies limited by shares and guarantee. Companies limited by shares are sub-divided into public and private companies. A Cyprus company is established by incorporation at the Department of the Registrar of Companies. The relevant forms for incorporation have to be submitted by an advocate practising in Cyprus. The advocate must also draft and sign the Memorandum and Articles of the Company. The register must contain *inter alia* the registered office address, the names of the current directors, shareholders and secretary and a report of the allocation of shares. This information is available to the public through an examination of

the company's file at the premises of the Registrar of companies. Information on shareholders is also kept at the company's registered office and is available to any person. Overseas companies (companies incorporated outside Cyprus which establish a place of business in Cyprus) are entitled, if they wish, to file certain documents with the Registrar of Companies and to acquire registration in Cyprus. The services of an advocate in Cyprus are not necessary simply for registration.

Progress since the Second round

22. The Cyprus authorities responded positively to most of the Recommendations and comments in the second report, particularly with respect to the resources of the Cyprus FIU (MOKAS), which have improved significantly. MOKAS now has the lead responsibility for AML/CFT issues in Cyprus, and chairs the Advisory Authority, which is the strategic policy-making body. As such, MOKAS is at the centre of the national response on these issues. MOKAS works closely with the other lead agency in the Cyprus AML/CFT system, the Central Bank (CBC).
23. It was also recommended in the second report that MOKAS should be formally empowered to suspend financial transactions. This was partially achieved in that the AML Law was amended in 2003 to give the FIU the power to issue administrative instructions to financial institutions to suspend financial transactions. It was also recommended that more priority should be given to the transfer of the Companies Register to an electronic database. This was accomplished in 2002.
24. The examiners were advised that the highest priority of the Cyprus authorities continues to be strong monitoring and supervision of the financial sector and provision of training to persons involved in the prevention and detection of money laundering, particularly in respect of those who have only recently been subject to AML/CFT obligations.
25. The evaluators met with representatives of financial institutions from the banking, insurance and investment sectors (including the Stock Exchange), a firm of accountants and associations representing financial institutions and DNFBP. The evaluators echo the comments made in the second evaluation report, that there is a strong commitment in the private sector to the AML framework and to liaison with MOKAS.

Legal systems and related institutional measures

26. Drug money laundering was criminalised in Cyprus in 1992, upon the enactment of the Confiscation of Proceeds from Trafficking of Narcotic Drugs and Psychotropic Substances Law of 1992. That law was repealed upon the enactment of the Prevention and Suppression of Money Laundering Activities of 1996, which extended the list of predicate offences to all serious crimes. No material changes have occurred since the second round evaluation. The legal structure is comprehensive and, in some cases, exceeds the international standards (negligent money laundering is provided for – albeit that no cases were reported on this basis). Predicate offences cover all crimes which under Cyprus Law are subject to a maximum sentence of at least 12 months, including all offences designated under the FATF Recommendations. Legal enterprises can be held criminally liable for money laundering and criminal offences generally. “Own proceeds” laundering is clearly provided for. Indeed, all four convictions since the second evaluation related to “own proceeds” laundering and were prosecuted together with the relevant domestic predicate offences (theft and obtaining money by false pretences). The examiners, while welcoming the convictions, consider that these are comparatively easy money laundering cases for the prosecution to prove, compared with autonomous prosecutions of money laundering by third parties.

27. The Cyprus authorities informed the evaluation team that there is no need for a conviction for the predicate offence to prosecute a money laundering case. However this has not been tested, as there have not, as yet, been any prosecutions or convictions for money laundering by third parties as autonomous offences (“classic” money laundering). As a consequence representatives of the prosecuting authorities appeared uncertain as to whether and to what extent the prosecution would have to demonstrate that the laundered property constitutes proceeds that could be connected to a specific predicate offence.
28. Thus, as there is a broad and firm legal basis to enable successful prosecutions for money laundering, the examiners consider that the effectiveness of money laundering criminalisation could be enhanced by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences (particularly by professional launderers) and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions. Further prosecutorial guidance is advised on these issues. It is understood that some pending cases involve third party money laundering.
29. Powers to trace, freeze and confiscate direct and indirect proceeds and the necessary associated investigative powers are provided for in a generally robust and operational confiscation regime which has produced a considerable number of freezing and confiscation orders, as detailed in the body of the report. The Law, helpfully, includes provisions requiring, in certain circumstances, that defendants should demonstrate the legal origin of their property in confiscation proceedings.
30. The criminalisation of financing of terrorism, as defined in the 1999 United Nations Convention for the Suppression of the Financing of Terrorism, was not completely achieved at the time of the on-site visit as, under the Ratification Law No. 29 (III) of 2001, offences committed by Cyprus citizens on Cyprus territory had, inadvertently, been excluded⁴. Reliance on S.58 of the Criminal Code is insufficient for these purposes. Moreover countries are also obliged to criminalise collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Cyprus has not yet criminalised this type of activity. The best solution, in the evaluators’ view, is the introduction of a clear separate criminal offence of financing of terrorism. The confiscation regime applies to financing of terrorism whether it is prosecuted as a “stand-alone” or autonomous offence (or together with a money laundering offence).
31. There is an administrative procedure for freezing accounts under the United Nations resolutions and the regulations of the European Union. There is no domestic legislation, apart from a decision issued by the Council of Ministers. A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing, is not yet fully in place.
32. MOKAS is a multi-disciplinary Unit, currently with 14 staff, comprising two lawyers, three accountants, four police officers, two customs officers and three administrative staff. The examiners were advised after the on-site visit that 8 additional posts for investigators have been created and that the recruitment process is in the final stages. MOKAS has enhanced its information technology facilities since the second evaluation. It now also appears adequately resourced in personnel terms for the tasks it currently undertakes, though the number of open cases may imply a need for still further human resources. Indeed it would also need further personnel if it is to undertake any supervisory role for real estate and precious metal dealers. MOKAS is highly regarded by domestic financial institutions and has established a strong

⁴ On 22 July 2005, Parliament enacted a Law amending the Ratification Law deleting section 9 and this difficulty no longer applies.

rapport with them. This is one of the particular strengths of the AML framework. MOKAS has put much effort into training, improving the quality of STRs and providing good feedback. It works efficiently with the reports it receives, though processing times should be kept under review. It also acts as a general centre of excellence for freezing and confiscating criminal proceeds. It is also responsible for obtaining restraint and confiscation orders for the police, particularly the Financial Crime Unit. MOKAS also advises other prosecutors in the Attorney General's Office and the Police on money laundering cases in which MOKAS is not directly involved.

33. MOKAS has been a member of the Egmont Group since June 1998 and participates in its activities very actively. It will host the Egmont Plenary in 2006. When exchanging information with its foreign counterparts, MOKAS follows the Egmont Principles for Information Exchange, and cooperates effectively with foreign FIUs.
34. The large majority of reports come from banks. The money remittance services had sent four STRs since 2002, accountants and lawyers four reports since 2002, and one report from the brokerage sector had been made since 2002. Given Cyprus's strength as a financial centre, the evaluators would have expected more reporting from sectors other than banks.
35. MOKAS's competence is not limited to investigating STRs. It is understood that all money laundering investigations are sent to MOKAS by law and it is decided on a case by case basis which investigative body works fully on an AML/CFT criminal investigation. The other major investigative units are the Drugs Law Enforcement Unit and the Financial Crime Unit. Some general guidance on the distribution of responsibilities is advised. The Police and the FIU appear generally adequately resourced, though, in the examiners' view, more focus needs to be placed on the financial aspects of major proceeds-generating crime as a routine part of the investigation and some re-orientation of law enforcement resources may be needed to achieve this. More trained financial investigators (outside of MOKAS) and more training for prosecutors on autonomous money laundering prosecution is required.

Preventive Measures – Financial Institutions

36. The Prevention and Suppression of Money Laundering Activities Law 1996 to 2004 (the AML Law) continues to be the major legislative instrument covering repressive, preventive and international co-operation issues. Since the last evaluation, it has been amended twice (in 2003 and 2004) primarily to extend the preventive regime beyond financial businesses to "relevant financial and other businesses". This formula now includes (under sections 58 and 61): the exercise of professional activities by auditors, external accountants and tax advisors; the exercise of professional activities on behalf of independent lawyers when they participate in a variety of professional activities (including the creation, operation or management of trusts, companies or similar structures); dealers in real estate transactions; and dealers in precious stones or metals. Beyond the problem outlined above regarding basic obligations not being in primary or secondary legislation, the tipping off provision in the AML-law seems unreasonably restricted and the safe harbour provisions in the AML-law should clearly cover all civil and criminal liability.
37. Five detailed sets of guidance have been issued to financial institutions by the supervisory authorities between 2001 and March 2005: AML Guidance Note to Banks (G-Banks, issued by the Central Bank); Guidance Note to Money Transfer Businesses (G-MTB, issued by the Central Bank); AML Guidance Notes to International Financial Services Companies, International Trustee Services Companies etc. (G-International Financial/Trustee Business, issued by the Central Bank); AML Guidance to brokers (G-Investment Brokers, issued by the Securities and Exchange Commission); and AML Guidance Notes to life and non-life insurers operating exclusively outside Cyprus (G-Insurers, issued by the Insurance Companies Control

Service). The Cyprus authorities actively seek to continually improve their AML/CFT framework and it was noted by the examiners that Guidance Notes were being regularly updated. Of the Guidance Notes in force at the time of the on-site visit, the most recent guidance issued by the Central Bank (G-Banks) is closest to the FATF in terms of its approach to risk, requiring the employment of enhanced due diligence procedures for prescribed high risk accounts, including accounts in the names of companies whose shares are in the form of bearer, in the name of trusts or nominees and in respect of politically exposed persons.

38. Cyprus has extended AML/CFT obligations to persons or institutions other than those set out in the FATF Recommendations and the EU Directive, by including some general insurers and independent financial advisors.
39. The provisions in the AML Law and Guidance Notes on Third Parties and introduced business are fully in line with the Methodology.
40. There is no financial secrecy law in Cyprus which inhibits the implementation of the FATF Recommendations. MOKAS has access to financial, administrative and law enforcement information in order to properly undertake its functions to analyse the STRs, including direct access to the Registrar of Companies database.
41. The majority of FATF record keeping requirements are provided for by Cyprus. The dangers posed by wire transfers have been dealt with effectively. None-the-less the examiners consider that some amendments are required to the AML Law and Guidance Notes so that it is clear that records must be maintained for at least five years following the termination of the business relationship to be fully in line with Recommendation 10.
42. Banks and money transmitters are required explicitly to pay special attention to all complex, unusual or large transactions that have no apparent or visible economic purpose, but similar guidance needs to be given to the securities, insurance and international and financial/trustee business sectors. The financial institutions also need guidance that the results of these examinations need to be set out in writing, and also kept available for the competent authorities for at least five years.
43. There is a direct mandatory obligation in the law requiring all persons to report suspicious transaction reports relating to money laundering (without any financial threshold). The legal obligation to make STRs also applies to funds where there are reasonable grounds to suspect or which are suspected to be linked to terrorism or financing of terrorism. However no financing of terrorism reports have been received, and, as noted above, detailed guidance is required to be given to the financial institutions on this issue. All the AML Guidance Notes should also include training on countering terrorist financing. Training provided to the staff of the Banking Supervision and Regulation Division of the Central Bank of Cyprus (CBC) includes terrorist financing.
44. All applicant banks are required to establish a physical presence in Cyprus. Therefore no shell banks exist in Cyprus. However a specific provision should be created requiring financial institutions to satisfy themselves that respondent financial institutions do not permit their accounts to be used by shell banks.
45. The basic building blocks of the supervisory and oversight system are in place for financial institutions. The supervisory authorities have strong legislation to prevent criminals from controlling financial institutions and the legislation is enforced. The various supervisory authorities are dedicated to their roles and most of them have initiated a rolling programme of on-site visits. The CBC has conducted regular inspections of banks and has also conducted a

small number of on-site visits to international trustee services companies (seven since 2001). The work of the CBC in supervision (and in the production of Guidance Notes) is especially appreciated by the evaluators. Some supervisory authorities need further resources for their work. In particular, the Superintendent of Insurance should recruit additional staff and conduct on-site visits. On-site visits need also to be commenced for money transfer businesses.

46. The examiners consider that all persons conducting financial business should be regulated to the same standard. To this end greater co-ordination is recommended between the supervisory bodies. Notwithstanding the fact that a workable Memorandum of Understanding exists among the supervisory authorities of the financial sector, consideration might be given to whether the number of supervisory bodies is appropriate. Coverage of investment supervision by the Central Bank of Cyprus for banks and the Securities and Exchange Commission for other enterprises highlights this issue.
47. The AML Law provides for administrative sanctions to be imposed on those persons subject to a supervisory regime for failure to comply with AML/CFT requirements by their supervisory authorities. No sanctions have been imposed. The CBC indicated that no serious weaknesses had been detected. The CBC can, where they consider it necessary, issue letters of recommendation for corrective action. Nonetheless the current administrative penalty in the AML Law (of up to CYP 3,000) is not considered sufficiently effective, proportionate and dissuasive by the examiners. They also consider the lack of imposition of administrative sanctions undermines the efficiency of the preventive regime and advise that the supervisory authorities' policy on the use of administrative sanctions should be reconsidered (in this connection, while the regulatory laws do contain sanctions, one consideration may be to draw a direct link between those sanctions and AML/CFT standards). The CBC is of the view that the historical and traditional policy of moral persuasion which it follows vis-à-vis banks constitutes an effective system. The examiners also consider that the general policy on sanctions could be reviewed, as non-supervised persons appear under the law to be liable to greater penalties (including criminal sanctions) for breaches of AML requirements than supervised persons are.
48. The Central Bank has issued the Directive for the Regulation of Money Transfer Services, which provides terms and conditions for the licensing and operating of money transfer services. Value transfer services are, however, not covered and should be.

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

49. The DNFBP covered by the AML Law, like financial institutions, are subject to CDD, record keeping, and internal reporting requirements. Guidance Notes have been issued by the Institute of Certified Public Accountants to accountants and auditors and draft Guidance Notes have been prepared by the Cyprus Bar Association for lawyers, but have not yet been formally issued. Guidance Notes have also been issued to international trust companies (notwithstanding that they are not covered in section 61 of the AML Law). Guidance Notes remain to be issued for most trust and company service providers, real estate agents, dealers in precious metals and dealers in precious stones. The Guidance Notes that have been issued include a number of positive, strong statements for the approaches of DNFBP in countering money laundering.
50. Some of the same issues in respect of the need for core preventive obligations to be in the law, discussed above in the context of financial institutions, arise also in the context of DNFBP. The AML Guidance Notes in some other areas need to be enhanced, including: understanding of ownership and control structures; undertaking enhanced due diligence for higher risk

customers; in respect of politically exposed persons; and in respect of monitoring of complex, unusual transactions or patterns of transactions.

51. The evaluators consider that the Cyprus Bar Association will need more staff resources as its AML/CFT programme develops and, in particular, to monitor implementation of the Recommendations and Guidance. Although the Institute of Certified Public Accountants has outsourced AML/CFT monitoring of its membership, the outsourcing relationship itself will need to be monitored by the Institute. The evaluators welcome the plans to designate MOKAS as the supervisory authority for real estate agents and dealers in precious metals and stones. The same comments apply to the sanctioning regime, as are made above.

Legal persons and arrangements and non-profit organisations

52. Current and accurate information on directors and shareholders is required to be sent to the Registrar of Companies within a specified period. The Department of the Registrar of Companies shares all the information it holds with other competent authorities. Beneficial ownership and control information on customers is held by lawyers and financial institutions, because of the application of customer due diligence standards. The Central Bank itself can obtain and disclose beneficial owner and control information on customers of international trust companies that are legal persons. Lawyers, who are subject to the customer identification requirements of the AML-law represent the majority of the company service providers. Additionally, guidance indicates that accountants and auditors should obtain beneficial ownership and control information. Some DNFBP, including lawyers and other company service providers, are not yet covered by Guidance Notes.
53. Information held by a financial institution or a DNFBP can be obtained for investigative purposes by MOKAS. For Cyprus to be fully compliant with Recommendation 33 a framework for the supervision of company service providers, which requires them to obtain, verify and retain adequate, accurate and current records of the beneficial ownership and control of legal persons should be introduced, which allows the supervisor to have access to such records. The evaluators welcome the firm commitment and active steps by Cyprus to introduce company service provider regulation.
54. In connection with accounts to be opened in the name of clubs, societies and charities, a bank is expected to satisfy itself as to the legitimate purpose of the organisations and verify the identity of all authorised signatories. In the case of partnerships and other unincorporated businesses the identity of principal beneficiaries should be verified, in line with the requirements for natural persons.
55. In relation to trusts, the Cyprus authorities have stated that the vast majority of trusts in Cyprus are established by professionals such as lawyers and international trustee services companies. Lawyers are covered by the AML Law for the creation, operation or management of trusts, while guidance has yet to be issued to them. The law does not cover international trustee services companies, although guidance has been issued by the Central Bank of Cyprus. A statutory framework should be introduced for the supervision of trust service providers, which requires such providers to obtain, verify and retain records which are adequate, accurate and current on the beneficial ownership and control of such legal arrangements. The evaluators welcome the active steps by Cyprus to introduce trust regulation. In relation to trusts, there are provisions in most of the Guidance Notes (or, in respect of international trust companies licensed by the CBC, the wording attached to the licence) which state that the Institution should verify the trustees, the settlor and beneficiaries. It would be helpful to include specific reference to verifying the identity of settlors and beneficiaries in the G-Investment Brokers.

56. There was no evidence of a formal review of the adequacy of laws and regulations in the non-profit organisation 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 proportional oversight of this sector and to whether and how further measures need taking in the light of the Best Practice Paper for SR.VIII.

National and international co-operation

57. The Cyprus authorities have done commendable work in bringing together the competent authorities in the AML/CFT framework. The Advisory Authority, for example (now under MOKAS leadership) meets quarterly to discuss potential risks and coordinate enhancements to the system. However, there is still scope for the Advisory Authority to deepen its role – particularly in facilitating an even more coordinated response to these issues, in developing a more strategic analysis of the threats and vulnerabilities, and in reviewing the performance of the system as a whole. The Advisory Authority (or one of the supervisory authorities or groupings) could coordinate the AML/CFT Guidance Notes, and provide input on quality control. The Advisory Authority could usefully develop some key performance indicators for the system as a whole and review the system periodically against them. To do this it will need to ensure that it receives accurate statistical information (including a breakdown of the total number and types of investigations, prosecutions and convictions for financing of terrorism and money laundering). More work is needed on the provision of meaningful statistical data on the national AML/CFT response, and the Advisory Authority should review the information required for it to carry out its tasks.
58. 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 implemented.
59. Judicial mutual legal assistance is being provided. Statistical information was provided in respect of the execution of requests under the Council of Europe Convention on Mutual Assistance in Criminal Matters of 1959 (ETS 30) and under the Strasbourg Convention (ETS 141). Requests made or received under Convention 141 were executed significantly more rapidly. No detailed breakdown of the offences to which requests under ETS 30 was available. While no one has been extradited to or surrendered by Cyprus for money laundering (or terrorist financing) offences, the extradition system is functioning properly.
60. A fund was created by Cyprus shortly after the on-site visit for the purpose of depositing confiscated assets, including those shared with foreign authorities (in line with Criterion 38.4).
61. MOKAS has a broad capacity to exchange information, and there appear to be no obstacles in the way of prompt and constructive information exchange. The examiners noted with satisfaction the increasing volume of exchange of information between MOKAS and foreign FIUs. MOKAS's own statistical data on non-judicial mutual legal assistance requests should include response times, and information as to whether the request was fulfilled (in whole or in part) or was incapable of being fulfilled.
62. The prudential supervisory authorities all have broad powers to exchange information with foreign counterparts. The keeping of statistical data on their information exchange (which should be available to the Advisory Authority) is also advised.

III MUTUAL EVALUATION REPORT

1 GENERAL

1.1 General Information on Cyprus and its economy

1. The Republic of Cyprus (hereafter “Cyprus”) is located at the North-Eastern end of the East Mediterranean basin – at the crossroads of Europe, Asia and Africa. It is the third largest island in the Mediterranean, after Sicily and Sardinia. It has an area of 9,251 square kilometres. Its population is estimated to be 750,000. Population distribution by ethnic group is 84,7 % Greek Cypriots, 12,33 % Turkish Cypriots and foreigners residing in Cyprus account for 3 % of the population.
2. Cyprus is an independent sovereign Republic which became independent from the United Kingdom in 1960. Cyprus has since then had a Presidential system of Government. The President is elected by universal suffrage for a 5-year term of office. The President ensures the executive power through a Council of Ministers appointed by him. The legislative authority in the Republic is exercised by the House of Representatives. There is a written Constitution. The administration of Justice is exercised by the island’s separate and independent judiciary.
3. Since 1974, the Northern part of the island has not been under Government control, and this report only covers those parts of the island under Government control.
4. In May 2004, Cyprus became a member of the European Union. Since its accession to the European Union (hereafter EU), supranational laws and regulations, where they are directly binding, apply (in this context, the 1st and 2nd European Community Directives on Money Laundering Prevention).
5. Cyprus is a small open economy, with tourism and other services dominating. Services as a whole account for approximately 76% of GDP, while tourism and financial intermediation account for 25% and 7% of GDP respectively. It exhibits a high degree of real and nominal convergence with the European Union. Per capita income is about 81 % of the European Union (25) average in 2004.
6. In 2002 and 2003 economic growth was subdued. Economic growth in 2004 was 3,8 %, and 4 % is expected in 2005. The rate of inflation in 2004 was recorded at 2,5 %, as opposed to the increase in the rate of inflation of 4.1 % in 2003. The deceleration of the rate of inflation was described by the Cyprus authorities as mainly due to the elimination of “one-off” factors, such as an increase of VAT rates and other indirect taxes, which had led to the 2003 rate of increase. In 2005 the inflation rate between January and September was 2.5%. No formal target has been set for inflation, though the Central Bank is committed to maintaining inflation at low levels.
7. The Cyprus pound has been unilaterally pegged to the ECU since 1992 and to the Euro since 1999. Fluctuations around the central parity are small, within the targeted narrow band of +/- 2,5%.
8. The Cyprus authorities aim to join the Euro area on 1 January 2008 and, towards this end, are determined to firmly maintain policies that safeguard the fulfilment of the Maastricht criteria.
9. The Cyprus authorities have provided the following macroeconomic data.

Table: Major Macroeconomic Magnitudes

	2004	2005	2006	2007	2008
Real GDP (% change)	3,8	4,1	4,2	4,3	4,5
CPI inflation (%)	2,3	2,5	2,5	2,1	2,0
Unemployment Rate (%)	3,6	3,8	3,6	3,4	3,2
General government balance (% of GDP)	-4,2	-2,9	-1,7	-1,5	-0,9
Government gross debt (%of GDP)	72,0	71,9	69,2	65,7	58,1

10. Cyprus has in recent years developed as a major regional business and financial centre, with a robust financial services industry, both domestic and offshore.
11. Cyprus also began operating in the 1980s as an “offshore” financial centre and this business developed mainly due to the existence of a wide network of treaties with around 40 countries for the avoidance of double taxation, and the low taxation rate (4.25 %) applicable to profits of international business enterprises. As such Cyprus is an attractive destination for international business. In 2003, there were approximately 14.000 international business enterprises (IBEs) – formerly known as offshore companies – registered in Cyprus. These IBEs are usually referred to by the Cyprus authorities as overseas companies. The number of companies with a physical presence in 2003 was 2000.
12. In 2002, legislation was passed abolishing the “offshore” regime, involving tax advantages for IBEs. From January 2003 new IBEs have the same tax status as domestic companies, as the 2002 legislation introduced a uniform rate of tax on companies (10 %), irrespective of their ownership and place of operation. Pre-existing IBEs, which were in operation as at 31/12/2001, were given the option to maintain their existing tax status only until the end of 2005. As from 1/1/2006, IBEs can operate internally as well.
13. The banking sector is divided into two categories – as fully described beneath – domestic banks, and International Banking Units (“IBUs”)⁵.
14. Paragraph 30 of the Second Evaluation Report stated “The CBC is the authority vested with the responsibility of granting the permits to IFCs and Feeder Funds to register in Cyprus and the subsequent supervision and regulation of their activities³. In Cyprus, “IFC” is a descriptive term used for Cyprus enterprises owned by non-residents which provide financial services to other non-residents. After the enactment of the Investment Firms Law of 2002, SEC became the competent authority for licensing and regulating all enterprises offering investment services to the public with the exception of 40 international independent financial advisors.
15. Under the supervision of the CBC remain 40 International Financial Services Companies (IFCs), whose activities are confined to offering investment advice without handling any client funds. It is proposed SEC will assume the regulation of the above enterprises upon the enactment of appropriate legislation for the regulation of independent financial advisers. In addition, there exist under the regulation of the CBC, more than 200 former IBEs (known as “feeder funds”) which are wholly owned subsidiaries of overseas collective investment schemes. With the repeal of the Exchange Control Law, on Cyprus’ accession to the European Union, feeder funds have continued to retain the

⁵ See footnote 3.

licence issued by the CBC under the provisions of the Capital Movement Law. In addition, as discussed in paragraph 18, there are some six former IBEs offering trustee services, in respect of which the licence issued by the CBC remains in force.

16. As a European Union member, any structural elements set out in paragraph 7 of the AML/CFT Methodology 2004, which might significantly impair implementation of an effective AML/CFT framework, are being addressed by the Cyprus authorities. For example, transparency and good governance principles are in place. The public generally have access to administrative information – except in relation to some confidential information kept by government departments. Article 29 of the Cyprus Constitution specifically provides:

“1. Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.

2. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this Article, such person may have recourse to a competent court in the matter of such request or complaint.”

17. Any grievances or complaints regarding administration or access to information can be referred to an Ombudsman, or the person can file an action before the Administrative Court.
18. Cyprus has a comprehensive legal and administrative framework in place against corruption. Cyprus has ratified all international instruments in this area and provisions criminalising active and passive corruption in various forms are contained in a number of domestic laws. Cyprus is a member of the Group of states against Corruption (GRECO).
19. Judicial power is administered by the Supreme Court of the Republic, the Assize Courts for all Districts, District Courts, a Military Court, an Industrial Disputes Court, Rent Control Courts and Family Courts. Under the Constitution, judges are bound to be impartial and, as noted, are independent from other branches of government. The Supreme Court Judges and the Attorney General are appointed by the President of the Republic. The Attorney General is the Head of the Law Office of the Republic, which is an independent office. The Attorney General is the legal adviser of the President and of the Council of Ministers and directs prosecutions. Cyprus follows the English Common Law legal tradition and some of its legislation follows relevant United Kingdom legislation.
20. According to a Constitutional provision and a similar provision in the “Courts of Justice Law”, any decision given by the Supreme Court is binding on all Courts and all organs or authorities in the Republic of Cyprus and is given effect to and acted upon by the organ or authority or person concerned.
21. High ethical and professional standards for public officials, police officers, prosecutors and judges are in place. Codes of conduct for all these professional persons exist and are strictly implemented. These are observed by the various disciplinary bodies, which can impose penalties in cases of breaches of such rules by the professionals concerned.
22. Professionals, such as accountants, auditors and lawyers have to be registered and licensed according to the relevant domestic laws and regulations of their professional bodies. Furthermore, Codes of Conduct and Good Practice exist for such professions, including disciplinary procedures and penalties.

1.2 General situation of money laundering and financing of terrorism

23. The money laundering situation has not changed in Cyprus in the last four years. Proceeds of crime continue to be derived from both domestic and foreign predicate offences. Recorded domestic criminal offences for the last four years are set out in the table beneath, which shows that Cyprus has a relatively low level of domestic crime. That said, domestic crimes which generate illegal proceeds are: fraud (including the offence of “obtaining money or goods by false pretences”); burglary; theft; and drug trafficking offences. In relation to the latter, the Cyprus authorities state that there is no tradition of narcotic production or trafficking and a relatively limited local use of narcotic drugs.
24. Organised crime groups are reported currently not to exist in Cyprus, and there is no established link between Cyprus and organised crime groups in foreign countries.

Table: Recorded Offences

Offences	Year	Number of reported cases	Number of detected cases	Number of convicted persons	Number of persons awaiting trial
Murders and attempted murders	2001	15	9	4	7
	2002	8	6	3	3
	2003	27	16	12	34
	2004	29	13	26	9
Arsons and attempts	2001	66	21	4	10
	2002	106	27	3	20
	2003	192	49	5	74
	2004	130	20	0	0
Robberies	2001	42	29	40	26
	2002	38	26	13	33
	2003	69	34	18	59
	2004	104	49	33	96
Drug offences	2001	398	373	205	153
	2002	436	426	162	258
	2003	475	465	251	256
	2004	515	501	51	29
Damages by explosives	2001	50	80	1	8
	2002	23	2	6	8
	2003	34	8	1	15
	2004	47	2	65	40
Burglaries	2001	801	548	686	744
	2002	1228	681	630	748
	2003	3155	689	849	1139
	2004	3329	672	706	1381
Thefts	2001	720	578	680	578
	2002	948	611	566	620
	2003	1504	412	491	382
	2004	1140	312	457	621

Other serious offences (fraud cases are included)	2001	2425	2123	1281	1782
	2002	1987	1735	1954	1852
	2003	1825	1415	1206	2443
	2004	2349	1866	1540	2098

25. The Cyprus authorities indicated that the police investigate numerous money laundering offences also based on foreign predicates, and that they fully recognise that proceeds from foreign predicates may be laundered through Cyprus. The present examiners were also advised that there were some investigations and prosecutions in respect of money laundering based on foreign predicate offences, but none were successfully concluded. In a few cases, freezing orders were obtained in Cyprus awaiting the results or the outcome of investigations of the predicate offence committed abroad. In two instances, drug money laundering charges had been filed in Cyprus based on foreign predicates, but the foreign authorities advised they were unable to proceed with the case due to lack of evidence and the cases were withdrawn by the Cyprus authorities. As noted beneath, all the convictions recorded for money laundering offences during the relevant period since the second evaluation visit related to domestic predicate offences, and they were, so far as the examiners are aware, all tried together with the domestic predicate offence, as “own proceeds” laundering. There were understood to be four convictions for money laundering since the second on-site visit in 2001. At the time of this on-site visit, in April 2005, at least 14 money laundering cases were reported as currently being before the courts, but there were difficulties in establishing precise information about all these cases, as the police do not always apprise the FIU of all money laundering investigations. It was acknowledged that this was a weakness. Work was in progress, at the time of this on-site visit, to improve the collection and centralisation of statistical data in relation to money laundering investigations prosecutions and convictions.
26. Historically, the Cyprus authorities considered that because of the existence of a strict exchange control regime, the possibility of money laundering at the placement stage, was minimal. The replacement of the Exchange Control Law, by the Capital Movement Law, upon Cyprus’ accession to the European Union on 1/5/2004 is considered by the Cyprus authorities to have enhanced controls over cross-border movement of cash. The Capital Movement Law and the CBC Law provide that only persons authorised by the CBC can act as dealers in foreign currency. Other factors include the very limited role of cash operations in the Cyprus economy and the absence of casinos (in the Government controlled part of Cyprus) and independent *bureaux de change*. Additionally the Cyprus authorities point out that Cyprus legislation generally restricts foreign ownership of property to citizens of European Union member states, though citizens from non-European Union member states can also invest in real estate property for housing or business purposes not exceeding a certain size with the relevant consent from the Council of Ministers (through the Ministry of the Interior).
27. Thus, it is believed that most money laundering activity takes place at the layering stage through financial banking transactions. The large majority of STRs however come from the banks. MOKAS stated it was not happy with the small volume of reports from lawyers and accountants, given that only lawyers and accountants can set up the international business enterprises and that lawyers are mainly responsible for setting up trusts. It is noted at this point that there has never been a register of trusts, other than one covering domestic charitable trusts only.
28. Turning to the financing of terrorism issue, Cyprus ratified the 1999 United Nations Convention for the Suppression of the Financing of Terrorism in November 2001. It was explained to the examiners that financing of terrorism is criminalised in Cyprus under sections 4 and 8 of the Ratification Law 29

(III) / 2001 in respect of the above-mentioned Convention. The practical consequences of this have not been tested in court, as yet.

29. The Council of Ministers Decision Number 54,374 of 4 October 2001 empowers the implementation of necessary measures to enforce United Nations Security Council Resolutions 1267, 1333, 136, and 1373. Since 1 May 2004, Cyprus is also obliged to follow relevant European legislation on the freezing of terrorist assets. The Cyprus authorities have not frozen any accounts, as yet, in respect of any names, which appear on the United Nations lists issued under the above-mentioned Resolutions, or on the European Union (or US) lists, as no named person has been located in Cyprus.
30. There have been no STRs filed with MOKAS in respect of financing of terrorism, though the Cyprus authorities have conducted some enquiries into financing of terrorism on behalf of foreign FIUs (based on general requests addressed to all FIUs, which were members of the Egmont Group). All such enquiries made in Cyprus were thus externally generated (two in 2001; five in 2002; six in 2003; and two in 2004). If there were to be an internal financing of terrorism enquiry, MOKAS advised that they would deal with it (in accordance with section 10 of the Ratification Law of the International Convention for the Suppression for the Financing of Terrorism⁶).
31. There are 2844 non-profit organisations in Cyprus, and 330 charitable bodies in Cyprus. Charities are licensed and registered by virtue of the provisions of the “Charities Law”, Cap. 41, and a certificate of incorporation is thereby granted. Registered charities have, according to the provisions of the abovementioned law, to prepare and file accounts for all money received and all payments made. Similar provisions as in the Charities Law are contained in the “Societies and Institutions Law” (Law No. 57 / 1972) which regulates these types of non-profit organisations. These institutions need also to be licensed and registered, and their accounts also have to be audited. The Department of Interior registers all clubs and charities which are set up. The Cyprus authorities have yet to undertake a formal analysis of the threats posed by this sector (see chapter 5.3 beneath).

⁶ Now see section 9.

1.3 Overview of the Financial Sector and DNFBP

Financial Sector

32. As noted, banks licensed to carry on business in Cyprus may be classified into two categories: Domestic banks and International Banking Units (“IBUs”)⁷.
33. There are 14 domestic banks, out of which 11 are commercial banks and 3 are specialised financial institutions (two of the latter are government owned). Six of the 11 commercial banks are foreign owned, of which two operate in the form of branches. Domestic banks operate through a network of 467 branches all over Cyprus. As at the end of December 2004, the consolidated total assets of all domestic banks amounted to CYP18.230mn (approximately US\$41,774mn).
34. There are 26 IBUs, of which 5 are local subsidiaries of foreign incorporated banks and 21 are branches of foreign incorporated banks. The term “International Banking Unit” is not a legal one but a descriptive term which denotes a foreign owned bank operating in Cyprus, which by virtue of certain conditions attached to its licence, is not allowed to deal in Cyprus pounds and deal with both residents and non-residents in foreign currencies. It should be noted, however, that following a major tax reform in 2002 and Cyprus’s commitment to the Organisation of Economic Co-operation and Development, in anticipation of Cyprus’s entry into the European Union, the so-called “harmful tax practices” and “ring fencing” of international business enterprises established in Cyprus have been effectively abolished, subject to a transitional period until the end of 2005. As from 1st January 2006, there will be no distinction between a “domestic” and an “international” company or between a “domestic bank” and an “International Banking Unit”. As at the end of December 2004, consolidated total assets of all IBUs amounted to US\$12,531 mn.
35. Notwithstanding the above distinction, domestic banks and IBUs have always been subject to the same supervisory regime by the CBC with regard to both on-site and off-site examination. All prudential requirements, directives and recommendations applicable to domestic banks are equally applied to IBUs.
36. Under the CBC Law of 2002, the CBC is the competent authority for the licensing and supervision of legal persons whose business activities consist of the acceptance of money exclusively for their transfer from and to the Republic of Cyprus by any means. At present, 6 money transfer companies have been licensed to operate in Cyprus, 2 of which are authorised representatives of “MoneyGram”. The remainder represent “Western Union”, “Travelex”, “Xpress Money” and “First Remit”. The network of these companies includes 164 branches of credit institutions and over 85 other agents spread all over Cyprus.
37. The CBC supervises banks in their carrying out of securities and capital market business. In addition to the investment services offered by banks, the securities and capital market is operated by 47 investment firms licensed under the Investment Firms Act of 2002 to 2004 and 2 UCITS management firms licensed under the Open-ended Undertakings for Collective Investment in Transferable Securities (UCITS) and Related Issues Law of 2004. These 49 firms are supervised by the Cyprus Securities and Exchange Commission (“SEC”).
38. Responsibility for the supervision of some 70 firms, formerly designated as international financial services companies of IFCs (see above) supervised by the CBC under the Exchange Control Law has been transferred to SEC. Some 40 independent financial advisers who provide investment advice but who do not hold client funds are still designated as international financial services companies. A new

⁷ See footnote 3.

law is being drafted which will require these investment advisers to apply to SEC for a licence. It is expected that this law will be enacted by the end of 2005. In the meantime, these investment advisers continue to be supervised by the CBC.

39. There are 2 UCITS managers (which currently do not manage any UCITS) which are supervised by SEC. Until Cyprus' accession to the European Union, collective investment schemes could only be established in Cyprus under the International Collective Investment Schemes Law of 1999. These schemes, which were authorised and regulated by the CBC were established by non-residents and marketed to non-residents. Following Cyprus's accession to the EU, there is no longer a distinction between collective investment schemes, as regards the residential status of managers, investors or unit holders.
40. Cyprus has one stock exchange, the Cyprus Stock Exchange, which was established in 1996. The Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001 states that SEC's responsibilities include the supervision and control of the operation of the stock exchange and the transactions carried out on the stock exchange. However, Cyprus law also does not permit public administrative bodies to be supervised by other public administrative bodies. Plans are therefore in hand to bring legislation before the Cyprus Parliament in 2007 so that there will be a framework for supervision of the exchange by SEC. The exchange has 16 member firms, all of which are financial institutions. There are more than 150 companies listed on the 3 markets offered by the exchange. Most listed firms are local trading companies. Only in connection with one firm does the majority of the ownership rest with non-Cyprus residents. There are 25 listed closed-ended funds with a value of some € 300 mn.
41. There are 43 insurance companies authorised by the Superintendent of Insurance to carry out insurance in Cyprus or from within Cyprus. Of these insurers, 40 companies (4 composite, 8 life; 19 non-life) are incorporated in the Republic of Cyprus (29 operating in Cyprus and 11 from within Cyprus). The largest insurers comprise part of local groups owned by banks. Two insurers (1 composite, 1 non-life) are incorporated abroad. Furthermore, there are 5 EU branches operating in Cyprus under the freedom of establishment and more than 160 insurance undertakings operating under the freedom of services. Of the local companies, 2 carry out reinsurance business. All types of insurance/reinsurance companies are supervised by the Superintendent of Insurance.
42. Following Cyprus' accession to the European Union, 5 insurance undertakings which have their head office in other EU Member States now operate in Cyprus in the form of branches. Almost 130 undertakings operate from elsewhere in the EU under the EU's freedom to provide services.
43. Insurance intermediaries have been registered for some years for some years by the ICCS. In 2004, the insurance legislation was amended by the Insurance Services and Other Related Issues amending Law of 2004 for EU harmonization purposes. Upon the coming into force of this law, all intermediaries had to register in order to obtain the new licence. Currently, there are approximately 1500 registered intermediaries, all having a physical presence in Cyprus (1100 natural persons and 400 legal persons). The vast majority of these intermediaries are insurance agents / advisers acting on behalf of life insurance companies.
44. The co-operative credit sector is the strongest sector of the co-operative Movement. The Co-operative Credit and Saving Societies (CCSSs) are non-profit making units and their primary operation is accepting deposits and granting of credit facilities to their members. The Co-operative Central Bank Ltd has the dominant position in the co-operative credit sector and plays the role of the central banker for the CCSSs.
45. The main financial activities of the CCSSs are to accept deposits and to grant loans to their members for the following purposes: agricultural, house-building, personal-professional, public and local authorities.
46. The co-operative credit sector consists of 362 credit institutions as follows:

CO-OPERATIVE SOCIETIES OF THE CREDIT SECTOR	Number			
	2000	2001	2002	2003
Co-operative Credit Societies	296	296	296	295
Co-operative Savings Societies	63	66	66	66
Co-operative Central Bank Ltd	1	1	1	1
TOTAL	360	363	363	362

47. The co-operative movement plays a vital socioeconomic role and handles one third of the domestic deposits of the economy. According to the official data, deposits on 31st December 2003 reached 3,9858 million Cyprus pounds compared to 3,5134 million on the same date in 2002.
48. Based on the agreement reached between Cyprus and the European Union, the harmonisation of the co-operative credit sector with the *Acquis Communautaire* involves the implementation of a series of reforms (legal, structural, administrative, financial and operational):
- Harmonisation of the legislation of the co-operative societies with the related European Directives.
 - Establishment of arrangements for permanent affiliation of a number of CCSSs with the Co-operative Central Bank Ltd, which will serve as the “Central Body”. (Participation in the permanent affiliation arrangements can be either by CCSSs that do or do not fulfill the requirements of the European Directive 2000/12/EC as “stand alone”).
 - Reorganisation and upgrading of the Co-operative Societies` Supervision and Development Authority (CSSDA) in order to enhance its administrative capacity and supervisory role as the competent supervisory authority.
 - A new harmonised Law implementing the Directives relating to the taking up and pursuit of the business of credit institutions (Directives 2000/12/EC and 2000/28/EC) entered into force on the 25th of July 2003.
 - With the application of the said harmonized Co-operative Law, the CSSDA became independent, its role was upgraded and its responsibilities extended. The CSSDA is no longer under the Ministry of Commerce, Industry and Tourism with regard to the supervision of CCSSs.
49. The Cyprus authorities have stated that there are no *bureaux de change* in the Republic dedicated to exchanging one currency into another. The Cyprus authorities also advised that hotels are not involved in foreign exchange trading. Exchange services are offered on an incidental basis, only to their clients for small sums of money.

DNFBPs

50. No casinos have been established in Cyprus. The Cyprus authorities consider that the Regulation and Taxation of Collective Gambling Schemes law of 1997 (Law No. 75 (I) of 1997, enacted of 27 July 1997) prevents a casino to be established without a licence – it would be a criminal offence under this law to establish a casino without a licence.
51. There are 238 real estate agents. Real estate agents are not supervised but they are registered with the Council of Real Estate Agents.
52. There are estimated to be some 300 dealers in precious metals or precious stones. Such dealers are neither supervised nor registered. Dealers may choose whether or not to become members of the Confederation of Jewellers.

53. There are 1,858 registered accountants in Cyprus. Accountants undertake audit, external accountancy and tax advisory activities. Accountants and auditors are supervised by the Institute of Certified Public Accountants of Cyprus. Section 5 of the Institute's Code of Ethics covers tax practice work. The Income Tax Law 2003 states that the preparation of accounts and tax computations must be submitted by members of ICPAS. Regulations made under Article 50 (a) of the ICPAC's Articles of Association provide that the term "practising the profession of accountancy" includes "Provision of any service which may be required under the provisions of any Law to be provided by an accountant and / or an auditor". Whilst the evaluators recognise that tax returns may only be filed by qualified accountants, nevertheless, these provisions do not exclude tax advice from being provided by persons other than accountants and auditors. The Cyprus authorities advise that currently only qualified accountants provide tax advice to the public at large.
54. The Cyprus Bar Association (CBA) has advised that there are no notaries in Cyprus. There are approximately 1,631 registered practicing lawyers in Cyprus. All lawyers in practice are members of the CBA, which is the supervisory authority for lawyers.
55. There are some six trust and company service providers, which were licensed by the CBC as international trustee services companies. International trustee services companies ("ITCs") were originally authorised under the Exchange Control Law and, on the repeal of the above law and its substitution by the Capital Movement Law of 2003. The original permits issued by the Central Bank remain valid until revoked. No estimate is available of the number of domestic trust and company service providers. Trust and company work is carried out mainly by firms of lawyers or accountants or international trustee services companies. Trust and company work by firms of lawyers and accountants is concentrated in a few firms. There are also several specialist company formation agents. Directors of companies can be provided by firms of lawyers or other firms, such as company service providers. The register of approximately 136,484 companies is maintained by the Department of Registrar of Companies and Official Receiver.
56. The Cyprus authorities are committed to legislation in line with the Draft 3rd European Union Directive for the licensing and regulation of persons engaged in providing trust and company services. It is envisaged that the CBC will be the supervisory authority.

Customer Base

57. A number of representatives of financial institutions interviewed by the evaluators and the supervisory authorities were asked to estimate the geographical breakdown of their customer base. It would appear that the vast majority of customers in the investment and insurance sectors are Cypriots resident in Cyprus. A significant majority of customers of the banking sector would appear to also be Cypriots resident in Cyprus with, unsurprisingly, additionally, a significant minority of Cypriot expatriates. A minority of customers across the finance sector as a whole seemed to originate from, *inter alia*, the EU (with Greece and the UK being countries specifically referred to), the Middle East and Russia and South Africa. Turning to the trust and company service provider sector, the majority of customers establishing companies and trusts would appear to be based outside Cyprus, with a very large minority comprising Cypriot residents. It appeared that company and trust business is more global than in the financial sector.

Attitude to AML

58. The evaluators met with representatives of financial institutions from the banking, insurance and investment sectors (including the Stock Exchange), a firm of accountants and associations representing financial institutions and DNFBP. The evaluators would echo the comments made in the second evaluation report, that there is a strong commitment from the private sector to the anti-money laundering framework and to liaise with MOKAS. Firms were obviously comfortable with MOKAS.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

59. The nature of a Cyprus company refers to a legal device, which is a succession or collection of persons having at law an existence, rights and duties separate and distinct from those of the persons who are from time to time its members. The distinguishing features of a corporation are that it is a *persona* at law, i.e. an artificial, not a natural, person; and it has perpetual succession, i.e. its existence is maintained by its members who may be added to or changed from time to time.
60. The companies can be divided in the following ways:
- Companies limited by shares; and,
 - Companies limited by guarantee.
61. Companies which are limited by shares may be subdivided into:
- Public companies; and,
 - Private companies.
62. A company is established by incorporation at the Department of the Registrar of Companies. Forms must be filled and submitted to the Registrar of Companies by an advocate practising in Cyprus. The advocate must also draft and sign the Memorandum and Articles of the company. The shareholders who promote the company must also sign the Memorandum and Articles.
63. There must also be provided a form of notification under section 365A, Companies Law, Cap. 113. The relevant part of section 365A is provided herein translated into English from the Greek original Companies (Amendment) (N^o 1) Law of 2003:
- “1. With the care of the Registrar is published in the Official Gazette of the Republic a notification on the undertaking by him, for the custody and presentation as prescribed by section 365, of all the documents which are delivered to him by the companies as a consequence of the provisions of the present Law.*
- 2. The notification contains compulsorily:*
- (a) the name of the company,*
 - (b) the reference to the type of document and the subject, to which is referred to,*
 - (c) the date of filing.*
- 3. The notification is drafted with care from the company which files. In this case the notification is checked by the Registrar for its completeness and its accuracy.”*
64. A fee is payable to the Registrar as follows:
- CYP60 as a fixed amount plus a fee of 0.6% on the nominal capital of the company.
65. Overseas companies are defined by section 346 of the Companies Law, CAP. 113 thus: “*overseas companies, that is to say, companies incorporated outside Cyprus which, after the commencement of this Law, establish a place of business within Cyprus*”
66. These overseas companies which are already organisations with legal personality in the country of their incorporation are entitled, if they wish, to file certain documents with the Registrar of Companies and to acquire registration in Cyprus, within one month, from the establishment of a place of business in Cyprus. The overseas companies are not required to draft a Memorandum and Articles but only to file the following documents with the Registrar of Companies in accordance with section 347 (1) (a), (b), (c), (d) of the Companies (Amendment) (N^o 1) Law of 2003:

“347 (1) (a) “written report, from which it arises –

- (i) *the name and the legal form of the overseas company and the name of the place of business, if this differs from the name of the overseas company;*
- (ii) *the seat and the address (postal or otherwise) of the overseas company and the address (postal or other) of the place of business;*
- (iii) *the purpose and the object of work of the overseas company and the place of business;*
- (iv) *where this is relevant, the register overseas (with the pertinent registration number) of the overseas company, where its basic details have been filed;*
- (v) *the issued capital, where this exists.*
- (vi) *where this is relevant particulars in relation to the dissolution of an overseas company, the appointment, the personal particulars and the powers of the liquidators and the completion of the liquidation, insolvency, the arrangement of the insolvency or other proportionate procedure to which the overseas company is liable;*
- (vii) *where it refers to an overseas company of a non-member State of the European Union, in addition to the law of the State, from which the company is governed.”*

67. Finally, there is a fee of CYP100 for the registration in Cyprus of an overseas company. The services of an advocate are not necessary for registration.
68. The ownership of a company limited by shares lies with the shareholders and in the case of a company limited by guarantee it lies with the members of the company. Shareholders may be natural or legal persons. Directors of the company may be natural or legal persons. A private company must have at least one director and the public company must have at least two directors.
69. There are single shareholder companies which are private while public companies have at least seven shareholders. In public companies there is a freedom of transfer of shares, while in private companies the transfer of shares is subject to the approval of the board of directors and also has certain other restrictions. The same restrictions apply in the case of the transmission of shares owing to the bankruptcy or death of a shareholder.
70. In a company of two shareholders and more, the single director cannot be also secretary of the company. This can occur in a single shareholder company where the only director may also be secretary of the company. Each company must have a registered office in Cyprus and the address of this office is communicated to the Registrar of Companies. Overseas companies have, in addition, an authorised person or persons in Cyprus who receive documents and notifications on behalf of overseas companies or they receive court documents as an address for service.
71. In the case of registered companies the register must have the following information:
- (i) Registered office address;
 - (ii) The Memorandum and Articles;
 - (iii) A document containing the transfer of shares which also includes old and new shareholders;
 - (iv) A document showing the current directors and secretary and also which directors and secretary have resigned from office;
 - (v) An Annual Return for each year which contains the names and addresses of the current shareholders and the names and addresses of the directors and secretary and whether they also hold office in other companies;
 - (vi) A report of the allocation of shares;
 - (vii) The subdivision of shares into fractions of lower values or the reclassification of shares into higher values, for example, 100 shares of £ 1 to 20 shares of £ 5;
 - (viii) The ordinary, extraordinary and special resolutions of the company;
 - (ix) Financial reports of the company including balance sheets, auditors’ report;
 - (x) The company prospectus in the case of a public company.

72. The above information is available to the public through an examination of the company's file at the premises of the Registrar of Companies.
73. The information which is maintained by the company itself is a register of shareholders kept at the company's registered office address. This information is available to any person including creditors and members of the company.
74. The register of charges, mortgages and debentures is also available for inspection. This may be inspected by creditors and members. The register can also be inspected by the general public on payment of a fee. There are also registers of the directors and secretary, and of the directors' shareholdings.
75. These registers are located both in Cyprus and where a company is incorporated.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

76. The Cyprus authorities advise that the highest priority continues to be the strong monitoring and supervision of the financial sector and the provision of appropriate training to persons involved in the prevention and the detection of money laundering. With regard to training, particular attention is given to persons or professionals who have only recently been subject to the responsibilities and obligations provided in the anti money laundering law, such as lawyers, accountants, estate agents and dealers in precious stones and metals.
77. Furthermore, consultations have started within the Advisory Authority (which, as noted beneath, is the policy-making body for anti-money laundering issues) concerning the designation of a supervisory authority for estate agents, dealers in precious stones and precious metals. A possible solution is a proposal to the Council of Ministers of the appointment of the FIU as the Supervisory authority for these persons / professionals.
78. Regarding trust and company service providers, such providers are covered by the basic obligation in the AML Law to report suspicions of money laundering. The Cyprus authorities are committed to legislation in line with the Draft 3rd EU Directive for the licensing and regulation of persons engaged in these types of activities. It is envisaged that the CBC will act as the Licensing and Supervisory authority of persons engaged in such activities.
79. Training programmes are planned to be arranged for the abovementioned groups.
80. There are on-going consultations between the competent authorities and within the Advisory Authority, in order to evaluate the effectiveness of the system and address possible problems.

b. The institutional framework for combating money laundering and terrorist financing

Ministries and the Advisory Authority

The Ministry of Finance

81. The Ministry of Finance has responsibility for the development of policy on the regulatory framework for the financial sector with the exception of the banking sector which falls under the supervision of the Central Bank of Cyprus. It is also the competent authority for some of the supervisory authorities within the financial sector (such as the ICCS). The Customs and Excise Department, and the Inland Revenue also fall under this Ministry.

The Ministry of Justice and Public Order

82. The Ministry of Justice and Public Order is the designated central authority for the receipt and sending of requests for international mutual legal assistance and, in the former context, for the execution of such requests or their transmission to the competent authorities. The Ministry has established a unit for international legal co-operation. The Cyprus Police is also part of this Ministry.

The Ministry of Foreign Affairs

83. The Ministry of Foreign Affairs' responsibilities for anti-money laundering arise through the conclusion of international agreements and the discharge of certain functions of international coordination. It is represented on the Advisory Authority.

The Ministry of Health

84. The Ministry of Health has established an Anti-narcotic Council for the control and coordination of all domestic anti-narcotic activities. The Council is responsible for the strategic planning of national policy against addictive substances, the establishment of a data bank for the domestic and international drug situation, the organisation of prevention programmes and the development of co-operation with international organisations. The Unit for Combating Money Laundering (MOKAS) also participates in the Anti-narcotic Council in relation to drug trafficking proceeds.

The Advisory Authority for Combating Money Laundering

85. The Advisory Authority for Combating Money Laundering is established according to the provisions of sections 55 and 56 of the Prevention and Suppression of Money Laundering Activities Law, as amended (hereafter the AML Law – Annex 2A. This Authority is headed by the Attorney General or his representative (the Head of MOKAS) and it is composed of representatives of:
- (a) CBC;
 - (b) SEC
 - (c) the ICCS
 - (d) the Ministry of Finance;
 - (e) the Ministry of Justice and Public Order;
 - (f) the Police;
 - (g) the Customs and Excise Department;
 - (h) the Attorney General;
 - (i) the Association of Commercial Banks;
 - (j) the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and other professional bodies which the Council of Ministers may prescribe.
 - (k) any other organisation or service the Council of Ministers may prescribe.
 - (l) the Registrar of Companies.
86. The Advisory Authority has the following functions:
- (a) to inform the Council of Ministers of any measures taken and the general policy applied against money laundering offences;
 - (b) to advise the Council of Ministers about additional measures which, in its opinion, should be taken for the better implementation of this Law;
 - (c) to promote the Republic internationally as a country which complies with all the conventions, resolutions and decisions of international bodies in respect of combating laundering offences.

Financial Sector Bodies

Overview regarding the financial sector:

Financial institution / DNFBP	Responsible Authority	Legislation, regulations and guidance
Banks	CBC	<ul style="list-style-type: none"> • The Central Bank of Cyprus Law (the CBC Law) • The Banking Law • The Prevention and Suppression of Money Laundering Activities Law (AML Law) • AML Guidance Note to Banks, issued by the CBC in November 2004 (G-Banks) • Circular letter on electronic banking, issued by the CBC in June 2001
Money transfer businesses	CBC	<ul style="list-style-type: none"> • The CBC Law • AML Directive for the Regulation of Money Transfer Services, issued by the CBC in August 2003 (D-MTB) • AML Law • AML Guidance Note to Money Transfer Businesses, issued by the CBC in January 2005 (G-MTB)
Credit institutions	Cooperative Societies' Supervision and Development Authority (CSSDA)	<ul style="list-style-type: none"> • Co-operative Societies Law • AML Law • AML Directive to Co-operative Credit institutions, issued by the CBC in May 2005 (G-Banks)⁸
Investment firms	SEC	<ul style="list-style-type: none"> • The Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001 (the Securities and Exchange Commission Law) • The Open-Ended Undertakings for Collective Investment in Transferable Securities (UCITS) and Related Issues Law of 2004 (the UCITS Law) • Investment Firms Act 2002 - 2004 • AML Law • AML Guidance Note to brokers, issued by SEC in September 2001 (G-Investment Brokers)
Insurance companies	ICCS	<ul style="list-style-type: none"> • Law on Insurance Services and other related Issues of 2002 to 2004 ("the law on insurance services") • AML Law • AML Guidance Notes to life insurers and non-life insurers operating exclusively outside Cyprus, issued by the Insurance Companies Control Service in March 2005 (G – Insurers)
Accountants	ICPAC	<ul style="list-style-type: none"> • AML Law • AML Guidance Note for accountants and auditors, issued by the Institute of Certified Public Accountants of Cyprus in November 2004 (G - Accountants)
Lawyers and	CBA	<ul style="list-style-type: none"> • Advocates Law [Cap 2, 1955]

⁸ The Directive came into force one month after the assessment took place and was therefore within the two months timeframe adopted by MONEYVAL. The Directive is identical with the G-Banks, therefore the abbreviation is the same.

independent legal professionals		<ul style="list-style-type: none"> • AML Law • Draft AML Guidance Notes for lawyers, issued by the Cyprus Bar Association issued in March 2005 (G - Lawyers)
Estate agents		<ul style="list-style-type: none"> • The Estate Agents Law No 66 of 1987 • AML Law
Dealers in precious metals and stones		<ul style="list-style-type: none"> • AML Law
Casinos	Neither casinos nor <i>Bureaux de change</i> are present in Cyprus	
<i>Bureaux de change</i>		
Trust and company service providers	CBC for international trustee services companies	<ul style="list-style-type: none"> • G-International Businesses • Terms of licence issued by the CBC.

Central Bank of Cyprus (CBC)

87. The CBC Law provides for the independence of the CBC and defines its main tasks to be the following:
- to formulate and implement the country's monetary policy;
 - to conduct the country's exchange rate policy in consultation with the Council of Ministers;
 - to manage the official foreign exchange reserves of Cyprus and conduct foreign exchange operations;
 - to supervise banks in Cyprus;
 - to promote the smooth operation of payment and settlement systems; and
 - to perform the tasks of banker and financial agent of the government of Cyprus.
88. The CBC is also conferred with powers to regulate and supervise banks under the Banking Law. The Banking Law defines banking business, describes the minimum prudential standards that banks must meet and lays down the minimum authorisation requirements that must be satisfied before a banking licence may be granted by the CBC.
89. Furthermore, section 60 of the AML Law designates the CBC as the supervisory authority for all persons licensed to carry on banking business in Cyprus. By virtue of this law, the CBC has been assigned with the duty of assessing compliance of all banks, including their investment business activities, with the requirements of the AML Law for the implementation of anti-money laundering measures. Under section 60(3) of the AML Law, the CBC in its capacity as supervisory authority, is empowered to issue Guidance Notes to all banks in Cyprus in order to assist them in achieving compliance with the law.
90. In addition, the CBC, by virtue of the powers vested to it under the Central Bank of Cyprus Law, is the licensing and regulatory authority for all persons engaged in the provision of money transfer services in Cyprus. The CBC has also been appointed by the Council of Ministers as the supervisory authority for money transfer business for the purposes of the anti-money laundering legislation and has issued an anti-money laundering guidance note to such businesses. Some 10 international trustee services companies, 40 international independent financial advisers, 200 feeder funds and 11

collective investment schemes also retain a licence from the Central Bank and are subject to the Central Bank's guidance note on anti-money laundering.

Cyprus Securities and Exchange Commission (SEC)

91. The SEC was established in accordance with Article 5 of the Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001.
92. The SEC has the following responsibilities:
 - to supervise and control the operation of the stock exchange and the transactions carried out in the stock exchange;
 - to supervise and control the issuers of securities listed on the Stock Exchange, the licensed investment services companies as well as the collective investment schemes;
 - to carry out inspections over companies, the securities of which are listed on the Stock Exchange, over brokers and brokerage firms, investment consultants, mutual fund management companies;
 - to request and collect information necessary for the exercise of its responsibilities, to demand in writing the provision of information from all natural or legal persons or organisations that are considered to be in a position to provide such information;
 - to grant operation licences to investment firms, including investment consultants, brokerage firms and brokers;
 - to recall these operation licences for special reasons, as it is more specifically determined in Regulations that are published in accordance with the Securities and Exchange Commission Law.
 - to impose administrative sanctions and disciplinary penalties on brokers, brokerage firms and investment consultants, as well any other person who fall under the provisions of the stock market legislation.
93. The Investment Firms Act came into force in July 2002. Persons which provide investment services on a professional basis to third parties, other than banks, must be licensed by SEC. Firms, other than banks, which were under the supervision of the CBC under the Exchange Control Law (repealed on 1 May 2004) and which were providing investment services at the time of entry into force of the Investment Firms Act had to apply for a new licence from SEC.
94. The Council of Ministers, by its decision of 7 November 1997, designated SEC as the supervisory authority for the Cyprus capital market. In this regard SEC has been assigned with the duty of assessing compliance of all investment firms, undertakings for collective investment in transferable securities (UCITS) and their management companies with the "special provisions" of the AML Law (section 57 onwards), in respect of their investment business.
95. In accordance with section 60(3) of the AML Law SEC has issued a Guidance Note to investment brokers with the scope of assisting them in their obligations to combat money laundering through the capital market. A new Guidance Note, which includes the revised FATF Forty Recommendations of 2003 (and which replaces the previous one) is in its final draft form and will be issued soon.

The Insurance Companies Control Service (ICCS)

96. The ICCS is the supervisory authority for insurance companies authorised in Cyprus and is headed by the Superintendent of Insurance.
97. Under the Law on Insurance Services and other Related Issues of 2002 to 2004 the functions of the Superintendent of Insurance are to supervise the operation of Cyprus insurance companies and of

foreign insurance undertakings operating in the Republic, as well as the activities of the persons carrying on intermediation business. The Superintendent must concern himself with the securing of the fulfilment of licences' obligations and in general bear the responsibility of observing the legality of their activities, for the policy holders' interest and the interest of other persons who are entitled to a compensation by virtue of an insurance contract.

98. The functions of the Superintendent of Insurance also include the granting and the withdrawal of a licence to carry on insurance business, the taking of measures prescribed by the law in the event of violation of the legislation in force and the exercise of preventive or suppressive control.
99. The Council of Ministers, in accordance with section 60 of the AML Law, has designated the ICCS as the responsible supervisory authority for the assessment of the compliance of insurance companies with the AML Law. Under section 60(3) of the AML Law, the ICCS has issued Guidance Notes to those insurance companies whose activities fall within the scope of the AML Law, in order to assist them in achieving compliance with the law.

Criminal justice and operational agencies

The Financial Intelligence Unit – FIU (The Unit for Combating Money Laundering – MOKAS)

100. The Unit for Combating Money Laundering (MOKAS) was established pursuant to statutory authority and became operational in December 1996. It consists of representatives of the Attorney General (Counsels of the Republic), representatives from the Police and representatives from Customs and Excise. Financial analysts (accountants) also work with the Unit. All members of the Unit are appointed by name and are on detachment. All members have been specially trained in relevant issues both locally and abroad. All members of the Unit have the status of investigator. The Unit is headed by a Senior Counsel of the Republic – a member of the Attorney General's Office.
101. The Unit plays a critical role in the anti-money laundering strategy of Cyprus. It is responsible for the gathering, classification, evaluation and analysis of information relevant to laundering offences, for conducting investigations into such offences, and for issuing directives for the better exercise of its functions. To facilitate the exercise of its functions the law requires relevant financial businesses and supervisory authorities to report suspicious transactions and certain other indications of money laundering to the Unit. Reports made by the public to the police must also be transmitted to it forthwith. In addition to its statutory functions, the Unit is also engaged in various awareness-raising and training initiatives involving both the public and private sector. It also plays a pivotal role in the coordination of the activities of the various other bodies with responsibilities in the anti-money laundering area.
102. The Head of the FIU chairs the meetings of the Advisory Authority against Money Laundering, representing the Attorney General, and MOKAS provides the Secretariat.

The Police force

103. The Police has established a special Drug Law Enforcement Unit tasked with preventing and combating drug trafficking. This Unit can also investigate cases of drugs money laundering. This Unit has five branches and three sub-branches at the port and the airports.
104. Additionally a special Team for Serious Fraud Cases and Economic Crime was established in 1994, dealing with investigations of serious cases of fraud and money laundering cases.

Prosecution authorities

105. According to Article 113 paragraph 2 of the Constitution, the Attorney General has the power, exercisable at his/her discretion “in the public interest”, to institute and conduct criminal proceedings. The Attorney General is free to discontinue such proceedings under the same conditions by entering a *nolle prosequi*. Moreover, the Attorney General has the power, exercised at his/her discretion in the public interest, to take over and continue or discontinue private prosecutions.
106. The Attorney General exercises his/her powers under Article 113 paragraph 2 of the Constitution with the assistance of the Staff of the Law Office of the Republic. The Police and certain other government departments (such as the Department of Customs and Excise and the Income Tax and VAT Departments) can also prosecute certain categories of offences. However, they are liable to receive instructions and directions from the Attorney General in the exercise of their prosecutorial functions.

The Customs and Excise Department

107. Customs and Excise, as well as collecting revenue, have responsibility for combating national crime including anti-money laundering activities. The Department has established an Investigation section at the Customs Headquarters and also has four regional offices. Suspicious cases of money laundering are screened by the Investigation section, and if there are reasonable grounds to believe that a money laundering offence has been committed, these are reported to the Unit. Customs and Excise actively participate in the work of the Unit.
108. Additionally, since 1989 Customs and Excise has exercised control over cash movements (import and export) in an effort *inter alia*, to identify suspected money launderers. It has also established a special Drug Unit, functioning in the Departments’ Investigation section. The Drug Unit investigates drug related offences occurring at points of entry and exit of Cyprus (in co-operation with the Police). This Unit is represented on the Advisory Authority against Money Laundering. Their officers are vested by the Cyprus Customs and Excise Legislation [Law 94 (I) of 2004] with extensive powers in order to enable them to enforce controls, as follows:
 - to examine goods;
 - to require any person or company concerned with the import, export or shipment of goods to provide any information in relation to the goods and take copies thereof;
 - to search persons, premises, and customs controlled areas;
 - to take representative samples;
 - to detain goods;
 - to seize goods and documents;
 - Right of access to documents (including electronic ones);
 - to conduct audit control of business records
 - to detain and/or arrest any person(s) found committing or attempting to commit, or being in any way concerned in the commission of offences relating to fraudulent evasion of duty or evasion of any prohibition or restriction;
 - to institute legal proceedings for offences or to compound offences;
 - to conduct proceedings before the appropriate court;
 - to freeze and to seize assets of persons charged with knowingly acting contrary to the Prevention and Suppression of Money Laundering Activities Law of 1996 N°61 (I) / 96;
 - to exchange and share information in Customs matters with other Customs administrations for law enforcement purposes;
 - to conduct inquiries on behalf of other Customs administrations under certain conditions.
109. Customs officials have been specially authorised to investigate offences in contravention of the AML Law. Cases of suspected money laundering for which the suspected predicate offences are of a

Customs nature and involve import or export of goods or currency are forwarded by the FIU to the Investigation Section at Customs Headquarters for investigation in co-operation with the Unit.

Inland Revenue

110. The Inland Revenue Office co-operates closely with the Unit and the Police in order to assist them to trace or to confirm the real income of any person, in the context of the investigation of a case.

Central Information Service

111. The Central Information Service forms part of the Cyprus Police and its members are members of the Cyprus Police and are accountable for administrative matters to the Chief of Police and for operational matters to the President of the Republic of Cyprus. Therefore, the members of the Central Information Service have the same duties/responsibilities/powers and use the same techniques in the field of investigation as all other Police Officers. The Central Information Service:

- participates in operations and contributes to the investigation of cases related to terrorist activities and other forms of serious offences;
- develops sources within suspected groups / organisations and other sensitive sectors;
- collects intelligence;
- analyses and disseminates information;
- briefs the Police Headquarters or other Government Agencies when it is deemed necessary;
- co-operates with the Police Headquarters and other Government Agencies;
- co-operates with Secret Services of member States of the European Union or third countries in exchanging and investigating information;
- conducts discreet surveillance of suspicious activities, as well as of places of worship and gathering of suspected aliens. Also monitors their financial and business activities.

DNFBP and other matters

The Institute of Certified Public Accountants of Cyprus (ICPAC)

112. Accountants in Cyprus have established a professional association, namely ICPAC. Membership of the Institute requires either membership of one of the major accountancy bodies in the United Kingdom or another equivalent qualification. The Institute demands full compliance with International Accounting Standards and the Code of Ethics of the International Federation of Accountants.
113. ICPAC was appointed by the Council of Ministers on 7 March 2000 as the supervisory authority for accountants and auditors. The Institute has issued Guidance Notes for accountants and auditors regarding anti-money laundering measures.
114. The Institute is represented in the Advisory Authority against Money Laundering and also in the Co-ordinating Body Against Corruption, chaired by the Deputy Attorney General, which examines and evaluates the measures against corruption and submits proposals to the Government and the Parliament for any additional measures which are deemed necessary.

The Cyprus Bar Association (CBA)

115. The legal profession is regulated by the Advocates' Law which requires that all lawyers practicing in Cyprus be registered and possess a practicing certificate. The CBA was established under the Advocates Law Cap. 2 1955 and appointed by the Council of Ministers on 7 March 2000 as the supervisory authority for lawyers.
116. The CBA has drafted Guidance Notes for anti-money laundering which, were in draft form at the time of the on-site visit. They are now being finalised and are being translated into English. It was proposed that the Guidance Notes would be circulated by the CBA to its members on 17/12/2005. This assessment report considers the draft Guidance Notes issued to the evaluators.
117. The CBA is represented in the Advisory Authority against Money Laundering and also in the Co-ordinating Body against Corruption, chaired by the Deputy Attorney General, which examines and evaluates the measures against corruption and submits proposals to the Government and the Parliament for any additional measures which are deemed necessary.
118. The CBA is represented in the Council of the European Bar Associations, at which it keeps abreast with developments in, amongst others, the field of money laundering.

Registry of companies and other legal persons

119. On the register of companies appear companies which have a number and their name. The companies appear in alphabetical order in Greek and in English. Information is given on the companies register as to whether a company is active, was dissolved because of a merger, was struck off the Register, is under liquidation or is under receivership.
120. The Register also contains companies not having a separate legal personality (partnerships) and business names.
121. Finally, on the Register there appears overseas companies which have their own numbering system and have their own names. Such overseas companies appear together with the other legal enterprises on a common Register of legal enterprises and business names.

c. Approach concerning risk

122. Section 58 of the AML Law requires all persons carrying on "*relevant financial and other business*" to establish and maintain specific policies and procedures to guard against their business and the financial system in general being used for the purposes of money laundering. Section 61 of the Law defines "*relevant financial and other business*" to include the activities below:
 - (i) Acceptance of deposits by the public;
 - (ii) Lending money to the public;
 - (iii) Finance leasing, including hire purchase financing;
 - (iv) Money transmission services;
 - (v) Issue and administration of means of payment (e.g. credit cards, travellers' cheques and bankers' drafts);
 - (vi) Guarantees and commitments;
 - (vii) Trading for own account or for account of customers in:-
 - stocks or securities including cheques, bills of exchange, bonds, certificates of deposit;
 - foreign exchange;
 - financial futures and options;
 - exchange and interest rate instruments;
 - transferable instruments;
 - (viii) Participation in share issues and the provision of related services;

- (ix) Consultancy services to enterprises concerning their capital structure, industrial strategy and related issues and consultancy services as well as services in the areas of mergers and acquisitions of businesses;
- (x) Money broking;
- (xi) Investment services, including dealing in investments, managing investments, giving investment advice and establishing and operating collective investment schemes. For the purposes of this section, the term "investment" includes long-term insurance contracts, whether or not associated with investment schemes;
- (xii) Safe custody services;
- (xiii) Custody and trustee services in relation to stocks;
- (xiv) Insurance policies taken in the General Insurance Sector by a company registered in Cyprus according to the Companies Law, either as resident or an overseas company, but which carries on insurance business exclusively outside the Republic;
- (xv) Exercise of professional activities by auditors, external accountants and tax advisors, including transactions for the account of their customers in the context of carrying on relevant financial business;
- (xvi) Exercise of professional activities on behalf of independent lawyers, with the exception of privileged information, when they participate, whether –
 - (a) by assisting in the planning or execution of transactions for their clients concerning the
 - buying and selling of real property or business enterprises;
 - managing of client money, securities or other assets;
 - opening or management of bank, savings or securities accounts;
 - organisation of contributions necessary for the creation, operation or management of companies;
 - creation, operation or management of trusts, companies or similar structures;
 - (b) or by acting on behalf and for the account of their clients in any financial or real estate transaction.
- (xvii) Any of the services which are defined in Part I and III of the First Annex of the Investment Services Firms Act of 2002 to 2004, which are from time to time in force and which are provided in connection with the financial instruments numbered in Part III of the same Annex. Parts I and III of Annex One state:
 “Investment services, within the meaning of the Act, shall mean any of the services listed below:
 - Reception and transmission, on behalf of investors, of orders in relation to one or more of the financial instruments;
 - Execution of such orders, as listed in section (i), other than for own account.
 - Dealing in financial instruments for own account.
 - Managing of investment portfolios in accordance with mandates given by investors on a discriminatory, client-by-client basis where such portfolios include one or more financial instruments.
 - Underwriting in respect of issues of any of the financial instruments in Part II of this Annex.”

and

“Non-core services, within the meaning of this Act, shall mean any of the following services:

- Safekeeping and administration in relation to one or more financial instruments.
- Safe custody services.
- Granting of credits or loans to clients to enable them to carry out transactions in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction.
- Advice to undertakings on capital structure, industrial strategy and related matters and advice and service relating to mergers and the buy-out of undertakings.
- Services connected to underwriting.

- Investment advice concerning one or more of the financial instruments.
 - Foreign-exchange services where these are connected with the provision of investment services.”
- (xviii) Dealing in real estate transactions, conducted by real estate agents according to the provisions of the Real Estate Agents Law which are from time to time in force.
- (xix) Dealings in precious stones or metals, whenever payment is made in cash and in an amount of € 15.000 or more.
123. The foregoing list goes beyond the FATF requirements by including general insurance in some circumstances. The Cyprus authorities have suggested that the vast majority of trust and company service providers in Cyprus are lawyers, accountants and international trustee services companies. They have also asked the evaluators to note that lawyers and accountants are subject to the AML Law (see previous paragraph). The above list does not cover casinos and notaries, which the Cyprus authorities advise are not present in Cyprus.
124. The Advisory Authority provides an opportunity for the anti-money laundering and counter-terrorist financing authorities in Cyprus to discuss potential risks and coordinate enhancements to the anti-money laundering and counter terrorist financing framework. The Authority meets quarterly. At recent meetings, it has considered money laundering vulnerabilities, the FATF Recommendations, amendments to the AML Law, Guidance Notes and the breakdown of STRs. This is a commendable approach, although there is still scope for the Advisory Authority to deepen its role. For example, while the breakdown of STRs has been discussed at a policy level, the Authority as a whole has not considered analysis of the STRs and the implications of that analysis. The Central Bank advised, however, that they do monitor and analyse the breakdown of STRs on the basis of monthly prudential returns submitted to it by the banks. The evaluation took place at a time of significant regulatory change and, as the enhanced framework beds down, the evaluators anticipate that the Advisory Authority will develop its approach to reviewing and enhancing the anti-money laundering and counter terrorist financing framework.
125. The FATF Recommendations allow a risk based approach to be adopted by financial institutions and DNFBP. This approach would normally be expressed in guidance issued by supervisory authorities. As stated in the table after paragraph 147 above, some eight sets of Guidance Notes are or will be issued by the supervisory authorities in Cyprus. Of these, the more recent guidance issued by the CBC (G-Banks) (Annex 2B) adopts the closest approach to the FATF in terms of its approach to risk.
126. The G-Banks introduces a risk based approach on the issue of customer identification by banks. Section 2.6.3 of the G-Banks provides that the extent of number of checks on a customer’s identity can vary depending on the perceived risk relating to the type of services, product or account sought by a customer and the estimated turnover of the account. It is also required that for higher risk products, accounts or customers, banks should take additional steps to discover the customer’s source of wealth. In this regard, the G-Banks requires the employment of enhanced due diligence procedures for high risk accounts, which are prescribed to be the following:
- Accounts in the names of companies whose shares are in the form of bearer
 - Accounts in the names of trusts or nominees of third persons
 - “Clients accounts” opened by professional intermediaries
 - Politically Exposed Persons (“peps”)
 - “Old customer accounts”
 - Non-European Union correspondent bank accounts
 - Accounts on which reliance has been placed on business introducers for customer identification and performance of due diligence
 - Accounts and transactions with customers from non-cooperative countries and territories (“NCCT”).

127. Section 2.7 of the G-Investment Brokers (Annex 2C) includes specific guidance on mitigating the potential risks posed by clients which are companies with bearer shares. Section 2.3 of the G-Investment Brokers provides guidance on verifying non-Cyprus resident customers and Appendix 1 gives examples of unusual transactions (for example, frequent transactions of a large number of titles in numerous stock exchanges around the world) but the guidance note does not include a specific risk based approach.
128. There is also no specific risk based approach provided for in the G-Insurers (Annex 2D) except that high risk customers are highlighted in section 2.4.6 for attention by insurers when reviewing their customer records. Nevertheless, section 2.4.5.2 of the G-Insurers provides guidance on verifying prospective policyholders not permanently residing in Cyprus and section 6 directs insurers to be particularly cautious when faced with a range of scenarios (for example, clients asking to conclude a single premium life insurance contract with a large sum of premiums paid in cash). The G-Insurers extends beyond the FATF Recommendations in certain respects in that, in addition to insurance companies carrying out life assurance, it covers non-life insurance companies operating exclusively outside Cyprus. This extension follows section 61(14) of the AML Law.
129. The G-International Businesses (Annex 2E) is addressed to 6 International Trustee Companies, 40 International Independent Financial Advisers and 11 International Private Collective Investment Schemes. The examiners note that the G-International Businesses helpfully include provisions at section 4 on mitigating the potential risks of customers which are companies with bearer shares but otherwise does not provide guidance on a risk based approach or on higher risk jurisdictions, customers or transactions. The Cyprus authorities advise that the enterprises covered by the Guidance Notes represent a very small part of the total finance sector and that the potential money laundering risks of these enterprises is mitigated as they include independent financial advisers who do not handle client funds, as well as feeder funds. The evaluators note that the definition of financial institutions in the FATF Methodology does not include financial advice *per se*.
130. Sections 4.23 and 4.24 and Appendix B of the G-Accountants (Annex 2F) do not provide for a risk based approach but do include guidance on higher risk countries and state that special attention should be given to business relationships and transactions with any person or body in a country the FATF considers to be at risk from criminal money. The G-Accountants also contains provisions, at sections 4.27 and 4.28 on verifying clients not normally resident in Cyprus and that extra vigilance should be taken where these clients are not seen face to face. The attraction of legal enterprises and trust and nominee accounts to money launderers is noted at sections 4.29 and 4.36.
131. The G-Lawyers (Annex 2G) contains identical provisions to those outlined above for G-Accountants at sections 4.21 and 4.22, Appendix B, and sections 4.25 to 4.27 and 4.34.
132. Regarding Article 12 of the second EU Money Laundering Directive (the EU Directive), the evaluators found that Cyprus has extended obligations to persons or institutions other than those set out in the FATF Recommendations and the EU-Directive, to include some general insurers.

d. Progress since the last mutual evaluation

133. The Cyprus authorities responded positively to most of the Recommendations and comments of the examiners in the second report, particularly with respect to the further resourcing of MOKAS. Some of the main issues raised in the second evaluation report in each of the sectors, together with the progress on them are briefly referred to beneath.

Legal aspects

134. Resources of MOKAS would be insufficient for investigating and prosecuting more money laundering cases if they arise because of the enlargement of the list of predicate offences: “It is therefore recommended that the Cyprus authorities... take in due course the necessary organisational measures to anticipate any further workload for MOKAS” (paragraph 118).
135. The Cyprus authorities report that soon after the adoption of the (second) evaluation report, three professionals were recruited to MOKAS, two of them being qualified accountants, and the third being a financial analyst. Additionally budgetary provision was made for eight additional permanent posts for investigators for MOKAS. It was also noted that some other public prosecutors, who are members of the Attorney General’s Office [separate from detached lawyers from the Attorney General’s Office in the FIU] in practice deal with such prosecutions and present the cases in Court.
- *Convictions in money laundering cases in practice do not, when analysed, arise from the STR regime:* “The evaluation team believes that there is considerable imbalance between the enormous efforts which MOKAS and other institutions invest in gathering and analysing information on suspicious transactions and the number of convictions resulting from them.” “This situation needs to be thoroughly analysed by the Cyprus authorities collectively so as to identify the problems which currently prevent the system from generating more convictions” (Paragraphs 121 and 122).
136. The Cyprus authorities advise that since the Second Round report they have had more convictions on more complicated and sophisticated money laundering schemes, and also that a number of cases are pending before the Court for hearing, three of which related to the STR regime.
- *Suspending transactions (freezing of accounts by MOKAS from the earliest moment of intelligence work):* “(The Examiners) recommend that the Cyprus authorities satisfy themselves that existing powers are available to the Unit, whether directly or through a Court order from the earliest moment of their intelligence work, e.g. from the receipt of an STR or CTR ... They recommend that the Unit is formally empowered to suspend financial transactions ...” (Report paragraph 130).
137. The Cyprus authorities report that they are satisfied that the power of the Unit to apply to the Court can be used at the earliest stages, and that it had been done in practice in a number of cases. The AML Law was also amended in 2003 to give the Unit the power to issue administrative instructions to financial institutions to suspend financial transactions. Administrative orders (suspending transactions) issued for the period 2001 – 2004 were:
- 2003: 2 Administrative Orders
 - 2004: 9 Administrative Orders

Financial aspects

- *Guidance Notes:* “The Cyprus authorities may wish to consider the appointment of one authority (the Central Bank, MOKAS or any other authority) to assume the responsibility for quality control assessments and, possibly, to co-ordinate the Guidance Notes” (para. 138)

- This issue has been discussed by the Advisory Authority, where it was decided that the anti-money laundering Guidance Notes issued by the CBC would be used as the model for other finance sector supervisory authorities. In addition, the CBC and MOKAS assisted ICPAC and the CBA with drafting of their money laundering Guidance Notes.
 - Sharing of information with MOKAS: *“information held by other regulatory bodies needs to be shared with it (MOKAS), including information on internal suspicious reports by banks and other information and data analysis held by the Central Bank.”* (para. 147).
138. Information held by the Central Bank of Cyprus emanating from the prudential AML monthly reporting of banks is accessible by MOKAS.
- STRs: *“The examiners believe that MOKAS should monitor the spread of reporting and periodically examine, for example, how many of the onshore banks and offshore banks are filing STRs and how these figures compare.”* (para. 153).
139. MOKAS advised that they periodically examine and compare the filing of STRs by the onshore banks and the International Banking Units and that the results are discussed within the Advisory Authority and with the Compliance officers of all banks.
- Information on registration of companies: *“It is recommended that the Cyprus authorities give more priority to the transfer of the Register to an electronic database with a powerful search engine”* (para. 159).
140. The Registrar of Companies since 2002 has the names of all the Cyprus registered companies in an electronic form in a database system.

Law enforcement aspects

- *Organisational restructuring of MOKAS:* The examiners recommend to separate the investigation part from the financial intelligence part (of their work). In addition the functions related to obtaining Court orders, going to trials and providing assistance to or exchanging information with foreign authorities could also be separated. This restructuring would require a substantial increase of MOKAS staff, which the examiners consider as a matter of urgency and primary importance.” (para. 163).
141. The Cyprus authorities advise that with recruitment of three additional professionals and one administrative staff member, the Unit had been restructured. In particular, the financial analysis of the cases is now primarily done by the financial analyst-accountants and the main investigation of a case is done by the Police investigator-members of the Unit, or the Customs investigator-member of the Unit, depending on the nature of the case. Appearances before the Court for obtaining provisional orders and/or in the procedure for obtaining confiscation orders, are always made by the three lawyers, who are Counsels of the Republic-members of the Unit. It is clarified that the lawyer-members of the Unit assist other prosecutors of the Attorney General’s Office in the confiscation procedure before the Court. During the investigation of serious cases the investigators co-operate with the financial analysts, as well as the lawyers in order to start a case.
- *MOKAS Information Technology system far from ideal* (para. 164)
142. It is noted that the IT system of the Unit has been substantially upgraded. The Unit is working on an on-line basis with 256 speed frame relay. An integrated network between the members of the Unit has been established. The Unit has also purchased a specialised analysis software, “The Analysts’ Notebook”, version 6 of the UK Co i2 Ltd. This tool is reported to be extremely useful for case analysis.

- Leadership in the overall AML effort: “MOKAS should take over the actual leadership in the overall AML effort in Cyprus and become the driving force behind the Advisory Committee” (para. 170).

143. The Head of MOKAS, on behalf of the Attorney General, now chairs the Advisory Committee.

- Responsibilities in law enforcement sector: “The examiners recommend that MOKAS or the Advisory Committee establish clear guidance for the whole law enforcement sector as to the respective responsibilities of the various agencies.” (para. 171).

144. MOKAS advised that they have given guidance in writing and in meetings with the Drug Enforcement Unit, the Criminal Investigation Department and the Economic Crime Unit of the Police. During these meetings, it was made clear to the representatives of the law enforcement that they should pay special attention to the financial aspects of the criminal investigation in relation to the predicate offences and to seek the assistance of MOKAS in tracing and freezing assets from the very early stages of the investigations, and also to include in the indictment charges for the money laundering offence.

International co-operation aspects

- Mutual Assistance - Analysis of incoming rogatory letters: “The evaluation team recommends that the Cyprus authorities analyse collectively the common patterns of these requests and draw the necessary conclusions for the overall strategy against money laundering. Thus, should this analysis reveal that certain corporate vehicles, mechanisms or financial products are used more systematically than others by foreigners in Cyprus, compliance supervision and the focus of preventive measures in the sector concerned may need to be reviewed and strengthened as necessary.” (para. 132)

145. The Cyprus authorities indicate that they always analyse the trends and patterns revealed by the requests from the foreign authorities and form conclusions for certain types of money laundering schemes. For this purpose, they indicate that they exchange views with foreign jurisdictions as well as with domestic financial institutions on how to deal with the same or similar scenarios in the future.

- Exchange of information by supervisory authorities with foreign counterparts: “The examiners consider that all supervisory authorities should be empowered, along the example of the Cyprus Securities and Exchange Commission, to directly exchange information with foreign counterparts on money laundering matters....” (para. 133).

146. Section 7 of the Law on Insurance Services enables the Superintendent of Insurance to conclude co-operation agreements with foreign supervisors, subject to appropriate confidentiality provisions. The Superintendent of Insurance advised the evaluators that, under Section 6 of the Law, the Superintendent can exchange with other supervisory authorities with analogous functions, formally or on a spontaneous basis, on a confidential basis, information on all supervisory issues, including money laundering issues.

2 LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of money laundering (R.1 and 2)

2.1.1 Description and analysis

Recommendation 1

147. Drug money laundering was criminalised in 1992, upon the enactment of the Confiscation of Proceeds from Trafficking of Narcotic Drugs and Psychotropic Substances Law of 1992. The said law was repealed upon the enactment of the Prevention and Suppression of Money Laundering Activities Law of 1996, which extended the list of predicate offences to all serious crimes. No material changes have occurred since the Second Round Evaluation.
148. As for the physical elements of the offence, the definition given in section 4 is fully in accordance with the provisions of the Vienna and Palermo Conventions (and hence FATF Recommendation N°1) section 4 provides:

4.-(1) Every person who at the relevant time(a) knows or (b) ought to have known that any kind of property constitutes proceeds from the commission of a predicate offence, is engaged in the following activities -

(i) and converts or transfers or removes such property, for the purpose of concealing or disguising its illicit origin or of assisting in any way any person who is involved in the commission of the predicate offence to carry out any of the above actions or acts in any other way in order to evade the legal consequences of his actions;

(ii) conceals or disguises the true nature, the source, location, disposition, movement of and rights in relation to, property or ownership of this property;

(iii) acquires, possesses or uses such property;

(iv) participates in, associates, co-operates, conspires to commit, or attempts to commit and aids and abets and provides counselling or advice for the commission of any of the offences referred to above;

(v) provides information in relation to investigations that are carried out for laundering offences for the purpose of enabling the person who acquired a benefit from the commission of a predicate offence to retain the proceeds or the control of the proceeds from the commission of the said offence,

commits an offence punishable by fourteen years' imprisonment or by a pecuniary penalty or by both of these penalties in the case of (a) above, or by five years' imprisonment or by a pecuniary penalty or by both in the case of (b) above.

149. The offence of money laundering is extended to any kind of property, either movable or immovable and wherever located, which has been generated by the commission of a predicate offence (see definitions in section 2(1) of the AML Law). Such a broad definition undoubtedly involves any property that directly or indirectly represents the proceeds of crime.

150. As from November 2000, the criminalisation of money laundering has been based on a very extensive “all crimes approach”. The scope of predicate offences, as defined by section 5 of the AML Law, covers all criminal offences, which are subject to a maximum sentence of more than one year’s imprisonment – that is, including all offences designated under the FATF Recommendations (“glossary offences”).
151. According to section 4 (2a), the money laundering offence explicitly covers extraterritorial predicate offences, impliedly without further limitations, such as dual criminality. The replies to the questionnaire, however, state that predicate offences “do extend to conduct that occurred in another country, which constitute an offence in that country and which would have constituted a predicate offence had it occurred in Cyprus”. In the latter context, proceeding for money laundering appears to be possible to the extent dual criminality exists for the predicate offence. It is important that there is agreement and clarity between prosecutors and law enforcement on whether Cyprus could prosecute, where the proceeds of crime are derived from conduct that occurred in another country, but which is not an offence in that other country, though would have constituted a predicate offence had it occurred domestically in Cyprus (albeit that this is only an additional element in the Methodology and not one of the essential criteria).
152. Returning to the essential criteria (1.6), it is clearly provided for in the AML Law that the money laundering offence applies also to persons who commit predicate offences (section 4 (2 b)). In order to make the most of this provision, “own proceeds” laundering has also been the subject of general prosecutorial guidance for some years. As a probable result of this approach, most money laundering cases relate to self-laundering activities. As noted earlier, there have been four convictions for money laundering since the 2nd round evaluation and all these cases related to “own proceeds” laundering and were prosecuted together with the relevant domestic predicate offences.
153. The Cyprus authorities informed the evaluation team that there is no need for a conviction for the predicate offence to prosecute money laundering. Indeed, some consider this is implicit in the legislation. This opinion, however, has never been tested, as there have not yet been any prosecutions or convictions for money laundering by third parties as an autonomous offence (“classic” money laundering). As a consequence, representatives of the prosecuting authorities appeared to be uncertain as to whether and / or to what extent the prosecution would have to demonstrate that the laundered property constitutes proceeds that could be connected to a specific predicate offence in an autonomous prosecution.
154. Appropriate ancillary offences to the offence of money laundering are, as required in criterion 1.7, also provided by section 4 of the AML Law, as noted above. Perpetrators of the offences listed in paragraph (1) (iv) above, are potentially subject to the same penalties that can be applied to perpetrators of the laundering act itself. All the ancillary offences in Section 4(1) (b) (iv) are capable of prosecution on the basis of negligence.

Recommendation 2

155. The criminal offence explicitly provides for the knowledge standard in respect of those that engage in money laundering activity, as required by Criterion 2.1.
156. Section 4 (2 c) of the AML Law, in respect of the *mens rea* for money laundering, also explicitly states that knowledge, intention or purpose may be inferred from objective factual circumstances.
157. As far as the mental element is concerned, the definition also goes beyond the international standards with regard to its coverage of negligent money laundering.
158. As for corporate criminal liability, legal enterprises can also be held liable for money laundering and criminal offences generally. As clarified in the Second Round Evaluation, section 2 of the

Interpretation Law (Cap. 1.) provides that whenever the word “person” appears in the wording of any Law it “*includes any company, partnership, association, society, institution or body of persons, corporate or unincorporate*”. Non-custodial sentences such as pecuniary penalties may be imposed on legal persons, who may appear in Court and plead to a charge through duly appointed representatives. The Cyprus authorities state that administrative measures (exclusion from entitlement to public tenders, disqualification from the practice of commercial activities etc.) may equally be taken against legal enterprises according to Companies Law.

159. Despite the sound legal basis available from the outset of money laundering criminalisation, no conviction has yet been achieved against legal persons in money laundering cases. It is noted in this context that Cyprus stated in its 2003 Progress Report that it was “very common to investigate legal persons for money laundering offences”. However, during the present on-site visit, the evaluators were advised that in cases involving corporate enterprises it was the usual approach of the prosecution to “lift the corporate veil” and prosecute the natural persons behind it (i.e. managers / owners of the company). According to the Cyprus authorities, legal enterprises have already been investigated and / or prosecuted for money laundering in certain cases. Charges have been filed against the legal entity itself as well as the natural persons – directors of the companies involved. In 3 cases, money laundering charges have been filed against legal persons.
160. Natural and legal persons convicted of money laundering are subject to effective and dissuasive criminal sanctions. Indeed, even the negligent form of money laundering is subject to, in the case of natural persons, serious terms of imprisonment. As for non-criminal sanctions for legal enterprises, the evaluators currently have insufficient information to form an opinion.

Statistics on money laundering criminal convictions

161. The Cyprus authorities provided the following information on prosecutions and convictions for money laundering since 2001:
 - One person was convicted to 18 months imprisonment in February 2002 for a money laundering offence related to the theft by representative.
 - One person was convicted to 7 years imprisonment in 2004 for a money laundering offence related to the theft by director of a company.
 - One person was convicted to 5 years imprisonment in January 2005 for a money laundering offence related to the offence of obtaining money by false pretences committed by a public official. In the same case, a second accused was convicted to two years imprisonment for the same offences.
 - As noted earlier, at least 14 other cases were being tried before the Courts. MOKAS had information on 14 cases as they had direct involvement in the investigation and in obtaining interim orders. Apart from these cases, other cases investigated fully by the police are before the Court for which the Unit has no adequate information⁹.
162. While the examiners welcome these convictions, as noted previously, so far as the examiners are aware, they all relate to “own proceeds” laundering. Though there have been some investigations and prosecutions in respect of money laundering based on foreign predicate offences, none were successfully concluded. There are no prosecutions or convictions for money laundering by third parties as an autonomous offence, whether for domestic or foreign predicates.

⁹ The examiners welcome police efforts since the on-site visit to develop a data system to keep statistics for all money laundering investigations and prosecutions.

2.1.2 Recommendations and comments

163. The legal structure so far as money laundering criminalisation is concerned is comprehensive and, in some cases, exceeds the international standards (negligent money laundering is provided for). The Cyprus authorities acknowledge the absence in the legislation of explicit provisions relating to the criminality requirement for foreign predicate offences in the country where they took place but are firmly of the view that the definition of predicate offences in section 5 includes conduct which need not be criminal in the country in which it took place.
164. The examiners noted that convictions are being achieved for money laundering, and that some significant terms of imprisonment had been imposed (though it was unclear whether these sentences were concurrent with the related domestic predicate offence).
165. The uncertainty expressed by prosecutors in respect of establishment of the predicate offence in an autonomous money laundering prosecution needs to be resolved. The examiners in the Second Round Evaluation had found that all convictions at that time (with one exception) also related to self-laundering. The present examination team noted from the information provided to them that, for whatever reason, money laundering cases are still, in practice, targeted on the comparatively easy cases of “own proceeds” laundering with domestic predicates. Given the nature of the Cyprus financial sector this is surprising and does not appear to tackle the professional launderer (though the examiners may be unaware of all cases, given the lack of complete information about the pending prosecutions). The evaluators would have expected to see some autonomous money laundering cases being brought against third parties, laundering on behalf of others (whether in relation to domestic or foreign predicates). The evaluators therefore advise that the lack of prosecutions or completed investigations in respect of foreign predicates should be considered by the competent authorities such as the Unit, the Public Prosecutors and the Police. Similarly, they might usefully consider the reasons for the (apparent) lack of autonomous prosecutions of money laundering by third parties on behalf of others. The examiners consider that further attention should be given generally by the Cyprus authorities to autonomous prosecution of money laundering by third parties.
166. If one of the obstacles to money laundering prosecutions by third parties is an uncertainty about the levels of evidence required to establish the predicate criminality in such cases, the examiners advise that, as in some other jurisdictions, it could be helpful to put beyond doubt in legislation that a conviction for money laundering can be achieved in the absence of a judicial finding of guilt for the underlying predicate criminality. Additionally, it may be useful to make it clear in legislation (or guidance) that the underlying predicate criminality can also be proved by inferences drawn from objective facts and circumstances. For criminalisation to be fully effective, it may also be helpful if prosecutors and law enforcement have a common understanding that a Court may be satisfied that the laundered proceeds come from a general type of predicate offence (like drug trafficking – and not necessarily from a particularised drug trafficking offence on a specific date). Further guidance (see the law enforcement section at paragraph 285 beneath) and perhaps consideration of further legislative provision, to clarify some of these issues is strongly advised.
167. The second evaluation team had been told that there were two investigations in 2001 which were ongoing for negligent money laundering, though it appears that they did not result in prosecutions. The Cyprus authorities should consider whether the benefits of negligent money laundering in the statute are being fully maximised by law enforcement and prosecutors.
168. The Cyprus authorities should consider whether the full benefits of corporate liability are being maximised.

2.1.3. Compliance with Recommendations 1 and 2

	Rating	Summary of factors underlying rating
R.1	Largely compliant	Although there is a broad and firm legal basis to enable successful prosecutions for money laundering, the examiners consider that the effectiveness of money laundering criminalisation could be enhanced by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions.
R.2	Compliant	

2.2 **Criminalisation of financing of terrorism (SR.II)**

2.2.1 Description and analysis

169. Financing of terrorism is criminalised under the Ratification Law No. 29 (III) of 2001, by which Cyprus ratified the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (see Annex 2 H).
170. With the enactment of the Ratification Law, the 1999 UN Convention became part of the domestic legislation of Cyprus whereby, according to Article 169 of the Constitution, it has superior force. Implementation of the Convention is therefore carried out by simple references to the original articles, as in section 4 of the Ratification Law, which provides that all offences contained in Article 2 of the Convention are punishable in Cyprus with imprisonment of up to 15 years and / or a fine of CYP 1.000.000.
171. Using this mechanism, Cyprus legislators undoubtedly achieve total compliance with the Convention. Direct application of the relevant provisions of the Convention ensures that all the relevant essential criteria in this field are met:
- terrorist financing offences extend to any funds as defined in Article 1 of the Convention;
 - it is not required that the funds were actually used to carry out a terrorist act (q.v. Article 2 (3) of the Convention);
 - attempt to commit the offence of terrorist financing is a criminal offence itself (q.v. Article 2 (4) of the Convention);
 - all types of conduct set out in Article 2 (5) of the Convention are automatically considered to be offences in Cyprus – even if some differentiation as to the range of punishment might have been reasonable, given the variety of conduct.
172. Given that the Ratification Law is the single legal instrument by which terrorist financing is criminalised at the time of the on-site visit, it was surprising that its scope of application is radically restricted in section 9, according to which that law “*shall not be implemented in cases where the offence has been committed in the Republic’s territory, where the alleged offender is one of its citizen(s) and is in the territory of the Republic and where no other state has jurisdiction by virtue of article 7 paragraph 1 and 2 of the Convention.*” In these cases, the Ratification Law only allows for the application of articles 12 to 18 of the Convention (dealing with mutual legal assistance).

173. On its face, the Ratification Law is not applicable for a terrorist financing offence committed by a Cyprus citizen within the territory of Cyprus – in other words, such an act would not constitute a criminal offence, and financing of terrorism can only be committed abroad and / or by foreign citizens. Such a limitation seriously impedes the effective implementation of the Convention.
174. The evaluation team was advised that the Cyprus authorities had already identified this problem. As explained by the representative of the Ministry of Foreign Affairs, section 9, which is a more or less literal adaptation of Article 3 of the Convention, had become part of the Ratification Law inadvertently. As a solution, a bill to amend the Ratification Law in this respect was being prepared at the time of the on-site visit¹⁰. The evaluation team was also given a recent report submitted to the United Nations on the implementation of Resolution 1373 in which the Cyprus authorities admitted that the Ratification Law should be amended in this respect. It was also indicated in the report that criminalisation of terrorist financing committed by Cyprus citizens would be completed according to the existing provisions of the Criminal Code, namely section 58 (the offence of giving or soliciting contributions for an unlawful association) which provides:

“Any person who gives or pays contributions, subscriptions or donations and any person who solicits contributions or subscriptions or donations for or on account of any unlawful association is guilty of a misdemeanour and is liable to imprisonment for one year.”

175. It is likely, though not confirmed by any case law, that this provision could cover some, but not all, aspects of Article 2 of the 1999 Convention by Cyprus citizens within the territory of Cyprus. It is debatable if it extends to collection etc. for terrorist acts alone. Moreover the penalty is insufficiently dissuasive. Therefore, the evaluators welcome proposals to amend section 9 of the Ratification Law.
176. Terrorist financing offences are also predicate offences for money laundering. Given the fact that terrorist financing attracts, in section 4 of the 2001 Ratification Law, penalties above the one-year threshold laid down in section 5 of the AML Law, this result could have been achieved without any further legislative steps. Cyprus legislators, however, deemed it necessary to emphasise this in section 8 of the Ratification Law providing that such offences are considered as predicates “as if included” in section 5 of the AML Law.¹¹
177. As discussed above, criminal liability is understood to be extended to legal persons indirectly, with regard to the definition of the term “person” provided for by section 2 of the Interpretation Law (Cap. 1). Notwithstanding this general rule, section 5 (1) of the Ratification Law contains a positive provision in respect of the liability of legal persons:

5. (1) A legal person of any nature is subjected to the same criminal and civil liability in case where any person, in charge of the administration or control of the said legal person, commits under the said capacity an offence in violation of the Convention.”

178. A definite provision like this (and also the next paragraph which refers to administrative sanctions) is welcomed by the evaluators – even though there was not a clear explanation as to why corporate criminal liability was expressly declared applicable in this law and why it is not similarly stated in other legislation (including the money laundering legislation).

¹⁰ On 22 July 2005, Parliament enacted a law amending the Ratification Law [No. 18(111)/2005]. The only provision of this amending law is the deletion of Section 9 and the renumbering of the articles which follow. Therefore, the situation described in paragraphs 234 to 236 no longer applies.

¹¹ The expression “as if included” implies that legislators were keeping the former list of predicate offences in mind when drafting this provision of the Ratification Law, even if the “list approach” had already been abandoned two years before the ratification.

2.2.2 Recommendations and comments

179. Cyprus has criminalised terrorist financing in a manner wholly consistent with the 1999 Terrorist Financing Convention (which is directed towards terrorist acts). However, its inadvertent lack of application to Cyprus citizens collecting/soliciting funds for the purposes enumerated in Article 2 of the Convention is a major gap¹².
180. The solution proposed by Cyprus that section 58 of the Criminal Code may cover the elements of the financing of terrorism Convention for Cyprus citizens is debatable, as the Convention is aimed also at terrorist acts not simply unlawful associations. Even if the courts accepted that some of the activities enumerated in the Convention could be covered, the penalty of one year is wholly incompatible with Article 4 of the 1999 Convention which requires a State to make these offences punishable by appropriate penalties which take into account the grave nature of the offences¹³.
181. Thus, the combination of section 4 of the Ratification Law and section 58 of the Criminal Code will not collectively satisfy all the requirements of the 1999 Convention adequately. section 9 of the Ratification Law should certainly be repealed quickly or amended to ensure section 2 applies to Cyprus citizens.¹⁴
182. The effectiveness of the two offences cannot be judged, as though there have been some financing of terrorism investigations, there have been no prosecutions or convictions.
183. The problems with criminalisation of financing of terrorism would not be completely solved by repealing section 9 of the Ratification Act.
184. Perhaps more significantly, the obligations of Special Recommendation II go beyond what is required by the Terrorist Financing Convention. In addition to criminalising the activities enumerated in the Terrorist Financing Convention, countries are also obliged to criminalise a third type of activity – collecting funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. This type of activity is not criminalised at all in Cyprus – albeit that the Interpretative Note was only issued in June 2004 (only ten months prior to the on-site visit).
185. In the view of the examiners therefore the best solution is the introduction of a clear separate criminal offence of financing of terrorism which covers all the essential criteria in SR.II and all the characteristics of a financing of terrorism offence as explained in the Interpretative Note of June 2004.

¹² On 22 July 2005, Parliament enacted a Law amending the Ratification Law deleting section 9 and this difficulty no longer applies.

¹³ See Footnote 12.

¹⁴ See Footnote 12.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	Partially compliant ¹⁵	The criminalisation of financing of terrorism, as defined in the 1999 United Nations Convention for the Suppression of the Financing of Terrorism, is not completely achieved as offences committed by Cyprus citizens on Cyprus territory appear inadvertently to have been excluded. ¹⁶ Reliance on section 58 of the Criminal Code is insufficient for these purposes. Moreover in addition to criminalising the activities enumerated in the Terrorist Financing Convention, countries are also obliged to criminalise collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Cyprus has not yet criminalised this type of activity.

2.3 **Confiscation, freezing and seizing of proceeds of crime (R.3)**

2.3.1 Description and analysis

Confiscation

186. The confiscation regime provided by the AML Law refers not only to money laundering offences, but also to predicate offences (ie any sort of criminal offences that may be qualified as predicates), even when they are prosecuted as stand-alone offences (ie without the occurrence of any demonstrable laundering activity). 5.b of the AML Act, which deals with confiscation, was amended in 2003 to substitute the words “predicate offence” for “prescribed offence”, which covers both laundering offences and predicate offences (see S. 2 of the Amending Law No. 118/2003). Thus, the confiscation/freezing regime in criminal cases applies e.g. to a financing of terrorism offence, where it is prosecuted as a stand-alone offence.
187. The AML Law provides for an autonomous confiscation mechanism that is set out in Parts II and III AML, in particular Sections 6-13, 21, 28-30 and 33. According to this regime, confiscation is conviction based, except in cases where otherwise provided (such as Section 33 on confiscation of property against an absent, i.e. dead or absconding suspect). As a general rule, the court proceeds with the confiscation procedure when the Attorney General decides by submitting a relevant application to the court, though the Court can proceed on its motion.
188. As noted above, confiscation applies equally to any property acquired as proceeds arising from the commission of a predicate offence (defined as all criminal offences punishable with imprisonment with a maximum limit exceeding one year as a result of which proceeds have been generated, thus complying with A.1 of the European Union Council Framework Decision of 26 January 2001, as well as the corresponding value). For the application of the AML Law, no further laundering activities are required as simple “acquisition” amounts to money laundering.
189. Instrumentalities are also subject to confiscation. According to the relevant provisions of the AML Law, “instrumentalities” cover any property used or intended to be used to commit a predicate

¹⁵ The effectiveness of Cyprus’s financing of terrorism offence cannot be measured because no cases have been before the Courts.

¹⁶ On 22 July 2005, Parliament enacted a Law amending the Ratification Law deleting section 9 and now Cypriots are clearly covered.

offence. Confiscation is therefore restricted to instrumentalities of the predicate offences while those relating exclusively to laundering activities are apparently left out. However, the examiners have been told that this is covered by other criminal legislation regarding confiscation of instrumentalities.

190. Confiscation of proceeds of crime is value based and is set out in a comprehensive and robust regime. As a general rule, assessment of the property subject to confiscation involves the reversal of the burden of proof. According to Section 7 (2) the Court may assume for the purpose of assessing the benefit that has been made from the criminal activity in question that all property¹⁷ acquired and any expenditures during the last six years prior to the commencement of criminal proceedings was from the proceeds of a criminal offence unless the contrary is proved by the accused. Such assumptions will not, however, be applied where the court thinks that there would be a serious risk of injustice to the accused to do so, but reasons for taking such a decision have to be set out.
191. In the above context, property that is derived directly or indirectly from proceeds of crime is equally covered. As provided in Section 7 (1), all payments made in connection with the commission of a predicate offence are deemed to be proceeds thus subject to confiscation. Income, profits or other benefits from the proceeds of crime are also included: according to Article 15 (6) the court, when making a charging order (which is to create a charge on the realisable property with the purpose of securing payment to the State) may order that the charge be extended so as to cover “any interest on dividend or on interest payable” in respect of certain assets, so that these may finally be taken into account by the Court when assessing the proceeds.
192. The confiscation regime applies to all the property regardless of whether it is held or owned by the defendant or by a third party. According to Section 13 (1) “realisable property”, that is property subject to confiscation, covers any property held either by the accused or by another person to whom the accused has directly or indirectly made a “prohibited gift”. In this context, a gift (see definition in Section 13 [8]) is prohibited if made by the accused at any time during the last six years prior to the institution of criminal proceedings, or otherwise, if it represents or is related to property received by the accused in connection with a predicate offence.
193. Furthermore, if the Court, which has convicted a person of the commission of a prescribed offence, believes that there are reasonable grounds for belief as to the existence of any proceeds the accused might have acquired from the commission of the offence, it may, according to Section 6 (2) and upon a relevant application by the Attorney General¹⁸ impose a corresponding pecuniary penalty instead of the confiscation order. In this case, where the kind or amount of the benefit may be more easily determined by an evaluation of the financial position of the accused and his family, a special procedure called “Summary Inquiry” is carried out (defined in Part VI of the Law).

Provisional measures

194. The AML Law also provides for a wide range of value-based provisional measures so as to ensure that criminal profits are not dissipated before confiscation can take place. These measures are the so-called interim orders – restraint orders or charging orders – all issued by the Court after an *ex parte* application of the Attorney General.
195. Both restraint and charging orders are robust yet flexible instruments designed to freeze and secure the confiscable property or proceeds. Interim orders are subject to discharge or variation. They shall also be discharged when the criminal proceedings are concluded or, in case of a charging order, if the amount of the payment which is secured by the charge is paid into court.

¹⁷ For the purpose of valuing such property the assumption is that the defendant received it free of any charge or any interest of any other person.

¹⁸ In this and any similar context, such a function assigned to the Attorney General is actually performed by the public prosecutor (Counsel of the Republic) members of the MOKAS.

196. A restraint order, as described in Section 14 of the AML Law, prohibits transactions in any way in realisable property (cf. above). Conditions of the prohibition, including any possible exceptions, are to be specified in the order.
197. A restraint order may apply to all realisable property, even if not described specifically, that is held by a specific person, even if it was transferred to him after the order was made. Where a restraint order has been made, the realisable property may also be seized according to the instructions of the Court, for the purpose of preventing its transportation or removal out of the country.
198. A charging order, as described in Section 15, creates a charge on the realisable property specified in the order, with the purpose of securing payment to the state, of an amount equal to the value of the property charged, or, in case a confiscation order has already been made, of an amount not exceeding the amount payable under the confiscation order. According to Section 14 (4) this provisional measure has precedence over the previous one, as no restraint order can be applied in relation to any property which is subject to a charging order.
199. Such a charge may be imposed on any interest the accused has in realisable property or under a trust, as well as any interest in similar property held by a third person to whom the accused has made a prohibited gift, as far as the property consists of immovable property, government stocks and other bonds, units of unit trusts and funds in court. As far as these bonds and units are concerned, it may be ordered that the charge be extended so as to cover any interest on dividend or on interest payable in respect of the asset.
200. The making of a charging order in respect of the above assets, except for immovable property, may have the following effects, which the court may specify: the creation of a charge in favour of the Republic in the property affected, the prohibition of transfers, sales, payments or other dealings, as well as of payment of dividends to the debtor in respect of that property, and as far as unit trusts are concerned, the prohibition of any acquisition of or any dealing in connection with those units. A charging order made in respect of immovable property is deposited with the competent District Lands Office for the application of similar measures.
201. Both restraint and charging orders are available, *inter alia*, for securing confiscation in cases where the accused has died or absconded, provided that an application for such a confiscation order has been made by the Attorney General under Section 28 of the AML Law. As this type of confiscation order and, consequently, the related interim orders may not be issued unless a person has already been convicted for the commission of a predicate offence, Section 32 of the AML Law provides for a special freezing order in relation to the property of a suspect (i.e. an offender not yet accused) who is, similarly, outside the jurisdiction of Cyprus or has died. An order such as this is valid for a period of six months, which may be extended to one year.
202. A Court may make such an order (against an absent suspect under Section 32 AML) if it is satisfied by affidavit or other evidence that there is *prima facie* evidence against the suspect for the commission of either a predicate or a laundering offence and that the property may be converted, transferred or otherwise laundered. This standard is set higher than that required in case of a restraint or charging order, where a reasonable suspicion that a person may be charged with the commission of a laundering offence might be enough.

Power to Suspend Financial Transactions

203. In the 2nd round Moneyval evaluation of Cyprus, it was recommended that the FIU be formally empowered to suspend a transaction in its own right, as it needed to apply for a court order in situations in which other FIUs could readily suspend or block a transaction while checking its background. As a result, the Cyprus authorities decided to amend the AML Law in this respect. In the 2003 Progress Report, a reference was made to a bill that contained a provision according to which the FIU would have the power to suspend financial transactions for 24 hours when it was considered essential for the analysis and/or investigations.
204. The amending Bill was adopted as the Law 118 (I) of 2003 but with no exact provisions as to when, how and on what conditions the FIU has the power to suspend a transaction. The Law contained only a single article with a rather indirect reference to the fact that the FIU has such powers, which now appears in Section 26 (2c) as follows:

“... the non-execution or the delay in the execution of an order by the said person, upon instructions of the Unit, with regard to sums or investments referred to above, shall not constitute violation of any contractual or other obligation of the said person or/and his/her employers.”

205. The FIU has therefore been empowered to give administrative instructions without time limitation to financial transactions to suspend transactions. It is surprising however that, as far as the evaluation team was informed, no further rules exist (or have been provided to the evaluators) that define the conditions for the application of such a measure.

Civil forfeiture / confiscation

206. There is no system of civil forfeiture in the Cyprus criminal procedure.

Third party rights

207. Common law rights of “*bona fide*” third parties are safeguarded, consistent with the standards in the Palermo Convention.
208. Bona fide claims against the accused are considered by the AML Law as obligations that have priority over others. According to Section 13, such claims have to be deducted from the amount that may be realised under a confiscation order as far as the claim is deemed just by the Court.
209. Third parties’ rights are taken into account even in case when provisional orders, issued *ex parte* by the Court, are to be served upon the affected persons (legal or natural) who have the right to appear before the court and oppose to the order.

Identification / tracing of assets

210. Law enforcement agencies, most of all the FIU, have all the necessary powers provided for in Part II of the Criminal Procedure Law (Cap.155.) concerning the investigation of offences and proceedings antecedent to prosecution. Of most importance is Section 6 on the order to produce documents (production order). According to this provision, the investigator (incl. members of the FIU) during an investigation may issue a written order to anyone who possesses a document, which might be necessary for the purposes of the investigation, requiring him/her to produce that document. Refusal to comply with such an order amounts to a criminal offence itself, which is punishable with imprisonment.

211. In certain cases a court order is required for the production of a document or information. Such an order is called a disclosure order and regulated by Sections 45 and 46 of the AML Law. Application for this order is submitted by an investigator in relation to the receipt of information or documents in the course of investigating the possible commission of offences. It is also available for use in Cyprus on request in foreign investigations. An order for disclosure may only be made on certain conditions, such as a reasonable suspicion that a specified person has committed or has benefited from the commission of a predicate offence, as well as that the information required is of substantial value to the investigation and it is in the public interest that it should be produced or disclosed. No such order can be made, however, in a case where the information falls within the category of privileged information.
212. The order is addressed to the person who appears to be in possession of the information concerned, with an obligation to disclose or produce the said information to the investigator or any other person specified in the order.

Forfeiture vs. contracts

213. In the context of Criterion 3.6 in Cyprus Law, under the provisions of the Contract Law Cap. 149 as amended, contracts may be held null and void in different circumstances, such as illegality, contracts where consideration and objects are unlawful, contracts induced by fraud, misrepresentation, etc.

Statistics

214. The following statistics on freezing orders and confiscations have been provided by the Cyprus authorities, but, so far, there have not been clearly disaggregated into domestic orders and orders on behalf of foreign countries. Notwithstanding this, they show that the confiscation / provisional measures regime is regularly used. There are several freezing orders in large sums. The number and value of actual confiscation orders compared to the number of freezing orders is much smaller.

Year 2001:

Freezing Orders: 23

- **Domestic: 19**
- **Foreign: 4**
- CYP1.376.097
- USD\$89.073
- STG£139.853
- 32.000 shares
- 1 house (CYP40.000)
- 2 cars
- 14 ½ plots of land

Confiscation orders: 0

Year 2002:

Freezing Orders: 17

- **Domestic: 15**
- **Foreign: 2**
- CYP148,089
- USD\$804.212
- 538 euro
- 6 flats
- 1 car
- 11 plots of land
- 160,000 shares

Confiscation Orders: 4

- 1 for the amount of CYP20.000 (obtaining money by false pretences)
- 1 for the amount of CYP15.000 (conspiracy to defraud)
- 2 confiscations by consent

Year 2003:

Freezing: 12

- **Domestic: 11**
- **Foreign: 1**
- CYP1.241.237
- USD\$5.041
- STG£3.351
- 2 flats
- 1 shop
- 11 plots of land
- 1 house

Confiscation Orders: 1

1 confiscation by consent for the amount of £45.000 (conspiracy to defraud and fraudulent evasion of VAT and other taxes).

Year 2004:

Freezing Orders: 7

- Domestic: 4
- Foreign: 3
- CYP288.553
- USD\$1.358.488
- 4 plots of land

Confiscation Orders: 4

1 confiscation order for CYP235.000 (Predicate offences: Obtaining money by false pretences and money laundering offences)
1 confiscation order for CYP919.000 (Predicate offences: Theft and Money Laundering offences)
1 confiscation by consent for the amount of £2.671
1 registration of foreign (UK)
Confiscation order for the amount of £14.997.

2.3.2 Recommendations and comments

215. Cyprus has a generally robust operational confiscation regime.
216. While this is not a criterion directly applicable to FATF Recommendation 3 which the examiners have considered for the purposes of its rating, the examiners had concerns about the statutory basis for the suspension of financial transactions. It appears limited to absolution of liability without any specific power to suspend. The Cyprus authorities are urged to review this in the light of Article 14 of the new Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198), when its ratification is being considered.

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	Compliant	

2.4 Freezing of funds used for financing of terrorism (SR.III)

2.4.1 Description and analysis

Freezing Funds in the context of S / RES / 1267 (1999).

217. The freezing of assets against certain persons and enterprises linked to Osama Bin Laden, the Al-Qaida network, and the Taliban and subsequent resolutions has been harmonised at European level by Council Regulation (EC) No 881/2002. A European regulation has general application and is binding

and directly applicable in all European Union member States. Regulation 881/2002 institutes an obligation to freeze the assets of natural or legal persons, groups or enterprises designated by the 1267 Sanctions Committee of the United Nations. The freezing should apply without delay and without giving prior notice.

218. All the relevant UN Security Council Resolutions, including Resolution 1267 (1999), have been adopted by Cyprus. Adoption was carried out by Decision No. 54.374, taken by the Council of Ministers of the Republic of Cyprus on 4 October 2001 (see Annex 2I). This Decision instructs or orders all competent authorities and persons in the Republic of Cyprus to proceed with the necessary enquiries in order to identify whether persons and/or enterprises included in the lists issued based on the UNSC Resolutions have in the Republic any assets, and if such assets are identified, to freeze them immediately, until further decision on the issue.
219. Lists are received by the Ministry of Foreign Affairs which submits them to MOKAS, and the Central Bank. The Ministry of Justice, the Chief of Police, the Director of the Customs Department, the Director of the Central Intelligence Service and other supervisory authorities with guidance to proceed with the necessary enquiries at the same time. The Central Bank has been assigned with the responsibility for the implementation of the UN Sanctions with regard to commercial and financial transactions and assets which affect the country's banking sector. The Central Bank issues circulars to all banks requesting adherence to the provisions of UNSC Resolution 1267 (Al-Qaida, the Taliban, Osama Bin Laden or their associates) where a name is designated by the 1267 Committee and the identification and blocking of target funds in their banks, following which the Central Bank of Cyprus should be informed. The same procedures apply in respect of banks in relation to UNSC Resolution 1373 and the lists drawn up by the European Clearing House. Up until now, the results of these enquiries have been negative. MOKAS also advised that they provide information to other supervisory authorities in the case of designations. The criteria in the Methodology which require effective and publicly known procedures for considering delisting or unfreezing and other related administrative issues (Criteria III.7, III.8 and III.9) are not fulfilled. The Cyprus authorities state that Criterion III.10 is met by general administrative law and civil procedure. Breaches of the obligation to freeze listed accounts (under 1267 – or any of the UNSC Resolutions listed in the Council of Ministers' Decision) are reported to be subject to criminal sanctions. The evaluators were informed that such breaches would fall under section 137 of the Criminal Code, which creates the offence of disobedience of lawful orders. According to this provision "*everyone who disobeys any order, warrant or command duly made, issued or given by any court, officer or person acting in any public capacity and duly authorised in that behalf is guilty of a misdemeanour*" and liable to imprisonment. It was unclear whether information on the possibility of this sanction for non-compliance has been communicated to the banks and other relevant parts of the private sector (which handle funds or other assets, such as securities, which could be caught by the UN Resolutions). A general bill was before Parliament at the time of the on-site visit which deals with the sanctions to be imposed (in addition to the existing ones) in cases of violations of the obligations to implement UN Resolutions and EU Common Positions on various issues.
220. Though there has been no practice of freezing funds related to designated persons or organisations under the Resolutions, MOKAS considered that the AML Law would also be applicable in this respect. The examiners were unsure why Cyprus would need to resort to what appears to them to be a strained interpretation of the AML Law and the 1999 Convention if a clear administrative procedure for freezing under the Resolutions is in place. In any event, MOKAS explained that, in its view, the AML Law, following the Ratification Act, is applicable to this aspect of terrorist financing. This is said to be because, under the International Convention for the Suppression of the Financing of Terrorism, one of the offences in the Convention (A. 2 (5) c) penalises any person who contributes to the commission of terrorist financing offences by a group of persons acting with a common purpose, provided that such contribution is intentional. There are alternative forms of intention set out in the Convention, one of which is actual knowledge of the intention of the group to commit such an offence. The Cyprus authorities take the view that once a person or organisation is listed by the UN

Security Council, this fact would automatically be evidence of an offence of terrorist financing under section 2 (5) c (ii) of the Convention. Funds relating to this entity could consequently be considered as proceeds of terrorist financing, so there would be nothing to prevent the application of the AML Law.

221. This argument has never been tested before the court and the evaluators were not convinced by it. Even if it were accepted in the case of designations under the UNSC Resolutions, it is difficult to see how it could apply in relation to the freezing mechanisms of other jurisdictions (see below) and it was unclear how this regime would interrelate with an administrative freezing procedure.

Freezing funds in the context of S/Res/1373 (2001)

222. Regarding the freezing of the assets of terrorists and terrorist enterprises resulting from UNSC Resolution 1373 (2001), Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and enterprises creates a mechanism similar to that of Regulation (EC) No 881/2002 by instituting an obligation to freeze the assets of the natural or legal persons, groups or enterprises referred to in UNSC Resolution 1373 (2001). The Cyprus authorities indicated that they can implement freezing through administrative procedures in respect of UNSC Resolution 1373 (2001) as well as 1267 (1999) and EU clearing house decisions.
223. Even if the Cyprus authorities are bound by the EU decision, the same problems of domestic implementation would appear to apply in practice, as set out above in respect of UNSC Resolution 1267.

Giving effect to actions initiated under the freezing mechanisms of other jurisdictions

224. The examiners were advised that MOKAS, acting upon the powers vested in it in accordance with S. 10 of the Law on Ratification of the UN Convention, can proceed with all necessary enquiries (presumably having first satisfied itself that a requested designation is supported by reasonable grounds to suspect that the proposed designee is a terrorist or one who finances terrorism). MOKAS indicated that before initiating freezing procedures in these circumstances, they would not need approval from the Council of Ministers. The practical problems of implementation set out above appear also to apply to these procedures.

Freezing, seizing and confiscation in other circumstances

225. SR III and the Methodology requires that Criteria 3.1 – 3.4 and Criterion 3.6 (in Recommendation 3) should also apply in relation to the freezing, seizing and confiscation of terrorist-related funds and other assets in respect of terrorist financing offences.
226. The relevant provisions of the AML Law which relate to confiscation and provisional measures are applicable also for the offence of terrorist financing. According to section 8 of the Ratification Law, acts that constitute offences of terrorist financing “*are considered (...) as predicate offences as if included in section 5 of the Prevention and Suppression of Money Laundering Law, and for purposes of freezing or confiscating property or proceeds the relevant provisions of this Law¹⁹ shall be implemented.*” As noted above, the confiscation regime applies to financing of terrorism, whether it is prosecuted as a stand-alone or autonomous offence or together with a money laundering offence.

¹⁹ i.e. the AML Law.

2.4.2 Recommendations and comments

227. There is an administrative procedure for freezing accounts under the United Nations resolutions and the regulations of the European Union. There is no domestic legislation, apart from a decision issued by the Council of Ministers. A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing, is not yet fully in place.
228. All the institutions should be given clear user-friendly guidance and instructions concerning their rights and obligations under the freezing mechanisms, such as in the case of errors, namesakes or requests for unfreezing and for access for basic expenses. It seems to the examiners that there should be one clearly identified, competent body for enforcing these measures. It is advised that one authority should have delegated responsibility to act and enforce all relevant measures.
229. On de-listing, the reply to the Questionnaire simply states that “by administrative actions, with the involvement of the Ministry of Foreign Affairs, all information for the purpose of de-listing... or unfreezing is submitted in a timely manner”. So far as court review is concerned, the Cyprus authorities advise that aggrieved persons would have recourse to the Administrative Court under A. 146 of the Constitution. These procedures, if they are not already, should be transparent and publicly known.
230. Equally, it was unclear what monitoring is being undertaken of the private sector’s compliance with freezing assets of designated persons or whether any of the recommendations in the Best Practice Paper had been implemented.
231. In summary therefore, the examiners recommend in respect of this aspect of SR III:
- Create and/or publicise procedures for considering de-listing requests and unfreezing assets of de-listed persons.
 - Create and/or publicise a procedure for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the persons is not a designated person.
 - Clarify the procedure for authorising access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S/Res/1452 (2002).
 - Publicise the procedure for court review of freezing actions.
 - Consideration and implementation of relevant parts of the Best Practice Paper.

2.4.3 Compliance with SR III

	Rating	Summary of factors underlying rating
SR III	Largely compliant	A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing, etc. is not yet fully in place.

2.5 The Financial Intelligence Unit and its functions (R. 26, 30 and 32)

Authorities

2.5.1 Description and analysis

232. The FIU of Cyprus was established according to section 53 of the AML Law in December 1996 and became operational in January 1997. It functions under the Attorney General of the Republic as a multidisciplinary Unit and it is composed, according to section 53, of representatives of the Attorney General, the Chief of Police, and the Director of the Department of Customs and Excise. The members of the Unit are appointed on detachment (though while on detachment they are dedicated to MOKAS work). The Unit is headed by the Representative of the Attorney General. In 2003, section 53 of the AML Law was amended in order to extend the composition of the Unit to include other professionals. As a result, the Unit now includes accountants and financial analysts. It currently comprises 14 staff: 2 lawyers (the arrival of 1 further lawyer was anticipated at the time of the on-site visit), 3 accountants, 4 Police officers, 2 Customs officers, and 3 administrative staff. 8 additional posts for investigators have been created and the recruitment process is at the final stage before the Public Services Commission.
233. The FIU is the national centre for receiving, requesting, analysing and disseminating disclosures of STRs and other relevant information concerning suspected money laundering or financing of terrorism activities. These functions of the Unit are provided in section 54 of the Law.
234. Competence for suspected financing of terrorism activities was assigned to the Unit under the provisions of the Ratification Law of the United Nations Convention on the Suppression of the Financing of Terrorism (Law N° 29 (III) / 2001) section 10. Reporting of suspicious transactions associated with financing of terrorism is provided for by virtue of section 13 of the Ratification Law, which applies sections 57 to 67 of the AML Law in respect of financing of terrorism “for the purposes of implementation of Article 18 (1) of the 1999 United Nations Convention” (which includes reporting obligations in respect of suspicious transactions).
235. Guidance to financial institutions and other reporting enterprises regarding the manner of reporting, including the specification of reporting forms and the procedures to be followed when reporting money laundering, apart from the relevant provisions in the law, is given in the Guidance Notes issued by the Supervisory Authorities of the financial sector which are issued according to the law. The relevant forms were drafted and adopted in co-operation with the FIU.
236. The FIU has access to financial, administrative and law enforcement information, in order to properly undertake its functions and analyse the STRs. Specifically, it has direct access to the Registrar of Companies database in relation to information regarding companies registered in Cyprus, shareholders, directors etc. The Inland Revenue also co-operates closely with MOKAS (and the Police), assisting them to confirm the real income of persons investigated.
237. Financial information can be obtained for investigative purposes using the provisions of the Criminal Procedure Law (s. 6 (1)) [Annex 2J] without an order of the Court, and/or by using sections 45 and 46 of the AML Law.
238. The Unit has direct access to law enforcement information, since members of the Police force are appointed as members of the Unit.

239. Since 2003, as noted above, the FIU has some statutory authority to give administrative instructions to postpone transactions for 24 hours without time limitation. 2 administrative orders were issued in 2003 and 9 in 2004.
240. When the FIU needs additional information from the reporting parties in order to analyse and evaluate the contents of an STR, it has the authority to request and obtain from the reporting body all additional information needed. It also has the authority to obtain additional information from enterprises other than the reporting entity under the Criminal Procedure Law and/or sections 45 and 46 of the AML Law.
241. The FIU, according to section 54, of the AML Law, also has the authority to conduct investigations whenever there are reasonable grounds for believing that a money laundering offence has been committed. Therefore, the Unit can conduct investigations with the assistance of Police authorities whenever such co-operation is needed. The Cyprus authorities have indicated that co-operation with the police is undertaken in practice whenever there is a need to investigate the predicate offence as well.
242. The FIU functions under the Attorney General of the Republic, who according to Article 113 of the Constitution is an independent officer. Likewise the Attorney General is Head of the Law Office of the Republic (which is also an independent authority). The position of the Attorney General as independent of Government safeguards and guarantees the autonomy and operational independence of the Unit from undue influence or interference. Neither the Chief of Police nor the Director of the Customs and Excise Department can interfere or instruct any member of the Unit in the course of their duties.
243. All databases held within MOKAS are securely protected through various firewalls and passwords. All data is also properly backed up on a daily basis. Information can only be disseminated to police authorities for assistance in the course of investigations if deemed necessary only upon the written authorisation of the reporting entity.
244. The FIU issues periodic reports including statistics, typologies and trends which are sent to various government departments, financial institutions (such as banks, insurers, stock exchange, co-operative banks) as well as to foreign authorities. The examiners particularly welcomed the FIU's active approach to providing feedback to financial institutions.
245. The FIU has been a Member of the Egmont Group since June 1998 and it actively participates in its Working Groups and other Egmont Group meetings. It hosted the Egmont Group Working Group meeting in March 2001 and will be hosting the Plenary Egmont Group meeting in June 2006.
246. Shortly after the Second Round Evaluation, MOKAS, enhanced its information technology facilities. A networked server system was installed and all employees of the Unit now work through networked computer stations. During 2002, MOKAS purchased from UK Co i2 Ltd the Analyst's Notebook Version 5 and Version 6 (investigative software which assists investigators and financial analysts in their investigations).
247. In the near future, MOKAS' network is due to be connected to the central government network. This will facilitate direct communication by MOKAS with other government departments. MOKAS has also applied for a connection with FIU.Net of the European Union.
248. The staff of MOKAS are required to maintain high professional standards. They are all University graduates with relevant degrees and need to be of high integrity and appropriately skilled. All the information held by the Unit is treated with confidentiality, and in the case of a breach of this duty, the members of the Unit could be criminally liable, according to section 48 of the AML Law (with a maximum penalty of 5 years).

249. The examiners were advised that all members of the Unit receive adequate, relevant training for combating money laundering and financing of terrorism both domestically and abroad. They have participated in Training Seminars of international organisations dealing with the issues e.g. Council of Europe, European Union, Egmont Group, Europol, Interpol.
250. The Advisory Authority for Combating Money Laundering, which, as noted, is the policy making body, established under the provisions of section 55 of the AML Law, is now chaired by the Head of FIU.

STR reporting to MOKAS

251. Section 67 (d) of the AML Law provides an obligation on compliance officers of all financial institutions to report to MOKAS any suspicious transactions. There is no other reporting duty to the FIU (though certain cash and unusual transactions have to be reported to the Central Bank on a monthly basis – see beneath), which MOKAS also receives for analytical purposes.
252. The Cyprus authorities provided the following figures covering new reports MOKAS had received (either as STRs from obliged enterprises or as reports from the Police and (or other bodies), during each of the years 2001 to 2004.

	2001	2002	2003	2004
Bank Reports	59	62	86	109
Police	10	10	5	29
Customs Department	3	4	7	2
Supervisory Authorities	0	2	0	0
Money Remittance Services	0	0	2	2
Others (Government Departments, Embassies, Individuals, Publications)	34	11	6	10
Reports from Accountants/Lawyers	1	3	0	1
Reports from Brokerage Firms / Cyprus Stock Exchange	1	1	0	0
TOTAL	108	93	106	153

Bank reports are disaggregated as between domestic banks and IBUs.

<u>Year</u>	<u>Total</u>	<u>Domestic</u>	<u>IBU</u>
2001	59	44	15
2002	62	38	24
2003	86	77	9
2004	109	84	25

253. The Cyprus authorities indicated that two STRs had been received from investment firms in 2005. All in all, given the nature of Cyprus's financial sector, the examiners were surprised that there were not more reports from other sectors. The examiners considered that the FIU and the Advisory Authority might have a clearer overview of the threats from money laundering if the statistics prepared more clearly indicated where reports relate to the international business sector. The Advisory Authority should consider analysing why the number of STRs outside the banking sector still remains comparatively low, and instigate remedial action.
254. All the reports received were analysed and investigated by MOKAS (together, in some cases, with the Police). Additional information provided shows the number of cases closed by MOKAS in each of the same years. It is clear from the figures that not all the analyses can be completed within the same calendar year – for understandable reasons in cases of complexity.

Year	Total number of cases	Cases under investigation presently	Cases closed
2001	203	35	168
2002	238	62	176
2003	246	70	176
2004	301	168	133

255. The processing time for reports depends on the nature of the case and its complexity. The Cyprus authorities indicated that this procedure is often time consuming where it is necessary to co-operate with foreign authorities. There are still some cases open which are being investigated from the years 2001 to 2003. There may be good reasons for this, but the examiners consider that, without having themselves had the opportunity to analyse the reasons in individual cases, that steps need to be taken to finalise some of these investigations more quickly.
256. The examiners were advised that MOKAS investigates all STRs through to the commencement of criminal proceedings. In some cases, they request the co-operation of the police. However, the STR is never submitted to the police for this purpose.
257. In any event, from these STRs in the years since the Second Evaluation, it is understood that only three cases have been prosecuted, which are pending trial. The STRs which generated these prosecutions relate to the years 2003 and 2004. The rest are independent of the STR regime. Among the persons prosecuted, the examiners were advised that two companies were charged (in their own right and through their company officers).
258. The three cases which resulted from the STR regime involve money laundering in respect of fraud, and drug offences and relate to domestic predicates. The examiners were also advised that some of the STRs which did not result in criminal proceedings were used as additional evidence (after obtaining the consent of the reporting authority) by the Police in the prosecution and conviction of certain other cases. That said, the examiners remain disappointed by the low numbers of cases that result in prosecution arising out of the STR reporting system. As noted above, MOKAS does not have all the information on money laundering cases investigated by the police except for some where they are involved directly (e.g. in relation to obtaining interim orders). It seems to the examiners that MOKAS, as the lead agency on the money laundering issue (and the Advisory Authority), should have an overview of all money laundering investigations, and prosecutions being brought before the courts, together with information on their underlying predicate offences.
259. MOKAS designed the template for the STR and they reported that they receive some good quality STRs, particularly from some of the banks. It appeared that the feedback the reporting enterprises received was considered to be good. They try to meet with all the compliance officers together at least every five months. MOKAS provides some case-specific feedback: acknowledgments; information on

progress; and information on closing the case, namely what the outcome is. Compliance officers are in regular contact with MOKAS, often on a daily basis. MOKAS has also put considerable efforts into training the financial institutions and DNFBP in the last two years and also in training the Police on these issues. Every year, MOKAS provides at least 10 training seminars for banks (including co-operative banks). Once a year, training has been conducted for the accountants with separate seminars for large accounting firms. One training seminar was held for lawyers, and one training seminar per year has been held for public prosecutors. MOKAS has conducted annual training seminars for the Stock Exchange. Since November 2001, the training covers the issue of terrorist financing as well.

260. There have been no suspicious reports based on financing of terrorism received by the FIU. MOKAS has sent guidance to reporting enterprises in relation to terrorist financing together with sanitised cases.
261. At the time of the on-site visit a proposal to be put to the Council of Ministers was being discussed, which would extend the role of MOKAS in order for it to become a supervisory authority for the real estate and precious metal dealers. The resource implications of this would be considered as part of the exercise. It was expected that a decision on whether MOKAS should undertake this role would be made before summer 2005.

2.5.2 Recommendations and comments

262. The examiners were pleased to note that the resourcing of the FIU (both in personnel and Information Technology terms) has improved significantly since the second evaluation, in response to the recommendations in that report. MOKAS now appears adequately resourced for the tasks it currently undertakes, though the number of open cases may imply a need for still further resources. Moreover, given that the examiners felt overall that the numbers of STRs could still be higher, and bearing in mind the extra work which may be generated, when company service providers are covered in the law and begin to report, the current resourcing may well need supplementing. Equally, if MOKAS is to undertake a supervisory role in relation to real estate and precious metal dealers, it needs to be adequately resourced for this. Thus, overall, despite the improvements in the last few years, the examiners advise that the resourcing of MOKAS should still be kept under careful review, so it is fully equipped to perform its central role in the system in Cyprus at its present levels of efficiency.
263. The FIU is well regarded by domestic financial institutions and has undoubtedly put much effort into training, improving the quality of the STRs and feedback. It works efficiently processing and investigating the reports it receives, though MOKAS doubtless will wish to close more of its older cases, and attention should be given to that.
264. On the STRs, as indicated above, the examiners advise that they would expect more reporting from sectors other than banks, given Cyprus's strength as a financial centre. They recommend greater outreach to these professionals and parts of the financial sector. The Advisory Authority is advised to consider whether the presentation of statistical data on STRs could be improved to support its strategic analysis (see 6.1.1 beneath).
265. The Advisory Authority, under the Chairmanship of MOKAS, should have a complete overview of the AML/CFT prosecutorial situation. Statistical data should be kept which shows all money laundering investigations, prosecutions, and convictions together with information on the underlying predicate offences.
266. The FIU also acts as a centre of excellence for advice to the Police and prosecution on money laundering cases in which they are not involved directly. They also are responsible for the obtaining of restraint and confiscation orders for the Police, particularly the Financial Crime Unit.

267. The examiners noted with satisfaction the increasing volume of exchange of information between MOKAS and foreign FIUs. MOKAS received 88 requests in 2001, 118 in 2002, 130 in 2003 and 155 in 2004. For the same period, MOKAS sent 17 requests in 2001, 66 in 2002, 94 in 2003 and 68 in 2004. It co-operates effectively with foreign FIUs and is able to provide all relevant financial information.

2.5.3 Compliance with Recommendations 26, 30 and 32

	Rating	Summary of factors relevant to Section 2.5 underlying overall rating
R.26	Compliant	
R.30	Compliant	
R.32	Largely compliant	The periodic reviews of AML/CFT systems and statistics which take place would be assisted by more detailed statistics on STRs and full information on all money laundering cases being taken forward.

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing
(R.27, 28, 30 and 32)

2.6.1 Description and analysis

The FIU / MOKAS

268. As noted, the FIU has investigative powers for money laundering and terrorist financing offences. All members of the Unit are deemed to be investigators. In the course of an investigation the members of the Unit co-operate with police authorities as deemed necessary, which is understood to mean on an “ad hoc” basis.
269. All the competent authorities investigating money laundering cases, including MOKAS, have the power to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering.
270. Legislative measures are in place, which allow law enforcement authorities to use some special investigative techniques: controlled delivery [which is regulated by the Crime Suppression (Controlled Delivery and Other Special Provisions) Act 1995] undercover operations and interception of telecommunications under certain conditions. However, the examiners were advised that there was no practice of controlled delivery in respect of cash proceeds. The Cyprus authorities have indicated that they have used special investigative techniques in money laundering cases, e.g. undercover operations in a few cases.
271. The use of telephone intercepts in criminal investigations is permitted by law under certain conditions. According to law 92(I)/1996, such a measure may be ordered by a court, on the application of the Attorney General, only in cases of persons who are under arrest or in detention. It is considered that the wider use of telephone intercepts would violate the provisions of Article 17 of the Constitution, which protects the secrecy of correspondence and any other communication made through means not prohibited by law.

272. Subject to paragraph 328 above, the investigative techniques referred to in the foregoing paragraphs are permitted when conducting investigations for money laundering, terrorist financing and underlying predicate offences (including telephone intercepts in the limited circumstances allowed).
273. The FIU conducts investigations of the proceeds of crime using its financial investigators as well and co-operates with the financial investigators of the Cyprus Police, when this is necessary. Furthermore, as noted earlier, and about which comment has been made, the members of the FIU who are Public Prosecutors, appear before the Court for obtaining freezing and confiscation orders for the proceeds of crime in co-operation with public prosecutors of the Attorney General's Office.

Police

274. As also noted two Police Units are primarily empowered to conduct money laundering investigations: a special Drugs Law Enforcement Unit tasked to combat drug trafficking, including cases of drugs money laundering; and the Financial Crime Unit. That said, the investigators of the Criminal Investigation Department of the Police Headquarters can also investigate financial crimes and money laundering.

The Drugs Law Enforcement Unit

275. The Drugs Law Enforcement Unit has 155 officers, all of which may deal with money laundering investigations. They are all trained in money laundering issues and have MOKAS to call upon. The Drugs Law Enforcement Unit (and the Financial Crime Unit) co-operate closely with MOKAS, though there is no formal procedure set out in writing governing their co-operation. They indicated, that they do set up special teams with MOKAS, but not in all cases. Some cases of drugs money laundering were referred to by the Cyprus authorities in this context.

The Financial Crime Unit

276. The Financial Crime Unit investigates crimes of specific difficulty. There are 18 persons in the Unit (four of which are seconded to MOKAS). They always come to MOKAS for freezing orders. The Financial Crime Unit's specialism is frauds and business crime. They have officers in each of the divisions.

The Customs and Excise Department

277. The Customs and Excise Department collects revenue and has a responsibility for combating national crime including money laundering. Suspicions of money laundering are reported to MOKAS, which, in its turn, forwards cases to the Investigation Section at Customs Headquarters when cases concern predicate offences of a Customs nature.

The Central Information Service

278. The Central Information Service (under the management of the Chief of Police and the President of the Republic) can participate in investigations of cases related to terrorist financing and co-operate, as necessary with MOKAS.

Prosecution authorities

279. The staff of the Law Office of the Republic assist the Attorney General in respect of his powers to bring criminal proceedings in the public interest. There is no special prosecuting unit in the Law Office of the Republic (separate from MOKAS). Every lawyer in the Law Office potentially could handle money laundering cases, along with all their other duties (including civil and public law). Of

60 lawyers, about 15 deal with criminal law on a day-to-day basis. They have had training on financial crime and money laundering. The number of money laundering cases handled by the Law Office of the Republic was unclear. The representative of the Law Office with whom the examiners met had had no experience of prosecuting money laundering in the absence of a predicate crime on the indictment. The Attorney General's Special Guidelines in 1998 on the money laundering offence and the confiscation procedure to be followed after conviction for a predicate or laundering offence also encouraged investigations and prosecutions for associating money laundering offences. This guidance was the only general written prosecutorial guidance that was referred to in the context of developed prosecution policies. The Cyprus authorities have also pointed out that guidance in relation to money laundering prosecutions is given to the public prosecutors of the Attorney General's Office orally and/or during consultations with the lawyers of MOKAS on a case-by-case basis.

2.6.2. Recommendations and comments

280. The examiners in the Second Round Evaluation were not always clear as to the various investigative competencies in money laundering at the time of the last on-site visit (see paragraph 171 of Second report). They indicated that this may have been simply because of their lack of familiarity with the internal law enforcement division of labour. However, they suggested that if others internally confirmed their impressions, then clear guidance as to the respective competencies in investigation should be established. The present examiners had similar difficulties on this issue. They were advised that all money laundering investigations are sent to MOKAS by law (given that MOKAS's competence is not limited to investigating STRs). Thereafter, it appeared to the examiners that it is decided on a "case by case" basis who should investigate. While the examiners fully accept that this may work for the Cyprus authorities, they none-the-less consider that the appropriate authorities should consider issuing general guidance on this issue, particularly the distribution of responsibilities between MOKAS and the Law Office of the Republic, given MOKAS's many other (and growing) responsibilities. The examiners also strongly advise that it would be beneficial if there were agreements reached between the agencies to keep MOKAS informed about all money laundering investigations and prosecutions, also so that the Advisory Authority itself can maintain a complete strategic overview of the law enforcement response on money laundering and financing of terrorism. This issue is taken up in the section beneath at 6.1 dealing with national co-operation.
281. The essential criteria in Recommendation 27 are met. So far as the additional elements are concerned, there is an adequate legal base for the use of special investigative techniques, though how regularly they were used in money laundering investigations, and whether they were always used sufficiently early in enquiries was not apparent to the examiners. There is use of permanent or temporary groups of financial investigators to focus on investigation, freezing and confiscation of the proceeds of crime – the statistics show that freezing and restraint orders (some sizable) are being made. Though the operational structure of financial investigation seemed, like the arrangements for money laundering investigation, to be rather *ad hoc*. Sometimes MOKAS was the financial investigator and other times it was the Police. In any event, it was accepted that prosecutors and law enforcement need in future to focus more on the financial side and the proceeds of crime generally. MOKAS considered that they need to work more on training on this issue with other prosecutors (and possibly with the Police). Such initiatives are very much welcomed by the examiners as more financial investigations are likely to lead to the uncovering of more money laundering schemes. The evaluators therefore strongly encourage an even greater focus on the financial aspects of major proceeds-generating crimes as a routine part of the investigation. The Chief of Police may wish to consider issuing formal instructions to his officers to this effect if this is not already the case. Some re-orientation of police resources may also be required to achieve this aim effectively. The examiners advise that the Cyprus authorities invest time on the training and / or certification of a larger cadre of police investigators (separate from MOKAS) to conduct financial investigation in major proceeds-generating cases, using all modern financial investigative techniques. MOKAS should play a crucial role in the training, but they cannot be responsible for all aspects of financial investigations. The Police need to consider how best their

trained financial investigators should be deployed – whether in a separate unit or whether a number of trained financial investigators should be attached to each relevant Police Unit.

282. A further additional element in Recommendation 27 involves the review of trends and techniques and the dissemination to staff of competent authorities resulting information. The examiners were advised that trends were reviewed, but, as has been indicated, the examiners consider that in some respects the statistical data presently kept does not always allow for thorough analysis of the threats to Cyprus: The total number of money laundering investigations, prosecutions and convictions and their underlying predicates was not readily accessible as a strategic tool. The previous report highlighted that, at that time, there was a lack of real strategic analysis of Interpol requests, from which conclusions about areas vulnerable to money laundering might be drawn. The current examiners also stress the importance of strategic analysis by the Police of the money laundering threats by examination of Interpol requests and of the requests for international judicial assistance. While the examiners are satisfied that in general terms trends on money laundering are disseminated to law enforcement etc., the examiners consider still more could be done by way of strategic analysis to focus more clearly on the immediate threats in the Cyprus system.
283. The essential criteria in Recommendation 28 are clearly met.
284. On the part of Recommendation 30 dealing with resources, the examiners consider that more trained financial investigators (outside of MOKAS) are required. MOKAS clearly has proper operational independence, and staff of high professionalism and integrity. The training that has been provided by them is very positively received. It was noted, with approval, that (as specified in the additional elements) attention was being paid to inclusion of the Judiciary in these training Seminars on money laundering and financing of terrorism. It is also important that Judges should be further sensitised to the importance of the confiscation issue. However there is always room for more training. This is particularly important for the prosecutors (outside of MOKAS). If the recommendations made earlier, that Cyprus should place more emphasis generally on autonomous prosecution of money laundering by third parties in respect of foreign (and domestic) predicates, are to be taken forward effectively the prosecutors in the Law Office of the Republic appear to need further training on the types of evidence which a court may accept to establish all the elements of a money laundering offence in an autonomous prosecution.
285. In support of the recommendation earlier to give further attention to autonomous money laundering prosecution, the competent authorities (namely the Attorney General, MOKAS and the Public Prosecutors) may wish to consider whether the Attorney General should further develop prosecution policy in this area in writing, building on his 1998 guidance. A similar Guidance Note on the importance of third party laundering by professional launderers, which sets out ways in which the elements of the offence may be capable of proof in an autonomous prosecution would be, in the examiners' view, very timely. If widely disseminated to prosecutors and law enforcement, substantial progress on this stubborn issue might be quickly achieved. The examiners strongly advise that such Guidance (given at Attorney General's level) is actively considered.

2.6.3. Compliance with Recommendations 27, 28, 30 and 32

	Rating	Summary of factors relevant to Section 2.6 underlying overall rating
R.27	Largely compliant	There are designated Police authorities with most investigative tools but their competencies could usefully be delineated. More focus needs to be placed on the financial aspects of major proceeds-generating crimes as a routine part of the investigation and some re-orientation of law enforcement resources may be needed to achieve this. More focus on laundering by third parties required.

R.28	Compliant	
R.30	Largely compliant	Police and FIU are generally adequately funded and otherwise resourced, though more financial investigators should be trained and / or certified. More training for prosecutors on autonomous money laundering prosecution required.
R.32	Partially compliant	Incomplete statistics on money laundering investigations / prosecutions and convictions.

3 PREVENTIVE MEASURES - Financial Institutions

Customer Due Diligence and Record Keeping

3.1 Risk of money laundering or terrorist financing

286. This issue has been covered extensively in 1.5(c).

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and analysis

Recommendation 5

287. The AML Law and the AML Guidance Notes contain customer due diligence provisions, including a number of positive statements on the avoidance by financial institutions of the risk of being used for money laundering.

Anonymous accounts or accounts in fictitious names

288. Criterion 5.1 of the Methodology is marked with an asterisk. This means that it belongs to the basic obligations that should be set out in a law or regulation. In this context, “Law or regulation” refers to primary and secondary legislation, such as laws, decrees, implementing regulations or other similar requirements, issued or authorised by a legislative body, and which impose mandatory requirements with sanctions for non-compliance. Separate to laws or regulation are “other enforceable means” like guidelines, instructions or other documents or mechanisms that set out enforceable requirements with sanctions for non-compliance, and which are issued by a competent authority (e.g. a financial supervisory authority) or an SRO. In other words: according to the Methodology, obligations set out in law or regulation as well as in other means have to be enforceable. In addition, the law or regulation has to be issued or authorised by a legislative body. However, the Cyprus authorities have advised that their firm view is that Guidance Notes issued by the various supervisory authorities, under the AML Law, constitute secondary legislation because, in their view:

- The AML empowers the various supervisory authorities under section 60(3) to issue directions or circulars to persons falling within their supervisory responsibility, in order to assist them in complying with the relevant preventing provision of the law.
- The above directions or circulars are legally binding, enforceable and sanctionable.
- The said directions or circulars are effectively authorised by the House of Representatives through section 60(3) of the AML Law, which is the enabling provision for the above purpose.
- It is very common in the Cyprus legal system for laws to include such enabling provisions delegating to a competent authority the power to regulate specific matters without the need to enact another law or to submit such Guidance Notes or circulars before the House of Parliament for approval and further authorisation.
- The Supreme Court of Cyprus in a number of judgements upheld as legally correct the above process, confirming that, firstly, circular notes, etc., issued by administrative bodies are binding to the persons to which they are addressed, secondly, that the persons affected are obliged to follow and implement the directions contained therein and, thirdly, that when an enabling legislation gives the power to issue regulations in order to regulate matters, these could be regulated through Guidance Notes.
- The general principles of administrative law which apply in the Cyprus legal system, *inter alia*, justify the above practice on the following grounds:

- (a) the technical nature of some issues and the lack of the relevant expertise by the members of Parliament;
- (a) the lack of time in Parliament in order to deal in such detail with various issues;
- (b) the need for the legislation to be wide and flexible in order for the authorities to adopt any new developments on the issue with simple and effective procedures.

289. Notwithstanding the above, the evaluators concluded that the Guidance Notes issued by the Cyprus supervisory authorities were not authorised by a legislative body as required by the Methodology because they had only been issued under a delegating power of the law without being considered by the legislative body.

290. According to section 58(1/a) of the Prevention and Suppression of Money Laundering Activities Law (AML Law) no person shall form a business relationship, or carry out a one-off transaction with or on behalf of another, unless that person has applied the identification procedures in accordance with sections 62 to 65 of the AML Law. Section 62 (1/a) of the AML Law stipulates that the identification procedures include satisfactory evidence of the business applicant's identity. Thus, in principle Criterion 5.1 of the Methodology is met, although there is no explicit prohibition of anonymous accounts or accounts in fictitious names in the AML Law. An explicit prohibition (also regarding numbered accounts) can only be found in section 2.6.1 of the Guidance Note to Banks issued in accordance with section 60 (3) of the AML Law issued by the CBC in November 2004 (G-Banks). In the wording of the Methodology, the G-Banks is an "other enforceable means" because it has been issued by a supervisory authority and has not been issued or authorised by a legislative body. The other AML Guidance Notes for financial institutions (G-Investment Brokers, G-Insurers and G-International Businesses) contain general provisions on identifying customers. As already mentioned, Criterion 5.1 of the Methodology is met because the AML Law already contains the basic principle. Therefore, financial institutions are not allowed to keep anonymous accounts or accounts in fictitious names or numbered accounts. In addition, there are no bearer passbooks in Cyprus.

Customer due diligence

291. Following interviews with the supervising authorities and financial institutions, it was apparent to the evaluators that both supervisors and institutions took anti-money laundering discipline seriously.

When CDD is required

292. Criterion 5.2 of the Methodology has an asterisk, too. Under section 62 of the AML Law, financial institutions have to undertake CDD:

- when establishing a business relationship with a customer (62(2/a) in connection with 62(1));
- when carrying out occasional transactions over 8 thousand pounds or more (62(2/c) and 62(2/d) regarding linked transactions);
- in respect of any one-off transaction, if any person handling the transaction knows or suspects that the applicant for business is engaged in a money laundering offence (62(2/b)).

The CBC reported that, in practice, occasional wire transfers are not issued. In addition, the evaluators found that, in cases of doubts about the veracity or adequacy of previously attained customer data banks comply effectively with G-Banks. It also appeared to the evaluators that the G-Insurers were satisfied.

293. The AML Law does not cover the other cases specified in Criterion 5.2: occasional wire transfers, suspicion of money laundering or terrorist financing in the exemption specified in section 62(5) regarding insurance premiums, or of doubts about the veracity or adequacy of previously obtained

customer data, although the latter case has been addressed in section 2.4.1 of the G-Banks and section 2.4.6 of the G-Insurers.

Required CDD measures

294. Pursuant to section 65(1) in connection with section 62(1) of the AML Law, proof of identity is satisfactory if:
- it is reasonably possible to establish that the applicant is the person he claims to be; and
 - the person who examines the evidence is satisfied, in accordance with the procedure followed under the AML Law in relation to the relevant financial business concerned, that the applicant is actually the person he claims to be.
295. Criteria 5.3 and 5.4(a) of the Methodology, both asterisked, require financial institutions to identify the customer and verify that customer's identity using reliable, independent source documents, data or information. For customers that are legal persons, financial institutions should be required to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person. Section 65(1) in connection with section 62(1) of the AML Law does not meet this Criterion, not even generally, because it is possible to identify the customer without using reliable and independent source documents (e.g. if the applicant is personally known to the person who examines the evidence and therefore this person is satisfied, that the applicant is the person he claims to be). However, the Banking Law provides that verification of a customer's identity should be based on an official identity card or passport.
296. Criterion 5.3 is addressed in sections 2.7.1 and 2.7.2 of the G-Banks, sections 4.4 and 4.6.1 of the G-MTB (Annex 2K), sections 2.2 and 2.3 of the G-Investment Brokers, sections 2.4.5.1 and 2.4.5.2 of the G-Insurers and section 4 of the G-International Businesses. The G-Banks and the G-MTB provide that the name used by the customer should be verified by reference to a document obtained from a reputable source which bears a photograph. The G-Investment Brokers (in the English translation, albeit not the original Greek version), the G-Insurers and the G-International Businesses state that ideally such an approach should be taken, thus providing more flexibility. As indicated in the previous paragraph, according to the Banking Law, the verification of a customer's identity should be based on an official identity card or passport. Guidance corresponding to Criterion 5.4(a) regarding natural persons acting on behalf of legal persons and arrangements, such as clubs, societies, charities, unincorporated businesses/partnerships and corporate customers can be found in sections 2.7.4 – 2.7.6 of the G-Banks, section 4.6.2 of the G-MTB, sections 2.4 – 2.6 of the G-Investment Brokers, sections 2.4.5.3.1 to 2.4.5.3.6. of the G-Insurers and section 6 of the G-International Businesses. The G-Insurers and G-International Businesses explicitly refer to trustee and nominee relationships acting in relation to third parties although the former does not refer to clubs, societies, charities and unincorporated businesses/partnerships and does not specify that persons acting on behalf of companies must be verified. The G-Insurers could therefore be extended to include the information expected by Criteria 5.3 and 5.4(a).
297. In this context, the question arises as to what is the relationship between the AML Law and the AML Guidance Notes if it is possible to overrule the AML Law via the Guidance Notes (e.g. regarding the mandatory use of reliable and independent source documents) or to create new obligations that have no basis in the AML Law (e.g. regarding persons acting on behalf of legal persons). The Guidance Notes are based on section 60(3) of the AML Law, according to which a supervisory authority may, at its discretion, issue directions or circulars to persons falling within its supervisory responsibility, to assist them in complying with this part of the law. Therefore the evaluators came to the conclusion that it is neither possible to overrule the AML Law via the AML Guidance Notes nor to create new obligations without a legal basis. Against this background, Criteria 5.3 and 5.4(a) of the Methodology are not met by the AML Law.

298. The sections of the AML Guidance Notes quoted above also contain guidance on verification of the legal status of the customer and therefore satisfy Criterion 5.4(b) – this criterion does not need to be satisfied by reference to legislation or regulations.
299. Criteria 5.5, 5.5.1 and 5.5.2(b) are also asterisked. Regarding the identification of the beneficial owner, section 63 of the AML Law requires that reasonable measures should be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting. Thus, Criterion 5.5.1 of the Methodology is met. Nevertheless, the AML Law does not provide that financial institutions should be required to identify the beneficial owner and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source, as stipulated in the asterisked Criterion 5.5 of the Methodology. The same is true for Criterion 5.5.2(b) regarding the determination of who are the natural persons that ultimately own or control a legal person or arrangement.
300. Remaining with Criterion 5.5.2(b), a general provision regarding the identification of the beneficial owner is stipulated in section 2.6.4 of the G-Banks. The G-MTB refers to verifying the identity of the principal ultimate beneficial owner of private companies, although there is no general provision along the lines of the G-Banks. The Cyprus authorities advise that the potential risk of this is reduced by attaching a condition to the licence of each money transmitter to the effect that incoming transfers in favour of a customer cannot exceed CYP 1,500 transaction and outgoing transfers by order of a customer cannot exceed CYP 5000 per month. Banks should take reasonable measures to identify the beneficial owner(s) of accounts and one-off transactions. Section 2.6.3 of the G-Investment Brokers states that, where the beneficial owner cannot be established, brokers should not enter into a business transaction or relationship. This is a strong statement. Section 2.4.5.3.4 of the G-Insurers states that insurers must take all measures deemed appropriate for nominees where the beneficial owners cannot be established. The G-Insurer states that the insurance company must always establish the identity of a nominee acting in relation to a third party and take all measures deemed appropriate under the circumstances for the purpose of establishing the identity of any person on whose behalf a nominee is acting. Section 4 of the G-International Businesses states that the principal requirement is to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets. In addition, section 2.7.6.7 of the G-Banks and 4.6.2 of the G-MTB contain a detailed description of natural persons who ultimately own or exercise effective control over a company, materially in line with the Methodology.
301. The evaluators concluded that the AML Law needs to be amended to provide a general requirement to identify the beneficial owner and to take reasonable measures to verify his identity using relevant information or data obtained from a reliable source, and to verify the identity of the controller of the account. Section 63 of the AML Law only deals with transactions on behalf of another person, which, it seems to the examiners, is not broad enough as a legal basis.
302. Regarding the data required for beneficial owners, the evaluators could not find a general provision requiring financial institutions to obtain and record the date of birth, although according to section 2.7.6.5 of the G-Banks and section 4.6.2 of the G-MTB the date of birth is required for accounts of corporate customers regarding directors, authorised persons, registered shareholders and beneficial owners. Section 2.6.3 of the G-Investment Brokers and section 4 of the G-International Businesses provide that for locally incorporated companies the date of birth is needed for at least one director, authorized persons and, in the case of private companies, the major beneficial owners. Section 2.4.5.3.3 of the G-Insurers has similar provisions for local companies regarding the date of birth of at least one director and the major beneficial owners of private companies.
303. With reference to Criterion 5.5.2(a), section 2.6.4 of the G-Banks and section 4.6.2 of the G-MTB contain reference to financial institutions being required for legal persons and legal arrangements to

take reasonable measures to understand the ownership and control structure of the customer. Such specific references are not included in the other AML Guidance Notes.

304. According to section 2.6.4 of the G-Banks, banks should request and obtain sufficient information on its customers' (corporate or otherwise) business activities with the aim of constructing the customer's business profile which should include as a minimum:
- the purpose and reason for opening the account or requesting the provision of services;
 - the anticipated level and nature of the activity to be undertaken;
 - the anticipated account turnover, the expected origin of the funds to be credited in the account and expected destination of outgoing payments; and
 - the customer's sources of wealth or income, size and nature of business/professional activities.
305. The evaluators consider the business profile to be very important and that these requirements are fully in line with Criterion 5.6 of the Methodology. The same is true regarding section 4.2 of the G-MTB (the MTB must ascertain the volume and nature of business that the customer is expected to carry out so that there is full understanding of the customer's normal activities). The G-Investment Brokers does not contain a requirement to construct a business profile but section 2.4.5.3.3 of the G-Insurers states that for local corporate clients the company's business profile in terms of the nature and scale of its activities must be established. Section 4 of the G-International Businesses contains similar provisions and explicitly applies them to both local and non-local companies. It also states that international businesses need to have a clear understanding of the pattern of a customer's business as the business develops into an ongoing relationship. Criterion 5.6, which requires financial institutions to obtain information on the purpose and intended nature of the business relationship, is fully met in all cases except in relation to the AML guidance in G-Investment Brokers.
306. According to Criterion 5.7 of the Methodology, again asterisked, financial institutions should be required to conduct ongoing due diligence (which should include e.g. scrutiny of transactions to ensure they are consistent with knowledge of the customer and the customer's business and risk profile) on the business relationship. Section 58 (1/a/iv) of the AML Law requires a detailed examination of any transaction which by its nature may be considered to be associated with money laundering for the purpose of preventing or forestalling money laundering. For the purposes of general ongoing due diligence this provision is too narrow as a legal basis because it is only focused on cases considered to be associated with money laundering.
307. Nevertheless, section 8.3 of the G-Banks and section 8.3 of the G-MTB meet Criterion 5.7 (and 5.7.1): Banks should have an understanding of normal and reasonable account activity of their customers as well as of their business profile so that they have a means of identifying transactions which fall outside the regular pattern of an account's activity. For all accounts, banks should have systems in place to be able to aggregate balances and activity of all connected accounts on a fully consolidated basis and detect unusual or suspicious patterns of activity. Criterion 5.7.2 of the Methodology is met too: This Criterion directs that financial institutions should undertake reviews of existing records. According to section 2.4 of the G-Banks, banks need to ensure that customer identification records remain up to date and relevant throughout the business relationship. In this respect, a bank must undertake, on a regular basis, or whenever it has doubts about the veracity of the identification data, reviews of existing records, especially for high-risk customers.
308. The evaluators noted that, although there are some omissions in the AML Law (due to the fact that necessary parts of the Methodology are not implemented in law or regulation), in practice the material content of the Methodology regarding the identification of customers are implemented satisfactorily by financial institutions. However, Criterion 5.4(a) of the Methodology regarding the authorisation of a person purporting to act on behalf of a legal person or legal arrangement is not applied. The provisions of the various Guidance Notes on ascertaining beneficial ownership also appeared to the

evaluators to be implemented. With regard to ongoing due diligence, the banks interviewed by the evaluators implemented the provisions of the G-Banks on ongoing monitoring – they had put in place management information systems for the ongoing monitoring of accounts and transactions. In addition, the evaluators observed that the provisions in the G-Banks on ongoing monitoring provided that on-going monitoring systems needed to be in place by all banks by 30 June 2005 – some months after the on-site visit by the evaluators.

309. The G-Insurers has a slightly different approach to ongoing due diligence – an insurer must undertake on a regular basis, or whenever it has doubts about the veracity of identification data, a review of existing records, especially for high risk customers. The aim is for insurers to ensure that customer identification records remain up-to-date and relevant throughout the business relationship. It would be preferable to concentrate on scrutiny of transactions to ensure they are consistent with the insurer’s knowledge of the customer rather than implicitly directing insurers towards customer identification records. The G-Investment Brokers and the G-International Businesses do not contain provisions on ongoing due diligence. SEC has advised that its revised new Guidance Notes will explicitly include such provisions.

Risk

310. Criterion 5.8 requires financial institutions to perform enhanced due diligence for higher risk customers.
311. In sections 62(5) and 64 of the AML Law there are the following exemptions from identification procedures:
- in the case that the sum of periodic insurance premiums to be paid in a given year does not exceed EUR 1,000 or EUR 2,500 where a single premium is to be paid;
 - in cases of insurance policies in respect of pension schemes taken out by virtue of a contract of employment or the insured’s occupation, provided that such policies contain no surrender clause and may not be used as collateral for a loan;
 - persons which are subject to the AML Law; and
 - financial institutions incorporated in countries which apply, in the opinion of the competent Supervisory authority, procedures for the prevention of money laundering which are equivalent with those provided in the AML Law.

These exemptions are in line with the Methodology.

312. Section 2.8 of the G-Banks requires enhanced due diligence for the following categories of high risk customers:
- accounts in the names of companies whose shares are in the form of bearer;
 - accounts in the names of trusts or nominees of third persons;
 - “client accounts” opened by professional intermediaries;
 - politically exposed persons (“PEPs”);
 - “old customer accounts”;
 - non-EU correspondent bank accounts;
 - reliance on business introducers for customer identification and performance of due diligence;
 - higher risk countries – NCCT (also mentioned in section 4.6.3 G-MTB).

The evaluators considered that these measures are sensible and in line with the Methodology.

313. Section 2.7 of the G-Investment Brokers includes specific guidance on mitigating the potential risks posed by clients which are companies with bearer shares. Section 2.3 of the G-Investment Brokers

provides guidance on verifying non-Cyprus resident customers and Appendix 1 gives examples of unusual transactions (for example, frequent transactions of a large number of titles in numerous stock exchanges around the world).

314. In the G-Insurers, high-risk customers are highlighted in section 2.4.6 for attention by insurers when reviewing their customer records. Also, section 2.4.5.2 of the G-Insurers provides guidance on verifying prospective policyholders not permanently residing in Cyprus and section 6 directs insurers to be particularly cautious when faced with a range of scenarios (for example, clients asking to conclude a single premium life insurance contract with a large sum of premiums paid in cash). The G-Insurers extends beyond the FATF Recommendations in certain respects in that, in addition to insurance companies carrying out life assurance, they cover non-life insurance companies operating exclusively outside Cyprus. This extension follows section 61(14) of the AML Law.
315. The G-International Businesses does not opt for a risk-based approach or to include provisions on higher risk jurisdictions, customers or transactions, except for provisions on mitigating the potential risks posed by customers which are companies with bearer shares. The Cyprus authorities advise that enterprises covered by the Guidance Notes represent a very small part of the total finance sector and that the potential money laundering risks of these enterprises is mitigated as they include independent financial advisers who do not handle client funds, as well as feeder funds.
316. Criteria 5.9 to 5.12 permit countries to allow financial institutions to apply simplified or reduced customer due diligence measures in controlled circumstances (e.g. where the risk of money laundering is lower). Where the customer is resident in another country, this should be limited to countries which satisfy the original country that they are in compliance with and have effectively implemented the FATF Recommendations.
317. The G-Insurers reflects the AML Law in that customer identification procedures need not be performed where the periodic premium amount or amounts to be paid in any given year does or do not exceed EUR 1000, or where a single premium is paid amounting to EUR 2500 or less. Identification requirements are also not required in respect of pension schemes taken out by virtue of a contract of employment or the insured's occupation provided that such policies contain no surrender clause and may not be used as collateral for a loan. The foregoing are all examples of customers, transactions or products referred to by the FATF as examples of where the risk might be lower, and where simplified or reduced customer due diligence might be undertaken.

Timing of verification

318. Criteria 5.13, 5.14 and 5.14.1 cover the timing of verification.
319. Section 62(1) of the AML Law stipulates that the customer has to be identified "as soon as reasonably practicable", after the first contact between that person and an applicant for business, concerning any particular business relationship or one-off transaction. According to section 65(2) of the AML Law, in determining the time limit in which satisfactory evidence of a person's identity has to be obtained, all the circumstances shall be taken into account including, in particular:
 - the nature of the business relationship or one-off transaction;
 - the geographical location of the applicant for business;
 - whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes.
320. In addition, section 2.2 of the G-Banks and section 4.3 of the G-MTB, stipulate that "as a rule", institutions are expected to promptly seek and obtain satisfactory evidence of identity of their customers at the time of establishing an account relationship and prior to the execution of any

transactions or the provision of any services whatsoever. Section 2.1.3 of the G-Investment Brokers indicates that, as a rule, brokers are expected to seek and obtain satisfactory evidence of identity of their customers prior to the execution of any transactions whatever. Section 2.2 of the G-Insurers is similar, expecting, as a rule, satisfactory evidence of identity to be obtained prior to the conclusion of a contract. Section 4 of the G-International Businesses states that the timing of obtaining identity information must be determined in the light of circumstances and that, as a rule, institutions should only start processing the business provided that satisfactory evidence of identity has been obtained. The Cyprus authorities advise that the words “as a rule” and “expect” were included to mean, and are enforced by the authorities to mean, that financial institutions must undertake the actions to which the language attaches. The authorities advise that financial institutions have adopted a similar interpretation. Nevertheless, the words “as a rule” and “expect” are open to interpretation and could be misunderstood to permit exceptions to the rule. In relation to life insurance business, the identification and verification of the beneficiary under the policy may take place after the business relationship with the policyholder is established. However, in such cases, identification and verification should occur at or before the time of payout or the time when the beneficiary intends to exercise vested rights under the policy.

321. Section 62(1) in connection with 65(2) of the AML Law permits in certain cases the completion of verification of the customer and beneficial owner identification following the establishment of the business relationship. According to Criterion 5.14 of the Methodology, this is possible if:

- the verification is done as soon as reasonably practicable;
- it is essential not to interrupt the normal conduct of business;
- the money laundering risk is effectively managed.

322. The AML Law does not contain the latter two elements. Although Criteria 5.13 to 5.14.1 of the Methodology are not asterisked, the evaluators suggest that the AML Law should be amended in line with the Methodology because the law currently lists different criteria from those in the Methodology, and it could mislead and eventually even overrule a specific guideline. In addition, the evaluators consider that the AML Guidance Notes should be amended to remedy the ambiguity provided by the words “as a rule” and “expect”. As indicated above, the Cyprus authorities advise that the words “as a rule” and “expect” were included to mean, and are enforced by the authorities to mean, that financial institutions must undertake the actions to which the language attaches. The authorities advise that financial institutions have adopted a similar interpretation. Nevertheless, consideration should be given to whether to require financial institutions to promptly seek and obtain satisfactory evidence of the identity of their customers in any case at the time of establishing an account relationship or describe cases where verification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken in the latter case.

Failure to satisfactorily complete CDD

323. According to section 58(1) of the AML Law, no person shall form a business relationship or carry out a one-off transaction unless that person applies the identification procedure pursuant to sections 62 to 65 of the AML Law. In addition, in the AML Guidance Notes applying to banks and insurers (section 2.4.4), institutions should consider making an STR in the case of failure of refusal by a prospective customer to provide satisfactory identification evidence within a reasonable timeframe and without adequate explanation. The G-Investment Brokers includes as an example of suspicious transactions particular difficulties in establishing the identity of a customer. The G-International Businesses is silent on the link between unsatisfactory CDD and the issue of a suspicious transaction report. The Methodology (Criterion 5.15) indicates that STRs should be considered when Criteria 5.3 to 5.6 cannot be satisfied. With regard to Criterion 5.16, there is no provision in the AML Guidance Notes on terminating a business relationship and to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied.

Existing customers

324. Financial institutions should be required to apply CDD requirements to existing customers on the basis of materiality and risk (Criterion 5.17 of the Methodology). According to section 2.8.5 of the G-Banks, banks should update customer identification records in respect of “old customer accounts” in the following cases:
- when an unusual transaction takes place;
 - when there is a material change in the “old customer’s” circumstances and documentation standards (e.g. change of directors/secretary, change of registered nominee shareholders, etc.);
 - when there is a material change in the way that the existing “old customer account” relationship is operating (e.g. change of authorised signatories to the account, request for opening new accounts etc.).
325. The evaluators consider that section 2.8.5 of the G-Banks meets the requirements of Criterion 5.17 of the Methodology. This is not the case regarding the G-Investment Brokers or the G-International Businesses (see paragraph 368), where no such provision could be found, although the latter states that identity should be verified in all unusual and unexplained circumstances. SEC has advised that provisions on the application of CDD requirements to existing customers will be included in revised Guidance Notes. Section 2.4.6 of the G-Insurers contains provisions on the renewal of customer identification. It states that insurance companies need to ensure that customer identification records remain up-to-date and relevant through the business relationship. Insurers must undertake, on a regular basis, or whenever they have doubts about the veracity of the identification data, reviews of existing records especially for high-risk customers. If, as a result of a review, an insurer becomes aware that it lacks sufficient information about an existing customer, it should take all necessary action to obtain the missing information as quickly as possible. These provisions do not seem to extend to obtaining missing information on the purpose and intended nature of the business relationship.

EU Directive

326. According to Article 7 of the EU Directive, Member States shall ensure that financial institutions refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the competent authorities. In addition, these authorities should have the power to stop the execution of a transaction that has been brought to their attention by an obliged person who has reason to suspect that such transaction could be related to money laundering. The Cyprus authorities indicated that Section 27 of the AML Law together with Section 26 (2c) of the AML Law cover the contents of Article 7. While these provisions cover failure to report (indeed failure to report constitutes a criminal offence) and provide for the giving of instructions not to execute operations, the examiners could not find a clear provision in the AML Law or Guidance Notes which places the onus on reporting institutions to refrain from executing (suspicious) transactions until they have apprised the authorities. The same is true regarding Article 3(8) of the EU Directive (identification requirement in case of a suspicion of money laundering even where the amount is lower than the threshold).

Recommendation 6

327. Section 2.8.4 of the G-Banks meets the requirements of Criteria 6.1 to 6.4 of the Methodology (appropriate risk management systems, senior management approval, establish the source of wealth, enhanced ongoing monitoring). One of the additional criteria, which are not compulsory, considers domestic PEPs - domestic PEPs are not included in the G-Banks. The evaluators could not find any provisions about PEPs in the G-MTB (see the condition attached to licences by the CBC referred to in paragraph 354), the G-Investment Brokers, the G-Insurers or the G-International Businesses.
328. The evaluators found from discussion with banks and the CBC that the requirements of Recommendation 6 in the banking sector are effectively implemented. The evaluators note that the

banking sector represents the large majority of the finance sector. The other sectors are, nevertheless, not subject to guidance on mitigating their vulnerability to PEPs.

Recommendation 7

329. Criteria 7.1 to 7.4 of the Methodology on cross-border banking and other similar relationships (gather sufficient information about a respondent institution, assess the respondent institution's AML/CFT controls, obtain approval from senior management, document the responsibilities) are successfully addressed in section 2.8.6 of the G-Banks. Regarding Criterion 7.5 (payable-through accounts), the evaluators were told by the CBC that this kind of account does not exist in Cyprus. Nevertheless, payable-through accounts are not forbidden. Taking into consideration the high risk of such accounts, the evaluators came to the conclusion that there should be guidance for payable-through accounts.
330. Section 2.8.6 of the G-Banks applies only to non-EU banks. Although the Methodology does not contain a special provision regarding EU banks, the evaluators considered this as reasonable, taking into consideration the lower risk due to harmonised EU standards. Corresponding banking relationships exist in Cyprus. The evaluators concluded from their on-site meetings with banks and the CBC that the banks and the CBC were conscious of the potential vulnerabilities arising from correspondent relationships. The banks interviewed advised that they would not open payable-through accounts. It was clear to the evaluators that the CBC was aware of the existing correspondent relation held by banks
331. Criteria 7.1 to 7.5 potentially apply to financial institutions other than banks. The Methodology contains the one example of similar relationships being established for securities transactions or funds transfers. SEC has advised that reference to such controls will be included in its revised Guidance Notes. The Cyprus authorities should consider what controls may be appropriate in other sectors.

Recommendation 8

332. Section 62A of the AML Law meet Criteria 8.1 to 8.2.1 of the Methodology (policies to prevent the misuse of technological developments; policies regarding non-face to face customers including specific and effective CDD procedures to address the specific risks associated with such customers) as follows:
- the production of additional documentary evidence;
 - supplementary measures to verify or certify the documents supplied;
 - the receipt of confirmatory certification by an institution or organisation operating in a member state of the EU; or
 - the first payment in the context of the business relationship or one-off transaction to be made through an account maintained in the customer's name with a credit institution operating in a member state of the EU.
333. The foregoing provision are also reflected in a circular letter of the CBC from 19 June 2001 implementing the Risk Management Principles for Electronic Banking of the Basel Committee on Banking Supervision from May 2001. The circular requires banks to introduce internal control procedures and adhere to the risk management principle set out in the paper – these include mechanisms for the authorisation of the identity of customers using e-banking services and the maintenance of clear audit trails for e-banking transactions. The evaluators concluded from banks that the provisions on the Guidance Notes on technological developments and the circular were adhered to. The banking sector represents a large majority of the finance sector in Cyprus.

334. The G-Investment Brokers, the G-Insurers and the G-International Businesses do not contain specific guidance on the misuse of technological developments.
335. Turning to non-face to face customers, in addition to section 62a of the AML Law, section 2.3 of the G-Investment Brokers deals specifically with non-Cyprus resident personal customers and emphasizes that verification procedures similar to those for resident customers should be carried out as far as possible. For such non-face to face customers, brokers are advised to verify identity with a reputable credit or financial institution in the applicant's country of residence. Verification details should be requested covering true name or names used, current permanent address and verification of signature.
336. Section 2.4.5.2 of the G-Insurers emphasises that for prospective policyholders not permanently residing in Cyprus verification procedures should be similar to those applied for clients permanently residing in Cyprus. Insurers with any doubt are urged to seek to verify identity with a reputable institution in the client's country of business.
337. Section 62.A of the AML Law came into force after the G-International Businesses was issued. As a consequence, the Guidance will need amendment to reflect the law.

3.2.1 Recommendations and comments

338. The AML Law and the AML Guidance Notes all contain customer due diligence provisions, including a number of positive, strong statements for the approaches of financial institutions in countering money laundering. The evaluators concluded that the supervisory authorities and financial institutions took their anti-money responsibilities seriously – there was no indication of inefficient implementation of the AML Guidance Notes (see para. 363). The evaluators none-the-less recommend that to fully meet the requirements of the Methodology the Cyprus authorities should amend the AML Law (and the AML Guidance Notes as necessary) and require financial institutions to:
- undertake CDD measures in cases of occasional wire transfers, when there is a suspicion of money laundering or terrorist financing, regardless of the exemption specified in S. 62(5) of the AML-Law regarding insurance premiums, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology);
 - verify the customer's identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology);
 - identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology);
 - conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology);
 - describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology).
339. The evaluators also recommend the Cyprus authorities to amend the following Guidelines and to require financial institutions to:
- Make general provisions for recording the date of birth of beneficial owners (all AML Guidance Notes);
 - understand ownership and control structures (AML Guidance Notes other than G-Banks and G-MTB; Criterion 5.5.2(a) of the Methodology);

- obtain information on the purpose and intended nature of the business relationship; (the G-Investment Brokers, the G-Insurers, the G-International Businesses; Criterion 5.6 of the Methodology);
- perform enhanced due diligence for higher risk customers; the G-International Businesses; Criterion 5.8 of the Methodology);
- create certainty in the timing of obtaining satisfactory customer identification by deleting the words “as a rule” and “expect” (most of the AML Guidance Notes);
- seek and obtain satisfactory evidence of identity of their customers in any case at the time of establishing an account relationship or describe cases where an identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken in the latter case (the G-Banks; Criteria 5.13, 5.14 and 5.14.1 of the Methodology);
- consider, on terminating a business relationship, making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (all AML Guidance Notes; Criterion 5.16 of the Methodology);
- apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 5.17 of the Methodology);
- have in place rules regarding PEPs according to Criteria 6.1-6.4 of the Methodology (all AML Guidance Notes except the G-Banks);
- establish rules for payable-through accounts (the G-Banks; Criterion 7.5 of the Methodology);
- put in place procedures to prevent the misuse of technological developments (the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 8.1 of the Methodology) and to bring the G-International Businesses up to date with section 62A of the AML Law.

340. In addition, the evaluators recommend that the Cyprus authorities implement Article 7 of the EU Directive (refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the competent authorities; power to stop the execution of a transaction for the FIU) and Article 3(8) of the EU Directive (identification requirement in case of a suspicion of money laundering even where the amount is lower than the threshold).

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	Partially compliant	No general rule to identify the beneficial owner except in the G-Banks; no CDD measures required 1) regarding occasional wire transfers, 2) irrespective of the insurance premium exemption when there is a suspicion of money laundering or terrorist financing and 3) in cases of doubts regarding previously obtained customer data; no general rule in an act of primary or secondary legislation except the Banking Law concerning identification using reliable and independent source documents and concerning ongoing due diligence. In addition, the AML Guidance Notes other than the G-Banks and the G-MTB need to be enhanced with regard to understanding ownership and control structures; obtaining information on the purpose and nature of business relationships; the application of CDD requirements for existing customers; consideration of making STRs on terminating existing business relationships.

R.6	Largely compliant	No PEP provisions in the G-MTB, the G-Investment Brokers, the G-Insurers and the G-International Businesses.
R.7	Largely compliant	No guidance regarding payable-through accounts.
R.8	Largely compliant	No provisions regarding the misuse of technological developments.

3.3 Third parties and introduced business (R.9)

3.3.1 Description and analysis

341. The AML Law does not provide for the delegation of obligations to any third party such as a business introducer. Nevertheless, according to section 2.8.7 of the G-Banks it is possible to rely on business introducers if the following conditions are met:

- the compliance officer or department has assessed the customer identification and due diligence procedures employed by the professional intermediary and has found them to be in line with the generally acceptable international standards and to be as rigorous as those employed by the bank itself; (part of Criterion 9.3 and Criterion 9.4 of the Methodology);
- the professional intermediary or third party introducer is subject to regulation and supervision by an appropriate competent authority in Cyprus or abroad for money laundering purposes; (part of Criterion 9.3 of the Methodology);
- all relevant identification data and other documentation pertaining to the customer's identity should be submitted duly certified as being a true copy of the original by the professional intermediary or third party introducer to the bank at the time of submitting the application for opening the account, providing a service, or executing a one-off transaction (Criteria 9.1 and 9.2 of the Methodology);
- the bank reaches an agreement with the professional intermediary or third party introducer by which it is permitted at any stage, to verify the due diligence procedures performed by the professional intermediary or introducer for the purposes of preventing money laundering; (part of Criterion 9.3 of the Methodology);
- banks cannot detract from their ultimate responsibility for customer identification and verification and to know their customers and business activities; (Criterion 9.5 of the Methodology).

Thus, the evaluators found that Criteria 9.1 to 9.5 of the Methodology are fully met for banks.

342. The G-Investment Brokers, the G-Insurers and the G-International Businesses do not contain provisions on the use of intermediaries or other third parties to perform elements of the customer due diligence process. Accordingly, the evaluators understand that the combination of the AML Law (which contain no provisions on intermediaries) and these three sets of AML Guidance Notes do not allow for the delegation of any customer due diligence obligations and, therefore, that Recommendation 9 is not applicable to the financial institutions covered by these Guidance Notes. The G – Notes of supervisory authorities which make no reference to the issue of business accepted from professional intermediaries acting as business introducers, do not permit delegation of the due diligence requirements to business introducers and hence the financial institutions concerned are required to establish the identity and obtain information directly from their customers.

3.3.2 Recommendations and comments

343. Cyprus appears to be fully compliant with FATF Recommendation 9.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	Compliant	

3.4 Financial institutions secrecy or confidentiality (Recommendation 4)

3.4.1 Description and analysis

344. Criterion 4.1 states that countries should ensure that no financial institution secrecy law will inhibit the implementation of the FATF Recommendations. Areas where this may be of particular concern are the ability of competent authorities to access information they require to properly perform their functions in combating ML or FT; the sharing of information between competent authorities, either domestically or internationally; and the sharing of information between financial institutions where this is required by R.7, R.9 or SR. VII.
345. There is no financial institution secrecy law in Cyprus which inhibits the implementation of the FATF Recommendations. The Banking Law (N° 66 [1] of 1997), while prescribing the duty to maintain bank secrecy in section 29 (1), also defines the exemptions from that duty in paragraph 2, which includes the situation where “ (d) *the information is given to the police under the provisions of any law or to a public officer who is duly authorised under that law to obtain that information or to a court in the investigation or prosecution of a criminal offence under any such law.* ”
346. The FIU has access to financial, administrative and law enforcement information, in order to properly undertake its functions and analyse the STRs. Specifically, it has direct access to the Registrar of Companies database in relation to information regarding companies registered in Cyprus, shareholders, directors etc. The Inland Revenue also co-operates closely with MOKAS (and the Police), assisting them to confirm the real income of persons investigated.
347. Financial information can be obtained for investigative purposes using the provisions of section 6(1) of the Criminal Procedure Law [Annex 2J] without an order of the Court, and/or by using sections 45 and 46 of the AML Law to obtain a disclosure order.
348. MOKAS has direct access to law enforcement information, since members of the Police force are appointed as members of the Unit.
349. Supervisory authorities have been established for a range of financial institutions. Section 60(2) of the AML Law states that the principal duty of a supervisory authority shall be to assess and supervise compliance, by persons falling under its area of responsibility, with the special provisions of the AML Law (i.e. the provisions which lay down specific AML responsibilities for financial institutions). Where a supervisory authority possesses information and is of the opinion that any person subject to its supervision may have been engaged in a money laundering offence it shall, as soon as is reasonably practicable, transmit the information to MOKAS as soon as possible.
350. Section 25 of the CBC Law states that every member of the Committee, a director and any employee of the CBC shall be bound to secrecy and shall for the purposes of the Criminal Code in force for the time being be deemed to be employed in the public service and the provisions of the Public Officers Protection Law shall apply to them as if they were public officers. These provisions are subject to the proviso that secrecy shall not apply against a Court of the Republic, Commission of Inquiry,

appointed and acting under the Commission of Inquiry Law, penal investigator carrying out investigation under article 4 of the Criminal Procedure Law and Parliamentary Committee under the Submission of Data and Information to the House of Representatives and the Parliamentary Committees Law.

351. Section 29 of the Banking Law states that no director, chief executive, manager, officer, employee agent of a bank and no person who has by any means access to the records of a bank, with regard to the account of any individual customer of that bank shall, while his employment in or professional relationship with the bank, as the case may be, continues or after the termination thereof, give, divulge, reveal or use for his own benefit any information whatsoever regarding the account of that customer.

These provisions do not apply in any case where –

- (a) the customer or his personal representatives gives or give his or their written permission to do so; or
- (b) the customer is declared bankrupt or if the customer is a company, the company is being wound up; or
- (c) civil proceedings are instituted between the bank and the customer or his guarantor relating to the customer's account; or
- (d) the information is given to the police under the provisions of any law or to public officer who is duly authorised under that law to obtain that information or to a court in the investigation or prosecution of a criminal offence under any such law; or
- (e) the bank has been served with a garnishee order attaching moneys in the account of the customer; or
- (f) the information is required in the course of his duties by a colleague in the employment of the same bank or its holding company or the subsidiary of the bank or its holding company or an auditor or legal representative of the bank; or
- (g) the information is required to assess the creditworthiness of a customer in connection with or relating to a bona fide commercial transaction or a prospective commercial transaction so long as the information required is of a general nature and in no way related to the details of a customer's account; or
- (h) the provision of the information is necessary for reasons of public interest or the protection of the interests of the bank.

352. The foregoing provisions are also subject to sections 25 and 27 of the Banking Law. According to section 25(2) of the Banking Law, the CBC may require a bank to submit at its request information within the time as may specified by the CBC. Section 27(1) provides that the CBC may co-operate and exchange information with the competent banking and/or insurance and/or securities markets supervisory authorities, whether in the Republic or elsewhere. Information exchanged concerns banking supervisory matters, including measures for the prevention of money laundering and may be effected either on request or on a spontaneous basis with both EU and non-EU states. S. 27(2) provides that the CBC shall not divulge any information relating to an individual deposit account – this does not in any way diminish the legal requirement to report an individual depositor suspected of money laundering to MOKAS (which can subsequently share this information, either on request or spontaneously with other FIUs). Section 27(2) would not prevent the CBC from sharing supervisory information on actual or potential money laundering issues about particular institutions with other supervisors. In addition, competent authorities in other jurisdictions could approach, for example, MOKAS directly. Nevertheless, S. 27(2) of the Banking Law, at the least, sends mixed messages to the international community about the CBC's potential willingness to cooperate and it would benefit Cyprus to delete the section.

353. Section 33 of the Securities and Exchange Commission Law enables SEC to request and collect information necessary for the exercise of its statutory functions. Persons requested by SEC are required to provide the information in a timely fashion, fully and accurately. Failure to provide the

information is subject to administrative penalties. Section 30 of the Law allows SEC to cooperate spontaneously and on request with competent supervisory authorities abroad charged with the exercise of similar responsibilities.

354. Section 196 of the Law on Insurance Services enables the Superintendent of Insurance to collect information necessary for the exercise of its functions and to address relevant written requests for assistance. Section 6 of the Law states that the Superintendent may cooperate with foreign competent supervisory authorities charged with carrying out analogous functions and to exchange with them the necessary information for the carrying out of their functions. Section 7 of the law adds that the secrecy provisions to which the Superintendent is subject do not preclude the exchange of information with supervisory authorities in the EU and the EEA. Section 7 goes on to say that the Superintendent may conclude cooperation agreements with foreign supervisors, subject to appropriate confidentiality provisions. The Superintendent of Insurance has reported that she can exchange information on all supervisory issues, including money laundering issues, under the insurance legislation with other supervisory authorities with analogous functions, formally or spontaneously on a confidential basis.
355. The Second Evaluation Report noted that the CBC and most of the other supervisory authorities were not empowered to exchange information directly with other foreign supervisors on suspected money laundering cases and that the general attitude was that MOKAS should remain the only competent authority to exchange information for the purposes of investigating money laundering offences. The report concluded that the supervisory authorities should be empowered following the example of SEC to directly exchange information for foreign counterparts on money laundering matters, subject to conditions to be determined. No specific action appears to have been taken by the Cyprus authorities in respect of this conclusion and, indeed, no legislation seems to refer explicitly to SEC's ability to disclose information on potential money laundering matters. The contents of Section 30 of the Securities and Exchange Commission Law are referred to in Paragraph 406 above – this section would appear to allow SEC to disclose potential money laundering information to another supervisory authority with similar anti-money laundering responsibilities. The Cyprus authorities have advised that the supervisory authorities have the ability to exchange information relating to terrorist financing as well as money laundering.
356. The same conditions and requirements would appear to apply for the disclosure of information for terrorist financing as in the case of money laundering. The evaluators would echo the conclusion in the second evaluation report – it would be helpful to the international community to draw a specific link in the regulatory legislation to the ability of the Cyprus supervisory authorities to disclose information in connection with money laundering and terrorist financing.
357. With regard to the sharing of information between financial institutions, Recommendations 7 and 9 and Special Recommendation VII are relevant.
358. Dealing first of all with Recommendation 7, section 2.8.6 of the G-Banks addresses the need of Cyprus banks to gather information about a respondent institution (albeit that payable - through accounts are not covered). The other Guidance Notes do not deal with controls for relationships similar to cross-border banking.
359. In connection with Recommendation 9, only banks take advantage of the provisions in the Recommendation 9 for third parties (e.g. intermediaries) to undertake some customer due diligence. Section 2.8.7 of the G-banks indicates that all relevant identification data and other documentation pertaining to the customer's identity should be submitted duly certified as being a true copy of the original by a professional intermediary or third party introducer at the time of submitting the application for opening the account, providing a service or executing a one-off transaction.
360. Paragraph 423 deals with the pertinent aspects of Special Recommendation VII. Section 3.4.6 of the G-Banks requires banks to make sure that incoming funds transfers in excess of US \$ 1,000 include

the information required by the Special Recommendation for the ordering customer. Banks should contact the originator’s bank and request that the information be made available before proceeding with the execution of the transaction.

3.4.2 Recommendations and comments

361. The evaluators recommend that the following two actions should be undertaken to improve, inter alia, the perception of Cyprus to cooperate with other jurisdictions:

- Delete the requirement in Section 27(2) of the Banking Law that the CBC should not divulge any information relating to an individual deposit account; and
- Draw a direct link in the regulatory legislation to the supervisory authorities’ (CBC, SEC, ICCS) ability to disclose information relating to money laundering and terrorist financing.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	Compliant	

3.5 Record keeping and wire transfer rules (R.10 and SR.VII)

3.5.1 Description and analysis

Recommendation 10

362. The AML Law and the AML Guidance Notes cover most of the FATF record keeping requirements.

363. Financial institutions should be required to maintain all necessary records

- on transactions, both domestic and international, for at least five years following completion of the transaction (asterisked Criterion 10.1 of the Methodology);
- of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship (asterisked Criterion 10.2 of the Methodology).

364. Criteria 10.1 and 10.2 of the Methodology are asterisked and are met by section 66 of the AML Law, with one exception. In circumstances where the formalities necessary to terminate a business relationship have not been observed, but a period of five years has elapsed since the date on which the last transaction was carried out in the course of that relationship, the date of completion of all the activities taking place in the course of the last transaction shall be treated as the date on which the business relationship was terminated (section 66(3/b) AML Law, together with section 3.2.3(iii) of the G-Banks, section 3.2.3(iii) of the G-Investment Brokers and section 5 of the G-International Businesses). As a consequence, the identification data, account files and business correspondence do not have to be maintained for at least five years following the termination of the account in any case as required by Criterion 10.2 of the Methodology. Section 3.1 of the G-Insurers also deals with record keeping. It states “the necessary records should be kept in accordance with the Law, for a period of at least 5 years.” Whilst financial institutions have a responsibility to comply with the AML Law, the abbreviation of the law’s record keeping provisions in the G-Insurers may lead insurers to keep identification information for only five years from when it is obtained, not from the end of the business relationship. Section 5 of the G-Insurers may lead to a similar problem as it states that the prescribed record retention period of at least five years commences on the date on which the relevant business or all activities taking place in the course of transactions were completed. The

Superintendent of Insurance has confirmed that the G – Insurers will be amended to make clear that records should be retained for five years from the end of the business relationship.

365. According to Criterion 10.1.1 (which is not asterisked) of the Methodology, transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. Section 3.2.4 of the G-Banks determines the information for transactions as follows, in line with section 10.1.1 of the Methodology:

- the origin of funds;
- the type and amount of the currency involved;
- the form in which the funds were placed or withdrawn i.e. cash, cheques, wire transfers etc.;
- the identity of the person undertaking the transaction;
- the destination of the funds;
- the form of instructions and authority;
- the type and identifying number of any account involved in the transaction.

366. Section 3.2.4 of the G-Investment Brokers advises brokers that MOKAS may seek, inter alia, the following information as part of an investigation into money laundering:

- details of all transactions carried out in the name of the customer; and
- for selected transactions;
 - the origin of funds;
 - the form in which the funds were placed or withdrawn;
 - the identity of the person undertaking the transaction;
 - the destination of the funds;
 - the form of instructions and authority.

367. Section 5 of the G-International Businesses states that for each transaction, consideration should be given to retaining a record of:

- the name and address of its client;
- the name and address (or identification code) of its counterparty;
- the investment dealt in, including price and size;
- whether the transaction was a purchase or a sale;
- the form of instruction or authority;
- the account details from which the funds were paid (including, in the case of cheques, sort code, account number and name);
- the form and destination of payment made by the business to the client;
- whether the investments were held in safe custody by the business or sent to the client or to his/her order and, if so, to what name and address.

368. The G-International Businesses also provides guidance on the format and retrieval of records.

369. The G-Insurers does not define what kind of information should be recorded as a minimum. Not all of the AML Guidance Notes therefore provide guidance on the minimum requirements of Criterion 10.1.1 (transaction records should be sufficient to permit reconstruction of individual transactions).

370. Pursuant to the asterisked Criterion 10.3 of the Methodology, financial institutions should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. The AML Law does not contain such a provision, although the AML Guidance Notes require information to be kept in such a way that it can be retrieved without undue delay. The Banking Law and the Directive issued by the CBC for the regulation of MTB empowers the CBC to demand the production of information from banks and MTB

within such a period as it may be specified in the relevant order.

SR VII

371. According to section 3.4.4 of the G-Banks, all outgoing transfers performed by banks in excess of US\$1,000 should contain accurate and meaningful information on the originator. In this respect, all outgoing transfers must always include the name, the account number and address of the originator. In the absence of an account, banks should include a unique reference number which will permit the subsequent tracing of the transaction. The address of the originator may be substituted with the customer identification number or date and place of birth or the national identity number or, in the case of legal enterprises, its registration number with the competent authority. For outgoing funds transfers (section 3.4.5 of the G-Banks) equal to or below US\$ 1,000 banks may not include in the relevant message the full originator information but such information should be retained and made available to the intermediary or beneficiary bank upon request. The evaluators found that sections 3.4.4 to 3.4.5 of the G-Banks fully meet the requirements of Criteria VII.1 – to VII.5. Regarding Criterion VII.4 they were told by the CBC that transfers are not batched in Cyprus.
372. Cyprus has a *de minimis* threshold in place (US\$1,000). Therefore the (additional) elements of Criterion VII.6 of the Methodology have to be observed. These elements include:
- the threshold must not be above US\$ 3,000; (see section 3.4.4 of the G-Banks);
 - regardless of any threshold, ordering financial institutions should be required to comply with Criterion VII.1; (see section 3.4.5 of the G-Banks).

Thus, Criterion VII.6 of the Methodology is met.

373. Pursuant to section 3.4.6 of the G-Banks, banks should ensure that incoming fund transfers in excess of US\$ 1,000 also include the relevant information for the ordering customer. In cases where any of the information is missing, a bank should contact the originator's bank and request that information be made available before proceeding with the execution of the transaction. The bank will be protected by section 67A of the AML Law in the case of non-execution or delay due to the non-provision of sufficient details or information. If full originator information is not eventually made available, then the beneficiary's bank should consider filing an STR. Compliance with SR VII is part of the on-site visits for banks. Thus, Criterion VII.7 is met.
374. An infringement of the SR.VII obligations would appear to be sanctionable under Section 58(2)(a) of the AML Law (Criteria 17.1 to 17.4 of the Methodology).
375. Regarding the money transfer business, the G-MTB provides in section 5.4. for similar provisions, but without a *de minimis* threshold. Thus, the relevant Criteria of the Methodology are met.

3.5.1 Recommendations and comments

376. The majority of the FATF record keeping requirements are provided for by the Cyprus anti-money laundering system. The dangers posed by wire transfers have also been treated seriously. The evaluators recommend the Cyprus authorities to :
- repeal and amend section 66(3/b) of the AML Law, section 3.2.3(iii) of the G-Banks, section 3.2.3(iii) of the G-Investment Brokers and section 5 of the G-International Businesses and amend the G-Insurers so that it is clear that records must be maintained for at least five years following the termination of the business relationships (Criterion 10.2 of the Methodology);
 - amend the G-Insurers determining what kind of information regarding transactions should be recorded as a minimum (Criterion 10.1.1 of the Methodology);

- amend the AML Law requiring all financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology).

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	Largely compliant	The date of completion of all activities being treated as the date on which the business relationship was terminated is not in line with R. 10; no definition of minimum information regarding the insurance companies.
SR.VII	Compliant	

Unusual and suspicious transactions

3.6 **Monitoring of transactions and relationships (R.11 and 21)**

3.6.1 Description and analysis

Recommendation 11

377. Banks should have systems in place to be able to aggregate balances and activity of all connected accounts on a fully consolidated basis and detect unusual or suspicious patterns of activity. This can be done by establishing limits for a particular class or category of accounts (e.g. high risk accounts) or transactions (e.g. cash deposits and wire transfers) in excess of a threshold limit. Special attention should be given to transactions that do not appear to make economic or commercial sense or that involve large amounts of cash or other monetary instruments or sizeable incoming transfers that are not consistent with the normal and expected transactions of the customer (section 8.3.2 of the G-Banks and section 8.3 of the G-MTB). These provisions fully meet Criterion 11.1 of the Methodology. There are no such provisions in the G-Investment Brokers, the G-Insurers nor the G-International Business. SEC has confirmed its revised new Guidance Notes will include the provisions covered in this paragraph. The evaluators note the substantial size of the banking sector in relation to the finance sector as a whole. They also note that the CBC covers banks' treatment of complex, unusual transactions during their on-site inspections.
378. Section 58 to the AML Law requires procedures of internal control, communication and detailed examination of any transaction which, by its nature, may be considered to be associated with money laundering for the purpose of preventing or forestalling money laundering. This provision is echoed in the G-MTB. However, neither the AML Law, the G-Investment Brokers, the G-Insurers, the G-International Businesses nor the G-MTB require financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology). The same is true regarding Criterion 11.3 of the Methodology (financial institutions should be required to keep such findings available for competent authorities for at least five years). The general record keeping provisions (section 66 of the AML Law) do not cover the case of written clarifications of transactions. SEC has confirmed its revised Guidance Notes will include provisions covered in this paragraph.
379. With reference to the G – Insurers, the Superintendent of Insurance advised the evaluators that neither the onshore nor the offshore Cypriot insurance sector has created any suspicions of money laundering. More particularly, as regards the onshore sector, the single premium contracts, which are considered

to be the most vulnerable for money laundering by the Superintendent, have reduced considerably in popularity after the collapse of the Stock Exchange Index in 2000. The Superintendent also noted that the vast majority of the customers in the insurance sector are Cypriots resident in Cyprus. In view of this, the Superintendent does not consider that the insurance sector in Cyprus is faced with complex, unusual large transactions or unusual patterns of transactions and that it is not considered necessary to include specific provisions in the G – Insurers. Nevertheless, the possibility does exist that complex, unusual large transactions or unusual patterns of transactions could take place in the insurance sector and, in the light of Recommendation 11, the evaluators consider that appropriate reference should be made in the G – Insurers.

Recommendation 21

380. Pursuant to section 2.8.8.3 of the G-Banks, all banks are required to:

- exercise additional monitoring procedures and pay special attention to business relations and transactions with persons, including companies and financial institutions, from countries included on the NCCT list;
- examine the background and purpose of such transactions, whenever they have no apparent economic or visible lawful purpose, and establish the findings in writing. If a bank cannot satisfy itself as to the legitimacy of the transactions, an STR should be filed.

The evaluators came to the conclusion that Criteria 21.1 and 21.2 of the Methodology are met by the G-Banks. Although Section 4.2 of the G – Investment Brokers includes references to suspicious transactions ranging from a simple cash transaction to much more sophisticated and complex transactions, the G-Investment Brokers, the G-Insurers and the G-International Businesses do not, however, contain the provisions of Criteria 21.1 and 21.2. SEC has confirmed its revised Guidance Notes will include these provisions.

381. Criterion 21.1.1 states that effective measures should be in place to ensure that financial institutions are advised of AML/CFT weaknesses in other countries. The AML Guidance Notes can be amended at any time. In addition, MOKAS has issued notices to banks (the most recent being 15 January 2005) regarding the conclusions of its analysis of STRs and money laundering trends. It was apparent to the evaluators that MOKAS devotes significant resources to liaising with banks and with the supervisory authorities. At the time of the evaluation SEC was in the process of preparing a notice for the investment sector on the lists of terrorist suspects issued by the UN and the EU. Therefore, a system is in place in compliance with Criterion 21.1.1.

382. Regarding Criterion 21.3 (countries should be able to apply appropriate counter-measures) the evaluators were told that the Cyprus authorities have this power according to general provisions in the relevant special laws and that such counter-measures were applied in the past. Thus, the evaluators found that Criterion 21.3 of the Methodology is met too.

3.6.2 Recommendations and comments

383. The G-Banks comply with Recommendations 11 and 21. The evaluators recommend the Cyprus authorities to amend the AML Law and/or the other AML Guidance Notes and require financial institutions other than banks to:

- pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology);
- examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology);
- keep such findings available for competent authorities for at least five years (Criterion 11.3 of the Methodology);
- amend the G-Investment Brokers, the G-Insurers and the G-International Businesses to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations; to examine the background and purpose of such transactions where they have no apparent economic or visible lawful purpose; and for written findings to be available to assist competent authorities (Criteria 21.1 and 21.2 of the Methodology).

3.6.3 Compliance with Recommendations 11 and 21

	Rating	Summary of factors underlying rating
R.11	Largely compliant	The recommendation is satisfied in respect of banks. No guidance requiring non-banks to examine as far as possible the purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing; no guidance to keep such findings available for competent authorities for at least five years.
R.21	Largely compliant	No requirement in the G-Investment Brokers, the G-Insurers nor the G-International Businesses to give special attention to business relationships and transactions with persons from/in countries insufficiently applying the FATF Recommendations, to examine such relationships / transactions and set out findings in writing.

3.7 **Suspicious transaction reports and other reporting** (R. 13 – 14, 19, 25 and SR.IV and SR.IX)

3.7.1 Description and analysis

384. There is a direct mandatory obligation in the law requiring all persons to report suspicious transactions relating to money laundering.
385. Financial institutions are not defined as such. The law originally covered all persons conducting “relevant financial business” and “relevant financial business” was defined in section 61 to include a variety of financial activities usually conducted by credit and financial institutions. The original definition has since been amended and now covers “financial and other business carried on by (a person) in or from the Republic of Cyprus”. “Other business” is defined in an amended section 57 and section 61 has been amended to incorporate activities of designated non-financial businesses and professions. In the absence of an up-to-date consolidated version of the amended AML Law, the examiners have listed at paragraph 183 above a consolidated list of the relevant financial and other business included currently in section 61. For a discussion of the reporting (and other) obligations in relation to financial institutions section 61 (1) – (14) and (17) are understood to be relevant.

386. As noted, the direct reporting obligation for those persons conducting financial business derives firstly from section 58 (procedures to prevent money laundering offences). One of the procedures which persons conducting financial business have to apply is set out in section 58 (1a) (iii) , which reads:

“No person shall, in the course of relevant financial and other business carried on by him or from within the Republic, form a business relationship, or carry out a one-off transaction with or on behalf of another, unless that person applies the following procedures in relation to that business:.... Internal reporting procedures, in accordance with section 67 (Internal reporting procedures) of this Law.”

387. Section 67 (Internal Reporting Procedures) provides for a “competent person” (compliance officer), to whom a report is to be made. Section 67(a) states that a report to the compliance officer can relate to “any information or other matter which comes to the attention of the person handling relevant financial business and which, in the opinion of the person handling that business, proves or creates suspicions that another person is engaged in a money laundering offence”.

388. The compliance officer submits the report to MOKAS if he (or she), under the procedures, ascertains or has reasonable suspicions that another person is engaged in money laundering offence (section 67(d)).

389. Additionally, section 27 of the same law provides for an obligation on any person to report to the Unit or the Police his suspicions of any money laundering activities. Specifically, according to this section, a person, who, as a result of his trade, profession, business or employment, knows or reasonably suspects that another person is engaged in laundering offences, commits an offence if he does not disclose this information to a police officer or the Unit, as soon as it is reasonably practicable after this information comes to his attention.

390. The legal obligation to make STRs also applies to funds where there are reasonable grounds to suspect or which are suspected to be linked or related to or to be used for terrorism or financing of terrorism. This is provided for in the Ratification Law of the Terrorism Financing Convention. Section 13 of this Law expressly applies the preventive measures contained in the AML Law to cases of financing of terrorism, and provides as follows:

“ 13. For purposes of implementation of article 18 (1) of the Convention the relevant sections of the Prevention and Suppression of Money Laundering Activities Law, shall be implemented and specifically Part VIII, sections 57 to 67.”

391. There is no threshold as to the amount of a transaction to be reported. However, as far as Criterion 13.3 in the 2004 Methodology which requires the obligation to be extended in law or regulation to attempted transactions is covered, the examiners are of the view that the obligation referred to above can be regarded as implicitly extending to attempted offences.

392. The requirement to report suspicious transactions applies regardless of whether they involve tax matters. The financial institutions do not have to identify any particular criminal offence in order to file STRs.

393. The Law also recognises, under section 26 (2b), that suspicions may only be aroused after a transaction has been completed and, therefore, allows subsequent disclosure provided that such disclosure is made on the person’s own initiative and as soon as it is reasonable for him to make it.

394. In the case of employees of financial institutions, the Law recognises, under section 26 (3), that internal reporting to the Money Laundering Compliance Officer will satisfy the reporting requirement imposed by virtue of section 27 i.e. once an employee of a financial institution has reported his / her

suspicion to the Money Laundering Compliance Officer he or she is considered to have fully satisfied his / her statutory requirements, under section 27.

395. As a means of assisting persons employed by banks in recognising the most basic ways through which money laundering may occur, the CBC's Guidance Note contains an extensive list of examples of suspicious transactions and activities. The Guidance Notes of the Supervisory Authorities provide that the possible identification of any of the transactions or activities contained in the list of examples provided should stimulate further investigation by seeking additional information and/or explanations from the parties involved.
396. Furthermore, according to section 54 (3) of the above Law, any report made to the Police in respect of the commission of a laundering offence shall be transmitted to the Unit for Combating Money Laundering.
397. Additionally, according to section 60 (5) of the same Law, "*where a supervisory authority (a) possesses information and (b) is of the opinion that any person subject to its supervision may have been engaged in a money laundering offence, it shall as soon as is reasonable practicable transmit the information to the Unit*".

European Union Directive

398. Paragraph 1 of Article 6 of the Directive 2001/308/EEC provides the reporting obligation to include facts which might be an indication of money laundering, whereas FATF Recommendation 13 places the reporting obligations on suspicion or reasonable grounds for suspicion that funds are the proceeds of a criminal activity.
399. The governing provision (section 58) relates to transactions whereas the internal Reporting Procedures in what is now Section 66 broadens this to the provision of "any information or other matter". As section 66 is not limited by section 58 then the AML Law, as amended, is compliant with Article 6 (1) of the Second Directive.
400. However, Article 7 of the Second Directive requires states to ensure that institutions and persons subject to the Directive refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the authorities (unless to do so is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering operation). The Cyprus legislation does not explicitly cover this requirement.

Safe harbour provisions

401. Section 26 (2a) of the AML Law provides some safe disclosure rules for reporting to the competent authorities i.e. to the Police and the FIU, as follows:

"Where a person discloses to a police officer or to the Unit his suspicion or belief that any funds or investments are derived from or used in connection with a predicate offence or any matter on which such a suspicion or belief is based, the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract (...)".

402. This provision is wide enough in its coverage to refer to any person, including those listed in Criterion 14.1 of the 2004 Methodology (financial institutions, their directors... etc.) while the use of terms like "suspicion or belief" implies that no precise knowledge is required as to the underlying criminal activity. That said it does not clearly absolve a reporting institution or its personnel from complete liability – civil or criminal, as envisaged in Criterion 14.1 of the Methodology.

403. As well as section 26 (2a), the AML Law also covers a more concrete suspicion relating to the profession of the person involved. According to section 27 (1) “*A person who (a) knows or reasonably suspects that another person is engaged in laundering offences, and (b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment, shall commit an offence if he does not disclose the said information to a police officer or to the Unit as soon as is reasonably practicable after it comes to his attention.*” This offence is susceptible to imprisonment not exceeding five years, with only one exception in paragraph (2), according to which a lawyer does not commit an offence by failing to disclose any privileged information which has come to his attention.

Tipping off

404. “Tipping off” is criminalised by section 48 of the AML Law:

“48. Any person making a disclosure which may impede or prejudice the interrogation and investigation carried out in respect of prescribed offences or the ascertainment of proceeds, knowing or suspecting that the said interrogation and investigation are taking place, shall be guilty of an offence punishable by imprisonment not exceeding five years.”

405. However section 48 adds further elements to the relevant FATF Recommendation. Instead of prohibiting the disclosure of the fact that a STR (or related information) is being reported or otherwise provided to the FIU, the current formulation of the offence also requires knowledge or suspicion that a disclosure will obstruct an investigation which is already under way. Knowledge or suspicion of the latter circumstance may be very hard to prove in the course of criminal proceedings. This additional complication, which is not within the spirit of the Law, significantly limits the range and effectiveness of the offence. It was understood that in practice no one has been prosecuted for this offence.

Cash transaction and other reporting (Recommendation 19 as amended)

406. All banks in Cyprus, both domestic and international Banking Units, are required to submit to the Central Bank a revised prudential monthly return on their large cash deposits and funds transfers under which they report the following:

- All cash deposits from customers in Cyprus Pounds in excess of CYP 10.000 or the foreign currency equivalent of US\$ 10.000;
- Total amount of unusual incoming and outgoing fund transfers in excess of US\$ 10.000 or equivalent (unusual transactions);
- Total amount of their customers’ incoming and outgoing transfers (and not only the unusual ones) in excess of US\$ 500.000 or equivalent;
- The total turnover of customers’ accounts whose cumulative unusual inward and outward transfers exceed US\$ 2 Ms (required to be completed only in December of each year);
- A list containing particulars of customers’ cash deposits in foreign currency notes in excess of US\$ 100.000 or equivalent for which the Central Bank’s prior written approval has been obtained.

407. All banks, at the Central Bank’s request (before the Second Evaluation) had to adjust their computerised accounting systems so as to be able to identify immediately all cash deposits and wire transfers in excess of the limits set above. As noted earlier, information held by the Central Bank of Cyprus emanating from the prudential AML monthly reporting of banks is accessible by MOKAS;

SR.IX

408. The Customs and Excise Department has the legal power to interrogate persons and investigate offences under the Capital Movement Law of 2003 and the Suppression of Money Laundering

Activities Law of 1996. When they detect or suspect cases under the Anti-Money Laundering Law, they refer cases to MOKAS (in which they also participate). In the course of this, they exercise control over and detect cross-border transportation of currency (above prescribed thresholds). This is achieved through a declaration system.

409. Arriving passengers are required to declare to Customs the currency in excess of CYP7300 or equivalent (EUR 12,500) on a special form to be completed in triplicate, provided by the Central Bank according to the Capital Movement Law of 2003.
410. Customs authorities interview all passengers, declaring an amount over €12,500 or other equivalent currency. These declarations are electronically reported daily to Customs Headquarters (Investigation and Intelligence section) for first stage analysis and if there are reasonable grounds to believe that a money laundering offence or an offence related to the financing of terrorism has been committed or suspected to be committed, the cases are reported to MOKAS. The relevant electronic records kept by the Department refer to currency declarations that exceed the amount of €12,500 or any equivalent amount in other currencies, for the incoming passengers and to all declarations for the outgoing passengers. Since April 2001, movements of gold by passengers are also electronically reported to the system.
411. The statutory basis for declarations is Article 15 of the Capital Movement Law. Under this Article, any person who enters or leaves the Republic is obliged to declare any amount of banknotes either in Cyprus or in foreign currency carried with him or the value of any gold equal to or (currently) in excess of 12,500 Euros. The Capital Movement Law appears not to cover bearer negotiable instruments as specified in Criteria IX.1. Contravention of the Capital Movement Law (including Article 15) is according to Article 19 subject to a fine not exceeding £50,000 and in the case of a continuing offence, with a further fine not exceeding £1000 for each subsequent day. No prosecution under this law can be instituted, except by or with the consent of the Attorney General.
412. The declarations are checked by Customs. To facilitate checking, all customs stations have equipment to assist in counting declared currency. False declarations are an offence under Article 92 of the Customs Code 2004, which carries broad, proportionate and dissuasive sanctions (up to a fine of £50,000 or imprisonment not exceeding 3 years). Under Article 104 of the Customs Code, goods may be detained or seized by Customs as liable to forfeiture in cases involving untrue declarations.
413. The examiners have been informed that in cases of suspicions or detected evidence of offences, the carrying of currency (or bearer negotiable instruments) related to money laundering or terrorist financing (where the amounts involved are below the threshold), the Customs can seize or detain such currency or bearer negotiable instruments pending further enquiries.
414. Electronic records kept by the Department that refer to currency declarations reported are set out beneath:

Year	IMPORT REPORTS	EXPORT REPORTS
2002	3241	692
2003	2251	No export declaration required
2004	880	No export declaration required

415. The Cyprus Customs legislation gives them the general power to exchange information with foreign authorities. The Cyprus Customs authorities may exchange and share information in customs matters with Customs administrations of other countries, including in respect of unusual cross-border movements, as envisaged in Criterion IX.12. Memoranda of Understanding have been concluded with many countries to this effect.

416. Since the last evaluation 15 currency reports were sent to MOKAS. None have triggered terrorist financing investigations as far as the examiners are aware.

3.7.2 Recommendations and comments

417. Attempted transactions are not expressly covered in the AML Law. The examiners are unaware of coverage of this issue in any or all of the guidance documents / indicators of the supervisory authorities. In the circumstances the examiners recommend that the Law clearly provides for attempted transactions to be covered, in line with Essential Criteria 13.3 (which is marked with an asterisk).

418. The examiners consider that the “safe harbour” provisions in section 26 (2a) do not fully comply with Criterion 14.1. They only refer to protection which may be seen as a breach of any restriction imposed by contract and not to restrictions imposed by legislative, regulatory or administrative provision. The examiners had reservations therefore as to whether this section fully covers all civil liability, and very much doubt that it can cover any potential criminal liability that may arise from such a disclosure. The examiners recommend that these issues are clarified in the AML legislation.

419. The tipping off offence should also be reconsidered to ensure the full range of coverage as required by Criterion 14.2 of the 2004 Methodology, without unnecessary restrictions.

420. Though not part of the 2004 Methodology, the examiners consider that the Cyprus authorities should give consideration to making the requirements of Article 7 of the Second EC Directive explicit in legislation or guidance.

421. The legal structure to implement SR.IV (reporting suspicious transactions relating to terrorism or financing terrorism) is in place. As noted, MOKAS has sent guidance to reporting enterprises, together with sanitised cases. The Cyprus authorities indicated that Customs had extended its reporting to MOKAS to include financing of terrorism. No reports had been received and the examiners cannot form a view as to whether this simply means there were no such cases or that, as yet, insufficient guidance and training has been given on identification of such cases. The Cyprus authorities indicated that they consider no such case had been reported since none had arisen until now.

422. The cash transaction reporting system to the Central Bank fulfils the criteria in Recommendation 19 and seems to work effectively.

3.7.3 Compliance with Recommendations 13, 14, 19, 25 and SR.IV and IX

	Rating	Summary of factors underlying rating
R.13	Compliant	
R.14	Partially compliant	Tipping off seems unreasonably restricted, and the “safe harbour” provisions should clearly cover all civil and criminal liability.
R.19	Compliant	
R.25	Partially compliant	Existing Guidance Notes do not cover CFT.
SR.IV	Compliant	
SR.IX	Largely compliant	IX.1 not entirely fulfilled as declaration system appears not to cover bearer negotiable instruments.

3.8 Internal controls, compliance, audit and foreign branches (R. 15 and 22)

3.8.1 Description and analysis

Recommendation 15

423. According to section 58(1) of the AML Law, no person shall form a business relationship or carry out a one-off transaction, unless:
- internal reporting procedures in accordance with section 67 of the AML Law are applied; (see Criterion 15.1 of the Methodology);
 - appropriate measures are taken from time to time for the purposes of informing the relevant employees about the procedures regarding identification, record keeping and internal reporting as well as the legislation relating to money laundering; (see Criteria 15.1 and 15.3 of the Methodology);
 - there is from time to time training of the employees in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering offences. (see Criterion 15.3 of the Methodology; regarding training, sections 9.4 of the G-Banks and 9.2 of the G-MTB provide additional provisions).
424. Section 67 of the AML Law deals with internal reporting procedures identifying a person (Money Laundering Compliance Officer (MLCO)); see Criterion 15.1.1 of the Methodology) to whom a report regarding an alleged suspicion is to be made, considering such report in the light of all other relevant information, having access to other information which may be of assistance, and transmitting the report to the FIU in the case of reasonable suspicion.
425. In addition, according to section 8.2 of the G-Banks and section 8.2. of the G-MTB, institutions have an obligation to ensure that:
- all their employees know to whom they should be reporting money laundering knowledge or suspicion;
 - there is a clear reporting chain under which money laundering knowledge or suspicion is passed without delay to the Chief Money Laundering Compliance Officer;
 - internal policies, procedures and controls for the prevention of money laundering are documented in an appropriate manual which is communicated to management and all employees in charge of customers' operations;
 - the bank's internal audit and/or compliance department reviews and evaluates, at regular intervals, the effectiveness and adequacy of policies and procedures introduced by the bank for preventing money laundering and verifies compliance with the provisions of the CBC's Guidance Notes. Findings on criticisms of the internal audit and/or compliance departments should be followed up to ensure the rectification of any weaknesses which may have been observed (see Criterion 15.2 of the Methodology).
426. The role of the MLCO is described in detail in section 5 of the G-Banks and section 6 of the G-MBT. The MLCO has to be sufficiently senior to command the necessary authority (see Criterion 15.1.1 of the Methodology). Besides the already described role of the MLCO in the filing of an STR, he :

- provides advice and guidance to other employees on money laundering matters;
 - acquires the knowledge and skills required which should be used to improve the internal procedures for recognising and reporting money laundering suspicions;
 - determines whether the employees need further training and/or knowledge and organises appropriate training sessions/seminars;
 - is primarily responsible in implementing the various Guidance Notes issued by the CBC;
 - is primarily responsible for the preparation of an annual report which is a tool for assessing a bank's level of compliance with its AML/CFT obligations.
427. The evaluators found that Criteria 15.1-15.3 of the Methodology are fully met in the G-Banks and the G-MBT, excepting that:
- Although the experience of the CBC in practice is that there is an independent audit, it would be appropriate for the Guidance Notes to make explicitly clear that the work of the money laundering compliance officer should be audited independently. The text in section 8.2 of the G – Banks (“and/or”) indicates that it has to be either the audit or the compliance department;
 - The two AML Guidance Notes do not include sufficient reference to the financing of terrorism.
428. With reference to Criterion 15.1, each of the G-Investment Brokers, the G-Insurers and the G-International Businesses contains provisions on customer due diligence, record retention, the detection of unusual and suspicious transactions and reporting obligations. As with the G-Banks and the G-MBT, section 5.3 of the G-Investment Brokers, section 4.5 of the G-Insurers and section 6 of the G-International Businesses define the role of the MLCO.
429. Section 5.3 of the G-Investment Brokers, sections 4.1 and 5.2 of the G-Insurers and section 6 of the G-International Businesses state that financial institutions should appoint a MLCO. The person so appointed should be sufficiently senior to command the necessary authority (Criterion 15.1.1 refers).
430. Section 5.3 of the G-Investment Brokers, section 4.2 of the G-Insurers and section 6 of the G-International Businesses go on to say that the MLCO should validate and consider the information (e.g. internal money laundering suspicion reports) provided by employees by reference to any other relevant information. While, section 5.4 of the G-Investment Brokers and section 6 of the G-International Businesses state that financial institutions should make the necessary arrangements in order to introduce measures designed to assist the functions of the MLCO, the G-Investment Brokers does not refer to the Compliance Officer having timely access to information regarding either money laundering or terrorist financing (Criterion 15.1.2).
431. Section 3 of the G – International Businesses provides that, as good practice, financial sector businesses are recommended to make arrangements to verify, on a regular basis, compliance with policies, procedures and controls relating to money laundering activities, in order to satisfy management that the requirement to maintain such procedures has been discharged. The Guidance Notes go on to say that larger financial sector businesses may wish to ask their internal audit or compliance departments to undertake this role, while smaller institutions may wish to introduce a regular review by management. This is a positive check on the efficiency of institutions' anti-money laundering frameworks, although it does not quite encompass the independent test of compliance with AML/CFT frameworks envisaged by Criterion 15.2. There is no specific reference in the G-Investment Brokers, nor the G-Insurers to requiring financial institutions to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with AML/CFT procedures, policies and controls (Criterion 15.2). However, part 3 of the Investment Services Firms Directive 1/2002 issued by SEC under the Investment Firms Law requires each investment firm to have an independent internal audit unit directly answerable to the Board of Directors. The unit must “be adequately substantiated and detailed, and shall correspond to the applicant's size, to the nature of the services it provides as well as to the nature of the risks it

undertakes.” The unit’s functions include “scrutiny of the existence and proper application of adequate procedures for the location and presentation of practices consisting in (a) legalization of the proceeds of criminal activities (money laundering)”. This goes some way towards satisfying Criterion 15.2 but does not, for example, explicitly include sample testing.

432. Criterion 15.3 deals with employee training. Section 58(1) c of the AML Law provides that financial institutions should train their staff on recognising and handling transactions carried out by or on behalf of any person who is or appears to be engaged in money laundering offences. Section 1 of the G-Investment Brokers details the main provisions of the AML Law. Paragraph 5(4) states that money laundering compliance officers should acquire the knowledge and skills required to improve the brokers’ internal procedures for recognising and reporting money laundering suspicions. Section 6 contains guidance on education and training. Brokers are expected to establish a programme of continuous training for the various levels of their staff and to all their employees in general. Brokers are advised that the effectiveness of the Guidance Note depends on the extent to which staff appreciate the serious nature of the background against which the AML Law has been enacted and are fully aware of their responsibilities. This is a very welcome statement. Staff must also be aware of their personal statutory obligations as they can be personally liable for failure to report information in accordance with internal procedures. All staff must, therefore, be encouraged to co-operate and to provide a prompt report of any knowledge or suspicion. The importance of the introduction by brokers of comprehensive measures to ensure that staff are fully aware of their responsibilities is emphasised. Sections 1 and 7 of the G-International Businesses contain similar provisions and include additional guidance on the importance of “know your customer” requirements (knowing the client’s true identity, the type of business activities expected and changes in the pattern of a client’s transactions or circumstances that might constitute criminal activity). The G-International Businesses also links the content and methods of training to the size and nature of the organisation and to available time and resources. The Notes also emphasise the necessity for refresher training at regular intervals. With reference to Criterion 15.3, the G-Investment Brokers and G-International Businesses do not refer to training on developments in money laundering and terrorist financing techniques, methods and trends. SEC has confirmed that its revised Guidance Notes will explicitly deal with these issues. The G-Insurers is silent on employee training (Criterion 15.3), but the Superintendent of Insurance has advised that provisions, as regards the training of employees of insurers and intermediaries will be included in the G – Insurers. It is important for staff of all financial institutions to be made aware of the practical differences between money laundering and terrorist financing and of the need for vigilance with financial activity which may not be derived from the proceeds of crime.
433. Pursuant to Criterion 15.4 of the Methodology, all financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. Although paragraph 6 of SEC’s Directive IF 1/2002 satisfies the FATF requirement by referring, inter alia, to the obligation to put in place screening procedures to ensure high standards when hiring employees, neither the AML Law nor the various AML Guidance Notes contain such a provision. It would be helpful if the positive statement in SEC’s Directive I/2002 could be included in the revised new Guidance Notes to be issued by SEC, and the function linked specifically with AML/CFT procedures, policies and controls.

Recommendation 22

434. The Cyprus financial industry is represented in foreign markets. According to the information provided during the evaluation, some financial institutions have subsidiaries or branches in foreign countries. These are in the following countries: banks – Greece, United Kingdom, Guernsey (Channel Islands) and Australia; investment firms – England, Germany, and Russia, insurers - Greece.
435. Foreign branches and subsidiaries at Cypriot banks must be approved by the CBC. The CBC monitors the locations of the foreign branches and subsidiaries of Cypriot banks and, where appropriate, carry out on-site inspections. In addition to this, the CBC maintains bilateral links with the supervisors of Cypriot bank branches and subsidiaries. During inspections of banks in Cyprus, the CBC assesses the AML standards the banks apply to branches and subsidiaries. Although the overall risks seem very

low at the moment, there are no provisions in the legislation or the AML Guidance Notes aimed at ensuring that financial institutions’ foreign branches and subsidiaries observe AML/CFT-measures consistent with home country requirements and the FATF Recommendations, as required by Criteria 22.1 to 22.2 of the Methodology. SEC has confirmed that these issues will be included in its revised new Guidance Notes.

3.8.2 Recommendations and comments

436. The evaluators recommend the Cyprus authorities to:

- amend the AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology);
- amend the AML Guidance Notes to specify the Compliance Officer should have timely access to information (Criterion 15.1.2 of the Methodology);
- consider including a reference in the G – Banks and G - MTB (and to the extent necessary in SEC’s Investment Services Firms’ Directive 1/2002) to an independent audit function to test compliance (Criterion 15.2 of the Methodology);
- include a training requirement in the AML Guidance Notes for developments in money laundering and terrorist financing techniques, methods and training (Criterion 15.3 of the Methodology);
- include training provisions in the G-Insurers (Criteria 15.1 to 15.4 of the Methodology);
- amend the G-International Businesses to remove the indication that a lack of time or resources can determine extent of training;
- amend the various Guidance Notes (except G – Investment Brokers and possibly the AML Law) and require financial institutions to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology);
- develop a formal requirement that financial institutions’ foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations (Criteria 22.1 to 22.2 of the Methodology).

3.8.3 Compliance with Recommendations 15 and 22

	Rating	Summary of factors underlying rating
R.15	Partially compliant	Terrorist financing is not covered; access to information by the Compliance Officer is not necessarily timely; there is mostly no requirement for an independent audit function to test compliance (including sample testing); no reference in the Guidance Notes to training on developments in money laundering and terrorist financing techniques, methods and trends; specific provisions on employee screening.
R.22	Largely compliant	While few Cyprus financial institutions have foreign branches and subsidiaries, and the CBC monitor Cypriot banks’ application of AML standards to branches/subsidiaries, a general requirement is needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.

3.9 Shell banks (R.18)

3.9.1 Description and analysis

437. Pursuant to the “Policy Statement and Guidelines on the Licensing of Banks” applicant banks are required to establish a physical presence in Cyprus by establishing and operating one or more fully staffed branches/subsidiaries and not, merely, to operate on a “brass plate” basis or as accounting / booking centres. Section 2.8.6 of the G-Banks regarding non-EU correspondent bank accounts stipulates that the respondent bank has to maintain a physical presence in the form of a fully-fledged office carrying on real banking business in its country of incorporation i.e. the respondent bank is not a shell bank (see Criteria 18.1 and 18.2 of the Methodology).
438. The evaluators were told that an overview of existing correspondent bank accounts had been established by the CBC (or the banks themselves) in order to ensure that a clear picture of whether such accounts are maintained or not is available to the Cyprus authorities (see Criterion 18.2 of the Methodology).
439. There is no specific provision requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks (see Criterion 18.3 of the Methodology, which refers to financial institutions, not just banks).

3.9.2 Recommendations and comments

440. The evaluators recommend the Cyprus authorities to:
- create a specific provision requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks (see Criterion 18.3 of the Methodology).

3.9.2 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	Largely compliant	There are no specific provisions regarding respondent institutions abroad permitting their accounts to be used by shell banks.

Regulation, supervision, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)

3.10.1 Description and analysis

Recommendation 17

441. Section 58(2/a) of the AML Law stipulates that any person who allegedly fails to comply with the provisions of the section – which lays down the requirements for identification, record keeping, internal reporting and other appropriate procedures to forestall and prevent money laundering – after giving him the opportunity to be heard, is subject to an administrative fine of up to three thousand pounds, which is imposed by the competent supervisory authority. Before 2003, the relevant sanction was imprisonment of two years or a pecuniary penalty of two thousand pounds or both of these penalties. With regard to financial institutions, the evaluators do not consider the current provision to be effective, proportionate and dissuasive as required by Criterion 17.1 of the Methodology – this conclusion is highlighted by section 58(2)(c) of the AML Law, which imposes a potentially larger penalty (potentially, imprisonment of 2 years and a fine of up to three thousand pounds) for persons

not subject to supervision by a supervisory authority. A financial institution could fail to identify significant numbers of customers and their beneficial owners, fail to establish ongoing monitoring of clients and fail to report suspicions to the FIU and pay only a fine of up to three thousand pounds. The logic of this policy was unclear, and the evaluators advise that the whole policy on sanctions should be reviewed. It is discussed beneath (paragraph 518) how SEC seeks to require investment firms other than investment brokers to comply with the G-Investment Brokers. SEC has stated that “SEC, upon evaluation of the gravity of the alleged infringements, [of the G-Investment Brokers] may withdraw or suspend the investment firm’s authorization (section 16 of the Investment Firms Act) or impose an administrative fine (section 64(4)(m) of the Investment Firms Act)”. The evaluators are willing to accept that the Investment Firms Act and the AML Law combined include effective, proportionate and dissuasive sanctions for breaches of AML standards by investment firms but, equally, as described in paragraph 540, the evaluators consider that sanctions should be linked to explicit and transparent Guidance Notes.

442. The sanctions in the AML Law also apply to CFT requirements.
443. Section 60 of the AML Law designates the CBC as the supervisory authority for all persons licensed to carry on banking in Cyprus. In addition, the Council of Ministers has appointed, under Section 60 (1/b) of the AML Law, the following supervisory authorities for financial institutions:
- The Securities and Exchange Commission investment firms;
 - Co-operative Societies’ Supervision and Development Authority;
 - The Insurance Companies Control Service for insurance companies;
 - The CBC for persons providing money transfer services;
 - The CBC for persons authorised to carry on international services from within Cyprus.
444. These supervisory authorities are also empowered by virtue of Section 58(2/a) of the AML Law to impose the above-mentioned administrative fine of up to three thousand pounds. Thus, Criterion 17.2 of the Methodology is met in respect of those financial services businesses referred to in paragraph 491 in respect of money laundering, although insurance intermediaries are not covered. Insurance intermediaries are however supervised by ICCS under the Insurance Services and other Related Issues Laws of 2002 to 2004.
445. The evaluators were told that none of the supervisory authorities has imposed a sanction regarding infringements of identification, record-keeping, internal reporting or other anti-money laundering procedures. According to the CBC, no serious weaknesses and/or deficiencies have been observed during on-site inspections and, hence, no sanctions have needed to be applied to banks. SEC has also included anti-money laundering issues in its on-site inspections but in the absence of serious problems no sanctions have been applied by it. The ICCS has not conducted on-site inspections. However, the Superintendent has used powers available under sections 91 and 99 of the Insurance Services and other Related Issues Laws of 2002 to 2004 to require each insurance undertaking providing life insurance business to provide an annual certificate to the ICCS certifying compliance with the G-Insurers. The certificate is provided with the financial statements. No significant anti-money laundering issues have arisen within the life insurance sector.
446. The evaluators found that the reason for the lack of sanctions is that firstly, on-site inspections are not conducted in all financial institutions. Secondly, where on-site inspections are conducted, e.g. by the CBC, letters are issued, with recommendations for corrective action in order to rectify weaknesses and strengthen controls in AML procedures, without imposing sanctions. The evaluators consider that the lack of imposition of administrative sanctions undermines the efficiency of the preventive regime and advise that the supervisory authorities also re-consider their policy in this respect.

447. Section 59 of the AML Law states that where an offence under section 58 AML Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body or any other person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of an offence and shall be liable to imprisonment of two years or to a pecuniary penalty of two thousand pounds or to both of these penalties. The evaluators conclude that Criterion 17.3 of the Methodology is met.
448. Under the Banking Law, the CBC has a wide range of sanctions in line with Criterion 17.1 of the Methodology (warnings, fines, resolutions to request correction of deficiencies, withdrawing, restricting and suspending licenses, request of dismissal of executive officers etc.) in line with Criterion 17.4 of the Methodology. In addition, the CBC is able to revoke the licence of a money transfer business according to section 16 of the D-MTB. The same is true for the CSSDA according to section 41F of the Co-operative Societies Law.
449. Article 64 of the Investment Firms Act provides SEC with powers to impose an administrative fine of up to £45,000 (and, in the event of a repetition, a fine of up to £90,000). Article 16 of the Investment Firms Act provides SEC with the ability to suspend or withdraw an investment firm's authorization. Section 145 of the UCITS Law provides SEC with power to impose an administrative fine of up to £100,000 (and in the event of repetition, a fine of up to £200,000). Section 134 of the UCITS Law provides SEC with the ability to revoke a UCITS manager's operational licence. These powers are in line with Criterion 17.4 of the Methodology.
450. Section 201 of the Law on Insurance Services and other Related Issuers of 2002 to 2004 gives the Superintendent of Insurance power to impose an administrative fine of up to £50,000 (and in the event of a repetition a fine of up to £100,000). Section 41 of the Insurance Services Law provides the Superintendent of Insurance with the ability to withdraw an insurer's licence to carry on insurance business. These powers are in line with Criterion 17.4 of the Methodology.

Recommendation 23

451. With reference to Criterion 23.2, as noted above, supervisory authorities have been appointed under the AML Law to take responsibility for the AML standards of financial institutions. These same supervisory authorities have responsibility for financial institutions' CFT standards.
452. With regard to currency exchange business, the evaluators were told that there are no *bureaux de change* in Cyprus and that the said activity is exclusively carried out by banks. The Cyprus authorities also advised that hotels are not involved in foreign exchange trading – exchange services are offered on an incidental basis and only to hotel clients for small sums of money.
453. Criterion 23.4 states that for financial institutions subject to the Core Principles of the international standard setters for supervisory bodies, the supervisory standards applied for prudential purposes should apply in a similar manner for anti-money laundering and terrorist financing. During the evaluation it was apparent to the evaluators that the supervisory authorities saw anti-money laundering standards as integrated within their overall approach and that Criterion 23.4 was satisfied except that the standards (e.g. Guidance Notes) issued by the supervisory authorities and the supervisors' approach did not extend to CFT.
454. Amongst the financial institution supervisors the CBC seems to have taken the lead in the implementation of anti-money laundering measures and in seeking to ensure compliance with these measures. The work of the CBC on supervision and guidance was especially appreciated by the evaluators. Indeed the evaluation team noted that there might still be an over-reliance on the Central Bank in this regard.

455. As indicated above, every sector has its own AML Guidance Notes, so that there are several Guidance Notes issued by the various supervisory authorities. Although, as a generality, the supervisory authorities seem to rely on the initiatives of the CBC and, the various Guidance Notes are broadly based on those issued by the CBC, there is no single authority that has assumed formal responsibility to coordinate the Guidance Notes to ensure quality control and a level playing field in obligations and application. The Cyprus authorities may wish to consider the appointment of one authority (the Central Bank, MOKAS, or any other authority – perhaps the Advisory Authority, as an existing group, representing, inter alia, all of the supervisory authorities) to assume the responsibility for quality control assessments and, possibly, to coordinate the contents of the Guidance Notes.
456. The supervisory regimes are important in forestalling money laundering and terrorist financing. The regimes in Cyprus differ from each other. This is partly for historical reasons and the significant efforts undertaken to meet the requirements of EU accession. It is also partly due to differing cultures, differing staff and technological resources and the significant regulatory change being undertaken in Cyprus: the move away from treating international businesses as a separate category; SEC taking on responsibility for some international financial services companies; the introduction of a new law for the regulation of the stock exchange; proposed new AML Guidance Notes for investment firms; the proposed legislation to supervise trust and company service providers, real estate agents and dealers in precious metals and stones; and consolidation of the regime to supervise insurance intermediaries. Notwithstanding the existence of the Advisory Authority, and the signing of an MoU in 2003 between the CBC, SEC, the ICCS and the CSSDA and the periodic meetings (at least four a year) between representatives of these authorities on local conglomerates, the evaluators encourage the increasing coordination between the supervisory bodies. The examiners consider that all persons conducting any form of financial business, whatever their profession, should be regulated to the same standard. Part of this coordination might include consideration of whether the number of different bodies which are supervisory authorities is appropriate and whether the roles and responsibilities of each supervisory authority are appropriate. Coverage of investment supervision by the CBC for banks and SEC for investment firms highlights the importance of coordination.
457. The evaluators found that the various supervisors have adequate powers to monitor and ensure compliance with requirements to combat money laundering as follows. The basis is found in section 60(2) of the AML Law: It shall be the principal duty of a supervisory authority to assess and supervise compliance, by persons falling under its area of supervisory responsibility, with the provisions of this part of the AML Law. In addition, the relevant sectoral laws contain provisions which give details about on-site inspections, review of policies, procedures, etc. (section 26 of the Banking Law and Examination Procedures of Anti Money Laundering Compliance, section 17 of the D-MTB, sections 41JD and 41JE of the Co-operative Societies Law).
458. In addition, the evaluators noted that the various supervisors have the power to compel production of, or to obtain access to, all records, documents or information related to accounts, other business relationships or transactions (section 25(2) of the Banking Law, section 17(4) of the D-MTB, section 41JC of the Co-operative Societies Law, section 33(1) of the Securities and Exchange Commission Law and section 196(1) of the Insurance Services Law). These powers can be exercised without the requirement to obtain a court order. Criteria 29.3 and 29.3.1 are satisfied.
459. Regarding Criterion 29.4 (sanctions), see comments on Recommendation 17.

Recommendation 30

CBC

460. The CBC is an independent organisation, separate from the government or governmental agencies. The Board of Directors is responsible for the preparation and adoption of the annual budget of the CBC. The CBC principally earns revenues from the issue of national currency and the management of

Cyprus' external reserves. In addition, the CBC is empowered to require banks to pay fees in connection with expenses incurred for their supervision and inspection. According to section 25 of the CBC-Law every director, officer or employee is bound by secrecy.

461. The Banking Supervision & Regulation Division (“BS&RD”) of the CBC is responsible for the off-site monitoring and on-site inspection of banks. At present, the Division’s staff consists of 48 persons employed in line supervision (off-site monitoring and on-site inspection) and 3 persons in support role. Most of the persons employed in BS&RD are in possession of high academic and professional qualifications, being holders of University degrees or members of the professional accountancy bodies (FCA, FCCA) or the Chartered Institute of Bankers of the United Kingdom. All persons involved in the examination of banks’ compliance with their anti-money laundering obligations, receive in-house training and some attend other relevant seminars and conferences on this topic in Cyprus or abroad. Regarding technical resources, significant emphasis is placed on developing and maintaining a modern information technology infrastructure to support the key activities of the BS&RD. The evaluators found that Criteria 30.1 to 30.3. of the Methodology are met. Training provided to staff of the Banking Supervision and Regulation Division of the CBC includes terrorist financing as well.

CSSDA

462. The CSSDA became independent in 2003, when its role was upgraded and its responsibilities extended. Before, the CSSDA was a part of the Ministry of Commerce, Industry and Tourism. The annual budget is prepared by the CSSDA-Committee and is forwarded to the Council of Ministers for approval through the Ministry of Finance. Article 41H of the CSSDA-Law requires staff to keep information confidential. The CSSDA is staffed with 57 posts (eight of them were vacant at the time of the visit and ten temporary). As the CSSDA is able to conduct yearly on-site visits, the number of staff is adequate. Part of the staff possess high academic and professional qualifications. Training is given in-house and by the FIU. Regarding technical resources, there is a system in place that supports the detection of unusual transactions that may relate to money laundering and terrorist financing. The CSSDA meets Criteria 30.1 to 30.3 of the Methodology.

SEC

463. SEC is an independent body established under the Securities and Exchange Commission Law in 2001 and governed by a Board, with an executive chairman and vice-chairman. It has 38 staff divided into several departments: market regulation; listing; granting of licenses and continuing obligations (further divided into listed companies, investment firms and collective investment schemes); market oversight & enforcement; legal; and administration). On-site inspections are carried out by the investment firms and collective investment schemes team. A large number of SEC’s staff are qualified accountants or lawyers. Article 31 of the Securities and Exchange Commission Law and article 44 of the Investment Firms Act require SEC staff to keep information confidential. Section 6 of the UCITS Law also imposes Section 30 of the Securities and Exchange Commission Law on SEC. Technical resources appear to be satisfactory. Funding is received from the Cyprus Government and from fees paid by supervised firms. While training of SEC staff on AML has not been formalized, discussions on training are held and there has been training on average once each year. MOKAS provided training sessions in 2003 and 2004 and a representative of the UK police provided training in 2004. This training has been focused on AML rather than CFT. SEC satisfies Criteria 30.1 to 30.3, except that training on combating terrorist financing has not been provided to staff.

ICCS

464. The ICCS is a department of the Ministry of Finance, which operates independently within the Ministry. The Superintendent of Insurance is supported by an Assistant Superintendent and 7 regulatory staff (of which 2 are temporary staff), with 7 support staff. The Superintendent and Assistant Superintendent are both economists. The other permanent regulatory staff comprise 5

certified accountants, 1 certified insurer and 1 lawyer. The 2 temporary staff hold degrees, one in business administration and the other in economics and accounting. Advertisements for 6 new posts (preferably, mainly to be accountants and actuaries) have been published. The Superintendent of Insurance also hopes to recruit further staff. Actuarial valuations are outsourced to the UK Government's actuarial department. It is apparent that the ICCS is currently understaffed and the plans to significantly increase staff resources are sensible. In light of the number of intermediaries (some 1500 have a physical presence) and the time-intensive nature of proper intermediary supervision, the evaluators consider that the ICCS should keep in mind that a substantial number of staff will be required. It will not be sufficient to rely on life insurers to police the intermediaries who direct business to them. The evaluators are mindful that the expansion of staff numbers and the increase in the style of supervision of insurance intermediaries to include AML/CFT matters (for example, on-site inspections) by the ICCS is a significant undertaking and it will be necessary for this programme of activity to be taken forward in a measured way, at a rate which is workable and sustainable. Information technology systems require upgrading. In the view of the evaluators the upgrading of the ICCS' computer systems by another Government department should be made a priority, with an achievable target date. Funding is received from the Government and from supervised enterprises. Training on AML/CFT has not been provided to staff of the ICCS. Sections 7 and 8 of the Law on Insurance Services and other related Issues of 2002 to 2004 require the ICCS to keep information confidential. The ICCS does not currently satisfy Criteria 30.1 to 30.3.

CBA

465. The CBA was established in Advocates Law Cap 2 in 1960. All of the CBA's Board are lawyers in private practice. The CBA does not possess rules on the handling of potential conflicts of interest to ensure operational independence and autonomy. The CBA's secretariat has recently been increased to two staff, both of whom are lawyers employed full time by the CBA, whose role will include the supervision of lawyers' anti-money laundering standards. It is proposed to recruit two further staff. While not all lawyers carry out the legal activities covered by the definition of relevant financial and other business in Section 61 of the Anti-Money Laundering Law and the evaluators were advised that a significant number of lawyers whose activities are covered by the Anti-Money Laundering Law are employed in a comparatively few large firms, a secretariat of two staff – even if they devote a significant proportion of their activities to countering money laundering and terrorist financing - is a small number. Once the Guidance Notes have been issued, it will inevitably take some time for the CBA's Secretariat to develop its anti-money laundering and countering the financing of terrorism programme. The two further staff will become increasingly important as the programme develops. As the developed programme is not in place and the additional staff will be important, the evaluators must base their assessment on what level of staff numbers would be appropriate if that final programme were to be in existence. New premises have been leased. The CBA is content that its technical resources are satisfactory. The CBA is funded by annual fees paid by its membership. The CBA has prepared draft Guidance Notes (the G-Lawyers), which had not been issued at the time of the evaluation. Following the issue of the Notes the CBA intends to undertake on-site inspections. Training is to be provided to the secretariat on combating money laundering and terrorist financing. The staff numbers (together with a lack of clarity as to how independence will be ensured) and the absence of formal training, mean that Criteria 30.1 and 30.3 are not fully satisfied. However, the CBA confirmed that training would be given on 17/12/2005, at a seminar to be provided by its secretariat and MOKAS. Additional sessions are to be organised for lawyers in each district of Cyprus.

ICPAC

466. ICPAC is a company limited by guarantee established in 1961 and has a Memorandum and Articles of Association. The current total membership is 1,975, of whom 455 hold a practicing certificate. The Institute is governed by a Council consisting of twelve members, at least four of whom shall be members practicing the profession and at least four not practicing the profession. Ten committees, each consisting of fifteen members, report to the Council. ICPAC has a secretariat, headed by a

general manager, with four full-time and two temporary staff. Regulations made under the Articles of Association deal with ethical standards of members. The Institute adopted the IFAC Code of Ethics for Professional Accountants in 2002. The Disciplinary Committees of the Institute, first level and second level, consist of members each drawn from a pool of twelve members appointed by the Council – six of which are members and six non-members. Three of the five-member Committees are non-members of the Institute so as to apply transparent and independent disciplinary measures. In January 2005 audit monitoring was outsourced to the Association of Chartered Certified Accountants (ACCA) of the United Kingdom. This has been extended to cover non-audit services as well under the “Quality Checked” system of the ACCA. Under this system the visits to firms will entail assessing the firms’ compliance with ICPAC’s guidance on money laundering regulations by ACCA officials. ICPAC will need to monitor this outsourcing relationship as it remains responsible for supervisory matters under the Cyprus legislation. Technical resources appear to be satisfactory – ICPAC confirmed during the evaluation that they are under continuous review. Premises are currently leased but the Institute will soon have its own premises. The Cyprus Government has offered to the Institute under a long-term lease a scheduled building at a prime location which is currently being renovated. Funding derives mainly from fees paid by ICPAC’s membership – fees have increased in order to fund the audit monitoring referred to above. MOKAS undertook two training sessions for ICPAC on anti-money laundering (but not combating terrorist financing) in 2004, both attended by the general manager who acts as investigator on disciplinary matters. The Education Committee is arranging for a further training session in January 2006. With the exception of Criterion 30.3, Recommendation 30 is satisfied.

European Union Directive

467. According to Article 10 of the EU Directive, Member States shall ensure that if, in the course of inspections carried out in the financial institutions by the competent authorities, or in other ways, those authorities discover facts that could constitute evidence of money laundering, they inform the authorities responsible for combating money laundering. This is covered by section 60 (4) of the AML Law

3.10.2 Recommendations and comments

468. The basic building blocks of the supervisory and oversight system are in place for financial institutions. The supervisory authorities are dedicated to their roles – the recommendations below concentrate mainly on increasing the tools available to those supervisory authorities. The evaluators recommend to:
- introduce effective, proportionate and dissuasive sanctions for financial institutions in respect of money laundering and terrorist financing (Criterion 17.1 of the Methodology);
 - designate a supervisory authority under the Anti-Money Laundering Law for insurance intermediaries (Criterion 17.2 of the Methodology);
 - increase staff resources at the ICCS and the CBA, and technical resources at the ICCS in a sustainable way (Criterion 30.1 of the Methodology);
 - consider the transparency and independence of disciplinary proceedings at the CBA and ICPAC (Criterion 20.1 of the Methodology);
 - provide training on combating money laundering to the ICCS and the CBA and on combating the financing of terrorism to all supervisory authorities (Criterion 30.2 of the Methodology);
 - maintain the increasing coordination between the supervisory authorities, including coordination of the contents of the AML Guidance Notes and consideration as to whether the number and functions of the supervisory authorities is appropriate.

3.10.3 Compliance with Recommendations 17, 23 (Criteria 23.2, 23.4, 23.6-23.7), 29 and 30

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	Partially compliant	Administrative fine of up to three thousand pounds is not effective, proportionate and dissuasive; no sanctions imposed. No specific supervisory authority for insurance intermediaries appointed under the AML Law.
R.23	Largely compliant	Supervisory authorities' prudential approach does not include CFT.
R.29	Compliant	
R.30	Largely compliant	Supervisory authority staff not trained on CFT; the ICCS needs more staff and information technology resources; ICCS and CBA staff should also be trained on AML.

3.11 Financial institutions - Market entry and ownership / control (R.23)

3.11.1 Description and analysis

469. Criterion 23.1 states that countries should ensure that financial institutions are subject to adequate AML/CFT regulation and supervision and are effectively implementing the FATF Recommendations.
470. Guidance Notes apply to all banks, money transfer businesses, and cooperative societies. The G-Investment Brokers states that it applies to investment brokers. With regard to brokers and all other investment firms covered by the Investment Firms Act (UCITS managers are not covered), SEC has advised the evaluators that it applies section 10(5) of the Investment Firms Law. Section 10(5)(g) requires applicant investment firms to provide SEC with a draft regulation, in accordance with acceptable practices, for the prevention of the legalization of the proceeds of criminal activities. SEC requires this draft regulation (i.e. procedures manual) to include the provisions of G-Investment Brokers. Section 7 of SEC's Code of Business Conduct (Directive IF 1/2003) requires investment firms to apply their internal procedures effectively. SEC has advised the evaluators that if a firm does not meet its regulation and, therefore, the G-Investment Brokers, SEC is able to suspend or withdraw the firm's licence under section 16 of the Investment Firms Act or impose an administrative fine under section 64 (4)(m) of the Act. While the evaluators also note that SEC conducts AML on-site inspections to investment firms other than brokers, SEC has adopted a somewhat complicated route to seeking to implement the FATF Recommendations. It would not be easy for an investment firm other than a broker considering an application to SEC to realise that it would be required to meet Guidance Notes which state they apply to investment brokers and where there is no explicit written requirement in law or code that they would need to meet such Guidance Notes. SEC has not sought to apply the G-Investment Brokers, either directly or indirectly, to UCITs managers but has advised that its revised Guidance Notes will cover these enterprises. Other investment enterprises (international financial services companies - investment advisers who do not handle client money - and international collective investment schemes and their managers or trustees) are covered by G-International Businesses. Domestic collective investment schemes and their managers are not covered by any Guidance Notes. The G-Insurers specifies that it applies to life companies and non-life companies carrying on insurance business exclusively outside Cyprus. The G-Insurers contains very few references to insurance intermediaries with one example being in Appendix A, a model internal money laundering suspicion report, which refers to agents. The ICCS considers that, although the G-Insurers does not specifically state that it applies to intermediaries (agents and advisers) acting on behalf of insurance undertakings, in practice the Guidance Notes were prepared to cover such

intermediary activity and do apply to such agents and advisers. The previous version of G-Insurers explicitly included a requirement for insurance undertakings to train agents acting on their behalf in AML procedures. In order to fully satisfy criterion 23.1 the G-Insurers should explicitly cover insurance intermediaries in relation to the underwriting and placement of life insurance and other investment related insurance. None of the Guidance Notes deals with CFT.

471. The FATF definition of financial institution includes “The transfer of money or value”. This refers to a financial service that accepts cash, cheques, other monetary instruments or other stores of value in one location and pays a corresponding sum in cash or other form to a beneficiary in another location. The AML Law and the G-MTB do cover the transfer of money, but not of value.
472. With regard to ascertaining whether there is effective implementation of the FATF Recommendations, while banks, firms providing investment services supervised by SEC and life insurers are subject to monitoring, such as on-site inspections covering AML standards, the other financial institutions referred to above – whether or not they are covered by guidance – are not monitored. SEC has advised that managers of UCITS will have to meet its new revised Guidance Notes.
473. Criterion 23.1 of the Methodology is therefore not entirely satisfied.

Banks

474. Applications for a banking business licence are submitted to the CBC together with the Memorandum and Articles of Association of the body corporate and any other documents and information which the CBC may require (section 4 of the Banking Law). The CBC may, with an adequately reasoned decision, grant a licence without any conditions or impose conditions on the licence or refuse to grant a licence with the refusal being notified to the applicant bank within six months from the date of receipt of the application (section 4 of the Banking Law).
475. The Central Bank of Cyprus has issued “Policy Statements and Guidelines” on the licensing of branches of non-EU banks and the establishment of banking subsidiaries which provide for an extensive list of particulars to be submitted by applicant banks. In this regard, extensive information needs to be provided on the background and history of the applicant bank (e.g. audited accounts, details of directors, senior management, beneficial owners etc) as well as information on the proposed operations in Cyprus (e.g. feasibility study, business plans etc.).
476. The licensing criteria applied by the CBC encompass compliance of the applicant with the requirements stipulated in the Banking Law as well as a judgmental evaluation of the applicant by the CBC. The principal licensing criteria are the following:
 - at least two directors are required to participate and concur in the effective direction and management of the bank (section 19 of the Banking Law);
 - a bank incorporated in Cyprus must have at all times a minimum capital of not less than CYP3mn or such other higher amount that the CBC might determine (section 20 Banking Law). The source of the initial capital is checked by CBC;
 - Directors, Chief Executives and Managers of the bank must satisfy the CBC that they are fit and proper persons (skills and criminal record, see the detailed description in section 18 of the Banking Law).
477. The “fitness and propriety” of the above persons is determined by means of detailed questionnaires which are required to be completed by the person concerned, third party enquiries and by obtaining a Police Clearance Certificate from their country of permanent residence.
478. Section 17 of the Banking Law provides that no person either alone or with any associate(s) shall be allowed to acquire or have control over a bank or its holding company without the prior written approval of the CBC. Furthermore, the prior written approval of the CBC is required for any increase of the holding in a bank or its holding company above the level that was initially approved by the

CBC. Control is defined in the Banking Law as beneficial ownership by a person of the bank's share capital which carries 10% or more of its voting rights. In addition, section 16 of the Banking Law provides that a bank shall not sell or dispose the whole or part of its business by amalgamation or otherwise, except with the prior written approval of the CBC.

479. The CBC in deciding whether to grant an approval will ensure that persons of dubious reputation or persons who may pose a threat to the interest of depositors and integrity of the bank are excluded.
480. The evaluators found that the Banking Law and the practice of the CBC are fully in line with Criteria 23.3, 23.3.1 and 23.4 of the Methodology.

Co-operative societies

481. The Co-operative Societies Law addresses the issues of market entry and ownership/control as follows:
- right to reject the licence: section 41F;
 - suitability of major shareholders, transparency of ownership structure and source of initial capital: 41B (the threshold to become a major shareholder is 10%. The evaluators were told that the source of initial capital is checked);
 - minimum initial capital: 41B (at least equal to one million Euros);
 - fit and proper test: 41B.

The evaluators concluded that the Co-operative Societies Law and the practice of the authorities are fully in line with Criteria 23.3, 23.3.1 and 23.4 of the Methodology.

Investment undertakings

482. Only investment service providers authorised by SEC; banks supervised by the CBC undertaking investment business; and firms with their registered office outside Cyprus using the EU's free provision of services regime may operate in Cyprus. Any other person offering investment services commits an offence punishable by a prison sentence of up to two years and/or a fine of up to one hundred thousand Cyprus Pounds. Applications for an investment licence are made to SEC under the Investment Firms Act 2002 – 2004. Managers of UCITS make applications to SEC under the UCITS Law
483. Under article 10 of the Act, applications for a licence must be accompanied by, amongst other information:
- a business plan; preliminary Articles of Association; a draft of the internal control and risk management mechanisms; a draft organisation schedule; a draft regulation for the prevention of the legalisation of the proceeds of criminal activities; an excerpt of the criminal record; a certificate of solvency;
 - resumes of the applicant's Board of Directors, its executives and shareholders with a direct or indirect holding which represents 10% or more of the share capital or of the voting rights or with a holding which makes it possible to exercise a significant influence over the management of the firm; and a completed personal questionnaire issued by SEC. SEC also interviews proposed executive Directors and satisfies itself as to the expertise and integrity of all directors.

UCITS managers are required to provide the same information to SEC by virtue of SEC's section 8/2003.

484. In addition, the senior management, other employees/staff with managerial duties (e.g. heads of departments) and any other key persons of an investment firm or a UCITS management company, must submit to SEC particulars, such as curriculum vitae, academic background, practical experience,

certificate of good standing and non-criminal excerpt, before SEC allows them to hold a key position. Those persons might also be interviewed by SEC with a view to identifying whether they understand their duties and responsibilities and, in general, to help the SEC to assess those persons as fit and proper. Section 10(5) of the Investment Firms Law and Directive IF 1/2002 (the CIF authorisation Conditions Resolution 2002) of SEC refer.

485. Under article 8 of the Investment Firms Act a shareholder holding a 10% interest in an investment firm proposing to transfer his shares shall notify SEC at least one calendar month prior to the transfer. A person proposing to acquire a 10% or greater interest shall also notify SEC at least one calendar month before the acquisition. SEC assesses the acquirer's suitability, consulting other supervisory authorities as necessary. All other transfers of shares must be notified to SEC by the acquirer – under article 10 the SEC can obtain all necessary information if it considers the new shareholder might directly or indirectly influence the management of the investment firm. In January each year investment firms must also notify SEC of the names of shareholders and members possessing qualifying holdings and the size of their holdings. Administrative fines can be levied for failure to provide information on qualifying holdings. Shares traded on an exchange which lead to a qualifying holding have their voting rights suspended until SEC has authorised the acquisition. The transfer of shares arising from death or parental concession is allowable (section 8(2) of the Investment Firms Act refers). SEC advised that it does not allow the transfer of shares to undesirable holders. If there is such a case (for example, a transfer of shares due to parental concession), SEC will withdraw the authorisation of the investment firm or UCITS manager in question, as they will not fulfil the condition of the appropriate shareholders (sections 10 and 16(1) of the Investment Firms Law refer).
486. SEC and the exercise of powers under the Investment Firms Act meet Criteria 23.3, 23.3.1 and 23.4 of the Methodology.

Insurance companies and intermediaries

487. The Law on Insurance Services and other Related Issues of 2002 to 2004 governs: the carrying on of insurance business within and outside the Republic by Cyprus insurance companies, including mutual insurance organisation and reinsurance companies:
- the carrying on of insurance business within the Republic by foreign insurance undertakings;
 - the carrying on of insurance business by insurance undertaking which are registered in the republic by virtue of the companies law, either as Cyprus companies or as foreign undertakings, but carry on insurance business exclusively outside the Republic;
 - from the date of the accession of Cyprus to the EU, the carrying on of insurance business within the Republic by insurance undertakings with head offices in a Member State of the EU or the EEA, under the freedom of establishment or the freedom to provide services, or by insurance undertakings with head offices in the Swiss Confederation, under the freedom of establishment only for insurance business in the General Business Class; and
 - the carrying on of intermediation business.
488. A licence from the ICCS is required to carry on insurance business. Sections 21 and 22 of the Law on Insurance Services contain criteria for application by Cyprus insurance companies and mutual organisations. The information to be provided includes, amongst other matters:
- a three-year scheme of operations;
 - the identity of every person, who indirectly or directly, has a qualifying holding in the insurer, as well as the amount of the holding. Qualifying holdings are defined as a holding, direct or indirect, of at least 10% of the capital or of the voting rights, or a holding which permits the possibility of significant influence over the management of the insurer. Section 21 of the Law on Insurance Services also provides that the Superintendent of Insurance must be satisfied that

persons with qualifying holdings are capable and appropriate in accordance with section 53 of the law to ensure the sound and prudent management of the company;

- information demonstrating that the managers of the company are fit and proper persons as prescribed in section 53 of the law.

489. Section 53 of the Law on Insurance Services considers the qualities of controllers and management of insurers and insurance intermediaries, including their fitness and propriety. All persons with qualifying holdings and managers are required to submit a completed personal questionnaire to the ICCS. The police record and solvency of controller and managers is considered by the Superintendent of Insurance. Under section 39 of the law applications can be rejected if controllers or managers are inappropriate. Two applications for licences had been rejected in 2005, prior to the evaluation visit, on the basis of inappropriate controllers/managers. Under section 41 of the law, licences can be withdrawn once issued if controllers or managers are inappropriate. Persons intending to acquire a qualifying holding must notify the Superintendent of Insurance beforehand under section 143 of the law. Section 145 requires the Superintendent to consider the fitness and propriety of the proposed acquirer.

490. Specific provisions of the Law on Insurance Services apply to foreign insurance undertakings active in Cyprus. Under section 26 of the law the Superintendent of Insurance must be satisfied that a number of prerequisites are satisfied before granting a licence to a foreign insurance undertaking to carry on business in Cyprus. These prerequisites include, amongst others:

- a licence issued by the undertaking's home state to the undertaking to carry on insurance business in the classes mentioned in its application to carry on insurance business in Cyprus;
- a general representative has been appointed in accordance with section 56 of the law; and
- a three year scheme of operations.

Particular importance is attached to the general representative, who must complete a personal questionnaire so that the ICCS can ascertain his fitness and propriety. Names of the Board of Directors are also provided to the ICCS but it does not appear that the fitness and propriety of the controllers, directors and management other than the general representative is verified by the ICCS even though the licence issued by home supervisors and the ability of the Superintendent of Insurance to withdraw a licence under section 41 of the law may mitigate some of the risk of this approach. Accordingly, Criteria 23.3 and 23.3.1 are not wholly satisfied.

Money Transfer Business

491. The CBC issued a Directive for the Regulation of the Provision of Money Transfer Services which came into force on 1 September 2003 (D-MTB). The D-MTB requires that the business of enterprises providing money transfer services is managed by at least two individuals who are trustworthy, experienced, professionally competent and of sound character and ethics. The CBC also judges the suitability of all persons holding directly or indirectly, 10% or more of the capital or voting rights of the money transfer businesses. In this regard, applicants are required to submit a copy of the criminal record and a solvency certificate of the managers of the business, the authorized agents and the individuals with a holding of 10% or more of the entity's share capital or voting rights. Furthermore, any transfer of shares which results in an individual holding 10% or more of the company's share capital or voting rights requires the prior approval of the CBC. The D-MTB also provides that in the case that a licensed money transfer business or its managerial staff or shareholders with 10% or more of the company's share capital or voting rights are convicted of an offence by virtue of any of the provisions of the AML Law, its licence is subject to immediate revocation. The D-MTB provides that an application for a licence to provide money transfer business may be rejected by the CBC if the applicant or the individuals holding 10% or more of an applicant's share capital or voting rights have

been convicted of a criminal offence or have been involved in fraudulent, illicit or illegal practices. The evaluators consider that the D-MTB is fully in line with Criterion 23.3 of the Methodology.

492. The D-MTB provides for the terms and conditions for the licensing and the operation of legal enterprises engaged in the provision of money transfer services. It also provides for the contents of an application submitted to the CBC for the granting of a license and prescribes the obligations of licensees. Nevertheless, as already mentioned, the D-MTB does not cover value transfer services. Thus, Criterion 23.5 of the Methodology is not entirely met.

3.11.2 Recommendations and comments

493. The supervisory authorities have strong legislation to prevent criminals from controlling financial institutions – the legislation is enforced. AML Guidance Notes have been issued by each of the supervisory authorities. The evaluators recommend that this framework should be enhanced by issuing Guidance Notes which explicitly apply to those sub-sectors – investment advisers, enterprises covered under the UCITS Law, insurance intermediaries and value transfer services – not yet in receipt of such guidance.

3.11.3 Compliance with Recommendation 23 (Criteria 23.1, 23.3 to 23.5)

	Rating	Summary of factors underlying rating
R.23	Largely compliant	Implementation of FATF Recommendations by issue of transparent and explicit Guidance Notes to investment enterprises – other than brokers, insurance intermediaries and value transfer businesses needed. Although there are mitigating factors, controllers, directors and managers of foreign insurance undertakings appear to be not always actively vetted.

3.12 **AML/CFT Guidelines (R.25)**

3.12.1 Description and analysis

494. As seen above, the existing competent supervisory authorities have issued their own Guidance Notes that assist financial institutions to comply with the AML Law. The Cyprus supervisory authorities have established a comprehensive supervisory framework for its finance sector, which has treated its responsibility to issue guidance for the benefit of financial institutions seriously. However, none of the Guidance Notes covers techniques of terrorist financing and Guidance Notes have not been explicitly issued to insurance intermediaries and investment firms other than brokers (see paragraph 518). Thus, Criteria 25.1 of the Methodology is not entirely met.
495. Criterion 25.2 states that competent authorities, and particularly the FIU (MOKAS in the case of Cyprus), should provide financial institutions and DNFBP that are required to report suspicious transactions, with adequate and appropriate feedback having regard to the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.
496. It was apparent to the evaluator that MOKAS makes enormous efforts to provide feedback to enterprises that have issued suspicious transaction reports to it. This view emerged not only from interviews with MOKAS but also from interviews with financial institutions. MOKAS has a historical relationship with financial institutions, who have been included in the anti-money laundering framework for some years, and it has been very successful in adopting an approachable and common

sense attitude which makes institutions comfortable in their dealings with it. Institutions were also comfortable in asking MOKAS to arrange AML training for their staff.

497. Reporting enterprises are provided with case specific feedback. Suspicious transaction reports are acknowledged and the reporting entity is provided with reports on progress, including when a case is closed or completed. General feedback is also provided, particularly to the banking sector. MOKAS meets with the MLCOs of banks at least every five months to discuss trends and lessons learned from suspicious transaction reports. This focus on banks is not surprising as banks issued more than 70% of STRs made in 2004 and most of the other STRs were made by government or supervisory bodies.
498. MOKAS has confirmed that it satisfies the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. It appeared to the evaluators that the Guidelines were satisfied. Criterion 25.2 is therefore met.
499. In addition, MOKAS issues periodic reports including statistics, typologies and trends to banks, co-operative banks, the stock exchange and insurers.

3.12.2 Recommendations and comments

500. The evaluators welcome the very active approach MOKAS has taken to providing feedback. It has established a strong rapport with financial institutions. This approach and rapport is one of the particular strengths of the AML framework.
501. The evaluators recommend that:
 - The AML Guidance Notes should cover techniques of terrorist financing (Criterion 25.1 of the Methodology);
 - Guidance Notes should be explicitly issued to insurance intermediaries and to all undertakings carrying on investment business (including UCITS managers and investment firms other than brokers) (Criterion 25.1 of the Methodology).

3.12.3 Compliance with Recommendation 25

	Rating	Summary of factors underlying rating
R.25	Largely compliant	Although the record on feedback by MOKAS is particularly strong, AML Guidance Notes do not cover terrorist financing techniques; Guidance Notes have not been issued which explicitly cover insurance intermediaries and some investment undertakings.

3.13 Ongoing supervision and monitoring (R.23, 29 and 32)

3.13.1 Description and analysis

Recommendations 23 and 29

CBC / Banks

502. The CBC monitors banks' compliance with their anti-money laundering obligations through the following devices:

- the submission of a prudential monthly return in which banks report the following:
 - All cash deposits from customers in Cyprus pounds in excess of CYP10.000.
 - All cash deposits from customers in foreign currencies in excess of US\$10.000 or equivalent.
 - All their customers' incoming and outgoing fund transfers in excess of US\$500.000 or equivalent.
- the total number of internal money laundering suspicion reports submitted by bank employees to the MLCO.
- the total number of reports submitted by the MLCO to MOKAS.
- a copy of the Annual Report prepared by MLCOs which is addressed to the banks' Chief Executives/Senior Management is submitted to the CBC. The said report is prepared and submitted within two months of the end of every calendar year.

503. In addition, the CBC carries out regular on-site examinations of banks, including assessments to determine the banks' compliance with their anti-money laundering obligations as set out in the AML Law and the G-Banks. The CBC developed a special "examinations manual" for checking and evaluating banks' internal control arrangements for money laundering prevention. It is noted that under section 26 of the Banking Law, the banks are obliged, when so required by the CBC, to produce to officials of the CBC their books, records, accounts and other documents. The vast powers of the CBC include also sample testing.

504. Regarding the frequency of on-site examinations, the CBC follows a risk based approach, which the evaluators consider to be sensible. There are 14 domestic banks and 26 IBUs in Cyprus. These banks were examined as follows in the past four years:

	2001	2002	2003	2004
Domestic banks	8	9	13	12
IBUs	5	7	9	17

The evaluators welcome the increase of on-site examinations in the last two years and consider the actual number of on-site examinations on a risk-sensitive basis to be very encouraging.

505. As a result of the on-site examination, the CBC may issue to the bank concerned, a letter with recommendations for corrective action in order to rectify weaknesses and strengthening controls in anti-money laundering procedures.

506. The evaluators came to the conclusion that the banking supervision is well organised and works effectively in practice. Thus, Criteria 23.4 and 29.2 are met.

Co-operative Societies' Supervision and Development Authority (CSSDA) /
Cooperative Societies

507. The evaluators consider the risk regarding the cooperative sector to be very low, although the number of cooperative societies currently amounts to 358. 200 of these societies are very small (< 100 members). The main activities are to accept deposits and to grant loans. There are no wire transfers possible and thus, there is almost no ongoing monitoring necessary. Business is only conducted with members of the relevant society.
508. On-site visits are conducted yearly for every society and include sample testing. The evaluators initially doubted that this is possible but were told then that the examination of a lot of societies is not at all time consuming. Criteria 23.4 and 29.2 are met.

SEC / Investment firms

509. SEC supervises 47 investment firms. Section 26 of the Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001 provides SEC with powers to undertake on-site inspections. Section 144 of the UCITS Law gives SEC power to conduct on-site inspections of UCITS managers. SEC has conducted the following inspections:

	2001	2002	2003	2004
Brokers	4	8	3	13
Investment firms	0	0	2	

The evaluators welcome the increase in the number of on-site inspections but, as a formal programme has not been established, the evaluators suggest that SEC should consider how best to ensure that all firms are visited periodically.

510. No severe anti-money laundering weaknesses or deficiencies were noted by SEC during the on-site inspections.
511. SEC has a high level audit programme for each on-site inspection. The visit includes:
- verification that the money laundering compliance officer knows, understands and applies his duties and responsibilities;
 - examination of records kept for the last year by the money laundering compliance officer;
 - confirmation that all the employees/staff know to whom they should be reporting money laundering knowledge or suspicion;
 - selection of a number of employees/staff and verification that they know, understand and apply the customer identification procedures and suspicious transactions identification procedures;
 - confirmation that the internal procedures manual has been circulated to all employees/staff;
 - verification (high level) that the procedures followed are consistent with the firm's internal procedures manual;
 - sample testing.

512. The evaluators consider that Criterion 23.4 and Criterion 29.2 are satisfied..

ICCS / Insurers and insurance intermediaries

513. Section 198 of the Law on Insurance Services and other Related Issues of 2002 to 2004 gives the ICCS power to conduct on-site inspections. To date the ICCS has lacked sufficient staff resources to undertake on-site inspections of insurers' or insurance intermediaries' compliance with the FATF Recommendations. The Superintendent has exercised powers to issue an order under sections 91 and 99 of the Insurance Services Law to require each insurer providing life insurance to provide, with its annual accounts, a certificate confirming compliance with the G-Insurers. This certificate is signed by members of the Board, the chief executive officer and the money laundering compliance officer. The certificate is part of the audit review process. In their audit report the auditors state, if it is the case: "According to the information and explanation received by us the Certificates have been properly prepared in accordance with the provision of the orders and it was reasonable for the person signing them to have made the statement therein." The audit review covers a review of policies, procedures, books and records (including sample testing). Certificates have been provided for life insurers in respect of the 2003 financial year. The certificates for the 2004 financial year should be received by the ICCS during 2005. While this certification process provides some comfort it does not entirely meet Criteria 23.4 and 29.2.

CBC / Money Transfer Business

514. According to the Cyprus answers to the questionnaire, all money transfer businesses are subject to on-site inspections and are required to submit a monthly return to the CBC containing details of their incoming and outgoing transfers. During their visit in Cyprus, the evaluators were told that on-site visits have not been started yet. The evaluators consider, in respect of Criterion 23.6 of the Methodology, that on-site visits on a risk based and random basis are necessary and that it is not effective and sufficient only to base supervision on the monthly returns. Thus, Criteria 23.6 and 29.2 are not met.

Other institutions

515. With regard to Criterion 23.7, the Cyprus authorities have concluded that no financial institutions other than those considered in this report need to be supervised or overseen for AML/CFT purposes.

3.13.2 Recommendations and comments

516. The supervisory authorities have initiated a rolling programme of on-site inspections across the anti-money laundering framework – the completion of this programme will satisfy the FATF Recommendations concerning on-site inspections. The evaluators recommend to start on-site visits regarding money transfer business, insurers and insurance intermediaries on a risk based and random basis and formalise a programme of such visits for the investment sector (Criteria 23.4, 23.6 and 29.2 of the Methodology).

3.13.3 Compliance with Recommendations 23 (criteria 23.4, 23.6-23.7), 29 and 32 (rating and factors underlying rating)

	Rating	Summary of factors relevant to s.3.13 underlying overall rating
R.23	Partially compliant	No on-site visits regarding insurers, insurance intermediaries and money transfer business;
R.29	Largely compliant	Programme of on-site visits across the insurance sector needed.
R.32	Largely compliant	Statistics kept in relation to on-site visits, but unclear whether these are reviewed collectively on a coordinated basis by the Advisory Authority (or otherwise).

3.14 Money or value transfer services (SR.VI)

3.14.1 Description and analysis

517. The CBC issued the D-MTB which provides the terms and conditions for the licensing and operation of legal enterprises engaged in the provision of money transfer services. Value transfer services are not covered by the D-MTB. The latter also provides for the contents of an application submitted to the CBC for the granting of a licence and prescribes the obligations of licensees. In addition, the CBC issued the G-MTB, a Guideline to money transfer business to comply with the AML Law and broadly implementing the FATF 40 plus IX Recommendations.

The deficiencies regarding the implementation of the FATF Recommendations have already been mentioned above and can be summarised as follows:

- no provision to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (Criterion 5.17 of the Methodology);
- no rules regarding PEPs (Criteria 6.1-6.4 of the Methodology);
- no provision determining what kind of information regarding transactions should be recorded as a minimum (Criterion 10.1.1 of the Methodology);
- infringement of SR-VII-obligations are not sanctionable (Criterion VII.9 of the Methodology);
- no regulation requiring money transfer companies to examine as far as possible the purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing; no regulation to keep such findings available for competent authorities for at least five years (Criteria 11.1 to 11.3 of the Methodology);
- value transfer business not licensed/registered (Criteria 23.1 and 23.5 of the Methodology);
- no on-site visits conducted (Criterion 23.6 of the Methodology).

Nevertheless, the Cyprus authorities advised that the potential risk of this is reduced by attaching a condition to the licence of each money transmitter to the effect that incoming transfers in favour of a customer cannot exceed CYP 1,500 and outgoing transfers by order of a customer cannot exceed CYP 5,000 per month.

518. According to section 19 of the D-MTB, each agent of a money transfer company has to be authorised by the company on the basis of a written contract. Regarding sanctions, see R.17. There are no special issues regarding money transfer business.

3.14.2 Recommendations and comments

519. The relevant recommendations have already been made above.

3.14.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	Largely compliant	Although the Cyprus authorities indicated that the potential risks in this area are reduced due to conditions on the licences there is/are: <ul style="list-style-type: none">• no provision to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times;

		<ul style="list-style-type: none">• no rules regarding PEPs;• no provision determining what kind of information regarding transactions should be recorded as a minimum;• infringement of SR.VII-obligations are not sanctionable;• no regulation requiring money transfer companies to examine as far as possible the purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing; no regulation to keep such findings available for competent authorities for at least five years;• value transfer business not licensed/registered;• no on-site visits conducted.
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4 PREVENTIVE MEASURES – Designated Non-Financial Businesses and Professions

4.1 Customer due diligence and record-keeping (R.12) (Applying R.5 to R.10)

520. In considering preventive measures for DNFBP, it is important to bear in mind that trust and company service providers, casinos and notaries are not included as a relevant financial or other business in section 61 of the AML Law and are not required to apply identification, record keeping, internal reporting and other procedures of internal control and communication as may be appropriate to forestall and prevent money laundering as specified in section 58 of the law. In addition, Guidance Notes have been issued only to international trust companies (notwithstanding their absence from section 61 of the AML Law) and accountants and auditors (and implicitly, tax advisors which are accountants and auditors as, for example, section 1.05 of the G – Accountants refers to accountants, auditors and their staff, whatever the nature of their work). Guidance Notes have been drafted for lawyers but not yet issued. Guidance Notes remain to be issued for most trust and company service providers, real estate agents, dealers in precious metals and dealers in precious stones. There are no casinos licensed to operate and no notaries in Cyprus.

4.1.1 Description and analysis

521. The description and analysis relating to the G-International Businesses is dealt with at section 3. The outcome of that description and analysis is incorporated within the comments, recommendations and ratings below.

Recommendation 5

522. Criterion 12.1 requires DNFBP to meet the requirements of Recommendation 5.

523. The AML Law and the AML Guidance Notes contain customer due diligence provisions, including a number of positive statements on the avoidance by DNFBP of the risk of being used for money laundering.

Anonymous accounts or accounts in fictitious names

524. Criterion 5.1 of the Methodology is marked with an asterisk. According to section 58(1)(a) of the AML Law no person shall form a business relationship, or carry out a one-off transaction with or on behalf of another, unless that person has applied the identification procedures in accordance with sections 62 to 65 of the AML Law. Section 62(1)(a) of the law stipulates that the identification procedures include satisfactory evidence of the business applicant's identity. The G-Accountants (and the G-Lawyers) contain provisions on identifying customers. Thus, Criterion 5.1 of the Methodology is met.

When CDD is required

525. Criterion 5.2 of the Methodology has an asterisk, too. Under section 62 of the AML Law, financial and other institutions have to undertake CDD:

- when establishing a business relationship with a customer (62(2/a) in connection with 62(1));
- carrying out occasional transactions over 8 thousand pounds or more (62(2/c) and 62(2/d)) regarding linked transactions);

- in respect of any one-off transaction, if any person handling the transaction knows or suspects that the applicant for business is engaged in a money laundering offence (62(2/b)).

The AML Law does not cover the other cases specified in Criterion 5.2: occasional wire transfers, suspicion of money laundering or terrorist financing regardless of any exemptions of thresholds or of doubts about the veracity or adequacy of previously obtained customer data.

Required CDD measures

526. Pursuant to section 65(1) in connection with section 62(1) of the AML Law, proof of identity is satisfactory if :

- it is reasonably possible to establish that the applicant is the person he claims to be; and
- the person who examines the evidence is satisfied, in accordance with the procedures followed under the AML Law in relation to the relevant financial business concerned, that the applicant is actually the person he claims to be.

527. Criteria 5.3 and 5.4(a) of the Methodology, both asterisked, require DNFBP to identify the customer and verify that customer's identity using reliable, independent source documents, data or information. For customers that are legal persons, DNFBP should be required to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person. Section 65(1) in connection with section 62(1) of the AML Law does not meet this Criterion, not even generally, because it is possible to identify the customer also without using reliable and independent source documents (e.g. if the applicant is personally known to the person who examines the evidence and therefore this person is satisfied, that the applicant is the person he claims to be). In addition, the AML Law does not contain rules regarding persons acting on behalf of legal persons or arrangements.

528. Nevertheless, the provisions of Criterion 5.3 are dealt with in section 4 of the G-Accountants. Section 4.08 of the Guidance Notes indicates that all firms should seek satisfactory evidence of identity of those for whom they provide services. If satisfactory evidence of identity has not been obtained in reasonable time, then the business relationship or one-off transaction shall not proceed any further. Section 4.25 states that for individuals ideally an official photograph bearing a photograph should be obtained for face-to-face customers. Section 4.26 states that in addition to the name(s) used and date of birth, it is important that the current permanent address should be verified as it is an integral part of identity. Some of the best means of verifying addresses are:

- a face to face home visit to the applicant for business;
- making a credit reference agency search;
- requesting sight of a recent utility bill, local authority tax bill, bank or co-operative society statement (to guard against forged or counterfeit documents, care should be taken to check that the documents offered are originals);
- checking the telephone directory.

529. For non-Cyprus residents section 4.27 of the G-Accountants provides that for those prospective clients who are not normally resident in Cyprus but who make face-to-face contact, a passport or national identity card will normally be available. In addition to recording the passport or identity card number and place of issue, firms should confirm identity and permanent address with a reputable financial institution or professional adviser in the prospective client's home country or normal country of residence. Section 4.29 onwards deals with the requirements for companies and other organisations, while section 4.35 onwards deals with trusts and nominees, registered charities, local authorities and other public bodies. For unquoted companies a copy of the latest report and accounts, certificate of incorporation and the memorandum and articles of association should normally be obtained. While there is useful material in the Guidance Notes the use of words such as "ideally" and "normally" could

be reconsidered. Also, guidance on unregistered charities would be helpful. Section 4.15 of the G-Accountants states that when a person applies for an investment to be registered in the name of another (e.g. grandchildren), it is the person who provides the funds who should be regarded as the applicant for business rather than the registered holder. Whilst the example is understandable the risk of money laundering in other situations permitted by the concept is high and the provision should be tightened. The Notes do not specifically indicate that reliable, independent source documents, data or information should be used to identify the customer in all cases.

530. Similar identification procedures are contained in section 4 of the G-Lawyers.
531. Criterion 5.4(a) is also marked by an asterisk and requires DNFBP to verify that any person purporting to act on behalf of the customer is so authorised and identify and verify that person. The provisions of this Criterion are not contained in the AML Law. For companies and other organisations section 4.29 of the G-Accountants states that particular care should be taken to ensure that any person purporting to act on the organisation's behalf is authorised to do so. This provision does not go as far as Criterion 5.4(a). A similar provision is included at 4.27 of the G-Lawyers.
532. Section 4.30 of the G-Accountants states that for companies enquiries should be made to confirm that the entity exists for a legitimate trading or economic purpose and that the controlling principals can be identified. The evaluators understand this provision to apply to both quoted and unquoted companies. Section 4.33 of the G-Accountants states that no further steps to verify identity over and above normal commercial practice and due diligence procedures are required for quoted companies while, as indicated above, section 4.34 provides that for unquoted companies documentation is obtained which verifies the legal status of unquoted companies. For trusts, the identity of all the major parties – the trustees, the settlor and the principal beneficiaries – should be verified (section 4.35 of the Notes refers). Section 4.39 requires accountants to obtain the registration number of registered charities but, as indicated above, it does not discuss unregistered charities.
533. Guidance is therefore provided to firms on obtaining proof of incorporation or similar evidence of establishment or existence for customers as required by Criterion 5.4(b) (which is not asterisked). Guidance could also be helpfully incorporated in the G-Accountants on what is meant by “normal commercial practice and due diligence procedures”.
534. Similar provisions are contained in sections 4.28, 4.32, 2.33 and 4.37 of the G-Lawyers.
535. Criteria 5.5, 5.5.1 and 5.5.2(b) are also asterisked. Regarding the identification of the beneficial owner, section 63 of the AML Law requires that reasonable measures should be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting. Thus, Criterion 5.5.1 of the Methodology is met. Nevertheless, the AML Law does not contain a provision that financial institutions should be required to identify the beneficial owner and take reasonable measures to verify his identity using relevant information or data obtained from a reliable source as stipulated in Criterion 5.5 of the Methodology. The same is true for Criterion 5.5.2(b) regarding the determination of who are the natural persons that ultimately own or control a legal person or arrangement.
536. Criterion 5.5.2(b) is addressed in the G-Accountants. Section 4.30 of the G-Accountants advises that in the case of any corporate or other corporate or other entity, the principal requirement is to identify those who have ultimate control or significant influence over the business and its assets. Section 4.35 indicates that the identity of all major parties to and nominees trusts – including trustees, the settlor and principal beneficiaries – should be identified. In the case of occupational pension schemes the identity of the principal employer should also be verified (section 4.38). Similar provisions are contained in sections 4.28, 4.33, 4.36 and 4.37 of the G-Lawyers.

537. The evaluators came to the conclusion that the AML Law should be amended with a general requirement to identify the beneficial owner and to take reasonable measures to verify his identity using relevant information or data obtained from a reliable source, and to verify the identity of controllers. Section 63 of the AML Law only deals with transactions on behalf of another person, which is not broad enough as a legal basis. In addition, the text on charities in the G-Accountants (and the G-Lawyers) should be clarified.
538. Regarding the data required for beneficial owners, section 4.35 of the G-Accountants (and section 4.23 of the G – Lawyers) deals with obtaining information on the date of birth of individuals.
539. With reference to Criterion 5.5.2(a), notwithstanding the above, there is no specific reference in the G-Accountants to DNFBP being required for legal persons and legal arrangements to take reasonable measures to understand the ownership and control structure of the customer.
540. Criterion 5.6 requires DNFBP to obtain information on the purpose and intended nature of the business relationship. Although section 4.02 of the G-Accountants states that in the great majority of business relationships, the accountant will need to obtain a good working knowledge of a client’s business and financial background in order to provide an effective service, this statement does not go quite as far as Criterion 5.6. A similar provision is included in section 4.02 of the G-Lawyers.
541. According to Criterion 5.7 of the Methodology, again asterisked, DNFBP should be required to conduct ongoing due diligence (which should include e.g. scrutiny of transactions to ensure they are consistent with knowledge of the customer and the customer’s business and risk profile) on the business relationship. Section 58(1/a/iv) of the AML Law requires a detailed examination of any transaction which by its nature may be considered to be associated with money laundering. The G-Accountants does not contain any provision on ongoing due diligence except that section 4.24 points to the need for additional monitoring procedures for transactions from NCCT. Criterion 5.7.2 directs that DNFBP should undertake reviews of existing records. Whilst the G-Accountants contains record keeping provisions it is silent on the requirements of Criterion 5.7.2. The same points apply to the G-Lawyers.

Risk

542. Criterion 5.8 requires DNFBP to perform enhanced due diligence for higher risk customers.
543. Section 4.23 of the G-Accountants provides that special attention should be given to business relationships and transactions with any person or body from NCCT. Paragraph 4.29 indicates that the possible difficulties of identifying beneficial ownership and the complexity of their organisations make legal enterprises and trusts among the most likely vehicles for money laundering. Firms are urged to take particular care. Paragraph 4.36 describes trusts and nominee accounts as a popular vehicle for criminals. Nevertheless, these provisions do not amount to a risk based approach along the lines of Criterion 5.8 to perform enhanced due diligence for higher risk categories of customer, business relationship or transaction.
544. Criteria 5.9 to 5.12 deal with the controls for applying reduced or simplified customer due diligence measures where there are low risks and the determination of customer due diligence measures on a risk sensitive basis. As the G-Accountants does not adopt a risk based approach these criteria do not appear to be applicable. The same considerations apply to the G-Lawyers.

Timing of verification

545. Criteria 5.13, 5.14 and 5.14.1 cover the timing of verification.
546. Section 62(1) of the AML Law stipulates that the customer has to be identified “as soon as reasonably practicable”, after the first contact between that person and an applicant for business, concerning any particular business relationship or one-off transaction. According to section 65(2) of the AML Law, in

determining the time limit in which satisfactory evidence of a person's identity has to be obtained, all the circumstances shall be taken into account including, in particular:

- the nature of the business relationship or one-off transaction;
- the geographical location of the applicant for business;
- whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes.

547. Section 4.14 of the G-Accountants states that firms should verify the identity of any client before agreeing to handle client's money on his, her or its behalf. This applies whatever type of business may be involved. Section 4.08 provides that if satisfactory evidence of identity has not been obtained in a reasonable time then the business relationship or one-off transaction shall not proceed any further. The G-Accountants therefore satisfies Criterion 5.13 to 5.14.1. However, section 4.08 goes on to say that a firm may have to refrain from providing the requested service or perform a transaction until satisfactory evidence is maintained. The word "may" should be amended. If the G-Accountants wished to adopt an approach whereby verification of identity could be delayed the controls envisaged by Criterion 5.14 would need to be put in place – these controls provide for verifying identity as soon as possible, the delay in verification arising from a decision in a particular case that it is essential not to interrupt the normal conduct of business, and the need to effectively manage the money laundering risks and adopt risk management procedures.
548. Similar considerations apply in respect of section 4.08 but there is no equivalent to section 4.14 of the G-Accountants in the G-Lawyers.

Failure to satisfactorily complete CDD

549. According to section 58(1) of the AML Law, no person shall form a business relationship or carry out a one-off transaction unless that person applies the identification procedure pursuant to sections 62 to 65 of the AML Law. In section 4.08 the G-Accountants states that in some circumstances the failure by a client to provide satisfactory evidence of identity may, in itself, lead to a suspicion that he/she is engaging in money laundering. This satisfies Criterion 5.15. The same provision is included at section 4.98 of the G-Lawyers.
550. With regard to Criterion 5.16, there is no provision in the G-Accountants on terminating a business relationship and to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied. The same point applies to the G-Lawyers.*
551. Financial institutions should be required to apply CDD requirements to existing customers on the basis of materiality and risk (Criterion 5.17 of the Methodology). No such provisions are contained in the G-Accountants (or the G-Lawyers).

EU Directive

552. According to Article 7 of the EU Directive, Member States shall ensure that financial institutions refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the competent authorities. In addition, these authorities should have the power to stop the execution of a transaction that has been brought to their attention by an obliged person who has reasons to suspect that such transaction could be related to money laundering. The Cyprus authorities did not indicate in their answer to the questionnaire if Article 7 of the EU Directive has been implemented. The evaluators could in any case not find a corresponding provision in the AML Law or the AML Guidance Notes. The same is true regarding Article 3(8) of the EU Directive (identification requirement in case of a suspicion of money laundering even where the amount is lower than the threshold).

553. The EU Directive (article 2(a)) also applies to trust and company service providers and all dealers in high goods (not only dealers in precious metals and precious stones) whenever payment is made in cash in an amount of EUR 15,000 or more. In addition, casinos and notaries are not explicitly included in the AML Law as having to apply the specific provisions of the law on forestalling and preventing money laundering.

Recommendations 6 and 8 to 10

554. Criterion 12.2 requires that DNFBP should be required to comply with the criteria set out under Recommendations 6 and 8 to 10.

555. With reference to Recommendation 6, there are no provisions about PEPs in the G-Accountants (or the G-Lawyers).

556. Criterion 8.1 requires policies to be in place or measures to be taken to prevent the misuse of technological developments in money laundering or terrorist financing schemes. Neither the G-Accountants nor the G-Lawyers covers the terrorist financing or the misuse of technological developments.

557. Criteria 8.2 and 8.2.1 deal with non-face to face customers. With reference to such customers, section 4.28 of the G-Accountants states that - firms should be extra vigilant in the case of non-Cyprus resident prospective clients who are not seen face to face and who are not covered by one of the exemptions set out in paragraphs 4.21 to 4.22. Possible procedures include:

- a branch office, associated firm or reliable professional adviser in the prospective client's home country could be used to confirm identity or as an agent to check personal verification details;
- where the firm has no such relationship in the prospective client's country of residence, a copy of the passport authenticated by an attorney or consulate could be obtained;
- verification details covering true name or names used, current permanent address and verification of signature could be checked with a reputable credit or financial institution or professional advisor in the prospective client's home country.

558. Similar provisions are contained in section 4.26 of the G-Lawyers. Criteria 8.2 and 8.2.1 are therefore satisfied.

559. The G-Accountants (and G-Lawyers) does not contain provisions on the use of intermediaries or other third parties to perform elements of the customer due diligence process. Accordingly, the evaluators understand that the combination of the AML Law (which contains no provisions on intermediaries) and the Guidance Notes do not allow for delegation of any customer due diligence obligations and, therefore, that Recommendation 9 is not applicable to DNFBP covered by the Notes.

560. DNFBP should be required to maintain all necessary records:

- on transactions, both domestic and international, for at least five years following completion of the transaction (asterisked Criterion 10.1 of the Methodology);
- of the identification data, account files and business correspondence for at least five years following the termination of an account or business relationship (asterisked Criterion 10.2 of the Methodology).

561. Criteria 10.1 and 10.2 of the Methodology are asterisked and are met by section 66 of the AML Law, with one exception. In circumstances where the formalities necessary to terminate a business relationship have not been observed, but a period of five years has elapsed since the date on which the

last transaction was carried out in the course of that relationship, the date of completion of all the activities taking place in the course of the last transaction shall be treated as the date on which the business relationship was terminated. As a consequence, the identification data, account files and business correspondence do not have to be maintained for at least five years following the termination of the account in any case as required by Criterion 10.2 of the Methodology. Section 5.03 of the G-Accountants states that the AML Law requires relevant records to be retained for at least five years from the date when the firm's relationship with the client was terminated or a transaction was completed. Section 5.03 of the G-Lawyers is similar.

562. According to Criterion 10.1.1 (which is not asterisked) of the Methodology, transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. Sections 5.07 and 5.08 of the G-Accountants state that the precise nature of the records required is not specified but the objective is to ensure that in any subsequent investigation the firm can provide MOKAS with its part of the audit trail.

563. For each transaction, consideration should be given to retaining a record of:

- the name and address of its client;
- the name and address (or identification code) of its counter party;
- the form of instruction or authority;
- the account details from which any funds were paid;
- the form and destination of payment made by the business to the client.

564. As firms are asked to consider what information should be maintained, the G-Accountants does not unambiguously satisfy the requirements of Criterion 10.1.1 The same point applies to the G-Lawyers (sections 5.7 and 5.8 refer).

565. Pursuant to the asterisked Criterion 10.3 of the Methodology, DNFBP should be required to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority. The G-Accountants provides that the objective of the nature of the records kept is to provide MOKAS with its part of the audit trail but there is no reference in the Notes (or the G-Lawyers) to the timely provision of information to competent authorities.

4.1.2 Recommendations and comments

566. The AML Law and the AML Guidance Notes contain customer due diligence and record keeping requirements, including a number of positive, strong statements for the approaches of DNFBP in countering money laundering. The evaluators recommend to amend the AML Law (and the AML Guidance Notes as necessary) and require DNFBP to:

- extend section 61 of the AML law to cover trust and company service providers, notaries, casinos and dealers in all high-value goods whenever payment is made in cash in an amount of EUR 15,000 or more (definitions of DNFBP in the Methodology and article 2(a) of the EU Directive);
- undertake CDD measures, when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to under the AML Law, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology);
- require financial institutions to verify the customer's identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology);

- identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology);
- conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology);
- describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology);
- repeal and amend section 66(3)(b) of the AML Law (Criterion 10.2 of the Methodology);
- require DNFBP to ensure that all customers and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology).

567. The evaluators also recommend the Cyprus authorities to:

- Issue the G-Lawyers and Guidance Notes for those DNFBP not yet covered by guidance;
- Amend the existing Guidance Notes to:
 - a) enhance the guidance on charities, and tighten the provisions where the person providing the funds is different from the registered holder to reduce money laundering risk and clarify the use of the words “ideally” and “normally” (G-Accountants, Criterion 5.3 of the Methodology);
 - b) understand ownership and control structures (Criterion 5.5.2(a) of the Methodology);
 - c) obtain information on the purpose and intended nature of the business relationship (Criterion 5.6 of the Methodology);
 - d) perform enhanced due diligence for higher risk customers (Criterion 5.8 of the Methodology);
 - e) on terminating a business relationship, to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (Criterion 5.16 of the Methodology);
 - f) apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate Criterion 5.17 of the Methodology);
 - g) have in place rules regarding PEPs according to Criteria 6.1 to 6.4 of the Methodology);
 - h) put in place procedures to prevent the misuse of technological developments (Criterion 8.1 of the Methodology);
 - i) clarify the transaction records to be held (Criterion 10.1. of the Methodology).
- Implement Article 7 of the EU Directive (refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the competent authorities; power to stop the execution of a transaction for the FIU) and Article 3(8) of the EU Directive (identification requirement in case of a suspicion of money laundering even where the amount is lower than the threshold).

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	Partially compliant	AML Law does not cover CDD measures 1) regarding suspicion of money laundering or terrorist financing, and 2) in cases of doubt regarding previously obtained customer due diligence information. No general rule in legislation concerning identification using reliable and independent source documents and ongoing due diligence. The AML Guidance Notes need to be enhanced with regard to understanding ownership and control structures;

		obtaining information on the purpose and nature of business relationships ; undertaking enhanced due diligence for higher risk customers; the application of CDD requirements for existing customers; consideration of making STRs on terminating existing business relationships. Also no PEP provisions or provisions on misuse of technological developments in the Guidance Notes. The AML Law needs amendment so that records are kept for five years after the formal termination of a business relationship.
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4.2 Monitoring of transactions and relationships (R.12 & 16) (Applying R.11 and 21)

568. The description and analysis relating to the G-International Businesses is dealt with at section 3. The outcome of that description and analysis is incorporated within the comments, recommendations and ratings below.

4.2.1 Description and analysis

Recommendation 11

569. Recommendation 12 (Criterion 12.2) states that DNFBP should be required to comply with Recommendation 11.

570. Criteria 11.1 to 11.3 are not asterisked. DNFBP should pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. DNFBP should also be required to examine as far as possible the background and purpose of such transactions and to set forth their findings in writing, and to keep such findings available for competent authorities and auditors for at least five years. Section 6.03 of the G-Accountants (and section 6.02 of the G-Lawyers) state warning signs which can indicate that an established client's transactions might be suspicious include:

- the size of the transaction (or transactions when aggregated) is inconsistent with the normal activities of the client;
- the transaction is not rational in the context of the client's business or personal activities;
- the pattern of transaction conducted by the client has changed;
- the transaction is international in nature and the client has no obvious reason for conducting business with the other country involved.

571. The identification of these warning signs is helpful for firms. The G-Accountants (and the G-Lawyers) do not, however, contain provisions on complex, unusual transactions or unusual patterns of transactions.

Recommendation 21

572. Recommendation 16 (Criterion 16.3) applies Recommendation 21 to DNFBP.

573. The G-Accountants and the G-Lawyers generally do not adopt a risk-based approach. However, sections 4.23 and 4.24 of the G-Accountants and sections 4.21 and 4.22 of the G-Lawyers provide that special attention should be given to business relationships and transactions with any person or body from a jurisdiction which the FATF has designated as a non co-operative country and territory. The Notes go on to say that when constructing their internal procedures, firms should have regard to the need for additional monitoring procedures for transactions from non co-operative countries and territories. Firms are directed towards the FATF's guidance and the G-Accountants and the

G-Lawyers indicate that ICPAC and the CBA may refer firms to current guidance as to which countries are regarded as higher risk.

574. Criterion 21.1 and 21.1.1 are therefore satisfied by these two sets of Guidance Notes.
575. Criterion 21.2 indicates in respect of transactions from countries which do not or insufficiently apply the FATF Recommendations, where those transactions have no apparent or visible lawful purpose, the background and purpose of such transactions should, as far as possible, be examined, and written findings should be available to assist competent authorities. This provision is not contained in the G-Accountants or the G-Lawyers.
576. Regarding Criterion 21.3 (countries should be able to apply particular countermeasures), the ability of the supervisory authorities to issue guidance referring to the need for additional monitoring procedures for transactions, satisfies the Criterion.

4.2.2 Recommendations and comments

577. The evaluators recommend to amend the Guidance Notes to:
- pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology);
 - examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set out their findings in writing (Criterion 11.2 of the Methodology);
 - keep such findings available for competent authorities for at least five years (Criterion 11.3 of the Methodology);
 - state that in the case of transactions by persons from or in countries which do not or insufficiently apply the FATF Recommendations, where those transactions have no apparent economic or visible lawful purpose, the background and purpose should, as far as possible, be examined and written findings be available to assist the competent authorities (Criterion 21.2 of the Methodology).

4.2.3 Compliance with Recommendations 12 and 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.12	Partially compliant	Warning signs are provided but complex, unusual transactions or patterns of transactions are not explicitly covered in the Guidance Notes.
R.16	Partially compliant	Measures to advise DNFBP of concerns about other countries not provided for; special attention not required to be paid to transactions with no apparent economic or visible lawful purpose or to keep such findings available; transactions with no apparent or legal purpose from countries with poor AML standards are not required to be examined and the written findings made available to competent authorities.

4.3 Suspicious transaction reporting (R.16)

(Applying R.13 and 14)

4.3.1 Description and analysis

Recommendation 13

578. Criterion 13.1 requires DNFBP to comply with Recommendation 13 – Essential Criteria 13.1 to 13.3 are asterisked.
579. All persons, not just the financial institutions and DNFBP listed in section 61 of the AML Law, which are otherwise covered by section 67, are required to make suspicious transaction reports, as noted in 3.7.1 above.
580. As required by Criterion 16.1 this requirement is a direct mandatory obligation. Section 26(3) of the AML Law provides that internal reporting by an employee of those DNFBP covered by the law will satisfy the reporting requirement once he has reported his/her suspicion to the DNFBP's Money Laundering Compliance Officer.
581. There are two types of offence (specified in section 3 of the AML Law), laundering offences and predicate offences. Section 5 of the AML Law provides that predicate offences are all criminal offences punishable with imprisonment of up to one year as a result of which proceeds have been generated which may contribute a laundering offence as defined in section 4 of the law. As discussed above, the definitions in sections 4 and 5 of the law of the two types of offence involve any property that directly or indirectly represents the proceeds of crime. The predicate offences covered by the AML Law include all of the offences designated under the FATF Recommendations. The wording of the AML Law therefore enables Criterion 16.1 to be satisfied.
582. As noted in Section 3.7.1, the obligation to report suspicion also extends to terrorism. Hence, the requirement of Criterion 13.2 – an obligation to make a suspicious transaction report where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism – is satisfied.
583. With regard to reporting suspicion, the Methodology states that it is for each jurisdiction to determine the matters that would fall under legal professional privilege or legal professional secrecy. Section 44 of the AML Law defines privileged information as
- “(a) a communication between an advocate and a client for the purposes of obtaining professional legal advice or professional legal services in relation to legal proceedings whether these have started or not which would in any legal proceedings be protected from disclosure by virtue of the privilege of confidentiality under the law in force at the relevant time;
provided that a communication between an advocate and a client for the purposes of committing a prescribed offence shall not constitute privileged information;
 - (b) any other information which is not admissible in court for the protection of the public interest under the law in force at the relevant time.”
584. This definition is also contained in section 2.1 of the G-Lawyers.
585. Following discussion between the evaluators and a number of the Cyprus authorities, it was confirmed after the on-site visit that the definition of privileged information applies to all offences – past, present and future. The President of the District Court of Nicosia, MOKAS and the CBA all agreed with this interpretation of this definition.
586. There is, as noted earlier, no threshold as to the amount of a transaction to be reported.

587. Turning to Criterion 13.4, this is satisfied as the requirement to report suspicious transactions applies regardless of whether the potential offence involves tax matters.
588. With reference to Criterion 16.2, all persons are required by section 27 of the AML Law to disclose suspicions to a police officer or MOKAS, rather than to an SRO. More particularly section, 6.20 of the G Accountants, section 6.09 of the G-Lawyers direct their constituencies to make reports to MOKAS. Criterion 16.2 is therefore not applicable.

Recommendation 14

589. Criterion 16.3 directs that Recommendation 14 should apply in relation to DNFBP.
590. With reference to Recommendation 14, DNFBP are protected by law from both criminal and civil liability for breach of any restriction on disclosure of information. Section 27 of the law provides that a criminal offence is committed unless a suspicious transaction report is made. Section 67(d) of the law requires DNFBP to have in place internal reporting procedures for securing that the information or other matter contained in an internal report of suspicion to the Money Laundering Compliance Officer is transmitted to MOKAS where the Money Laundering Compliance Officer ascertains or has reasonable suspicions that another person is engaged in a money laundering offence. A breach of section 67(d) is subject to the penalties in section 58 of the law as discussed at Recommendation 17. Section 60(5) of the law provides that where a supervisory authority possesses information and is of the opinion that any person subject to its supervision may have been engaged in a money laundering offence, it shall as soon as possible transmit the information to MOKAS. Section 26(2)(a) provides that where a person discloses a suspicion to a police officer or MOKAS, the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract. The same comment as is made at paragraph 451 above in Section 3.7.1 is relevant for DNFBP. Essential Criterion 14.1 is not fully covered.
591. Criterion 14.2 deals with “tipping off”. “Tipping off” is criminalised by section 48 of the AML Law. The same comments as are made in Section 3.7.1 apply to DNFBP.

4.3.1 Recommendations and comments

592. The examiners consider that the “safe harbour” provisions in section 26 (2a) do not fully comply with Criterion 14.1. They only refer to protection which may be seen as a breach of any restriction imposed by contract and not to restrictions imposed by legislative, regulatory or administrative provision. The examiners had reservations therefore as to whether this section fully covers all civil liability, and very much doubt that it can cover any potential criminal liability that may arise from such a disclosure. The examiners repeat the comments made in 3.7.2 and recommend that these issues are clarified in the AML legislation.
593. The tipping off offence should also be reconsidered to ensure the full range of coverage as required by Criterion 14.2 of the 2004 Methodology, without unnecessary restrictions.

4.3.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.16	Partially compliant	Tipping off provisions are unreasonably restricted; “safe harbour” provisions do not clearly cover all civil and criminal liability.

4.4 Internal controls, compliance and audit (R.16)

(Applying R.15)

4.4.1 Description and analysis

594. The description and analysis relating to the G-International Businesses is dealt with at section 3. The outcome of that description and analysis is incorporated within the comments, recommendations and ratings below.
595. Criterion 16.3 requires Recommendation 15 to apply to DNFBP.
596. As noted above at 3.8.1, section 58 (1) of the AML Law covers the issue.
597. The G-Accountants (and the G-Lawyers) cover anti-money laundering but not the countering of terrorist financing.
598. Section 3 of the G-Accountants requires the maintenance of internal controls, policies and procedures to prevent money laundering. Section 4 covers identification procedures, section 5 covers record-keeping, section 6 covers the recognition and reporting of suspicious transactions. Criterion 15.1 is satisfied by the G-Accountants. Sections 3 to 6 of the G-Lawyers cover similar territory and will meet Criterion 15.1 when issued.
599. Section 3.02 of the G-Accountants requires firms to establish a central point of contact – the Money Laundering Compliance Officer – to handle the reported suspicions of their partners and staff regarding money laundering. He should be sufficiently senior to command the necessary authority (section 6.08). Section 6.07 spells out the Money Laundering Compliance Officer’s responsibilities as, at a minimum:
- to receive from the firm’s employees information which is considered by the latter to be knowledge of money laundering activities or which is cause for suspicion connected with money laundering;
 - to validate and consider the information received as per the bullet point above by reference to any other relevant information and discuss the circumstances of the case with the reporting employee concerned and, where appropriate, with the employee’s superior(s). The evaluation of the information reported to the MLCO should be recorded and retained on file;
 - if following the evaluation described in the second bullet point above, the MLCO decides to notify MOKAS, then he/she should complete a written report and submit it to MOKAS and as soon as possible. All such reports should be kept on file;
 - if following the evaluation described in the second bullet point above, the MLCO decides not to notify MOKAS then he/she should fully document the reasons for such a decision;
 - the MLCO acts as a first point of contact with MOKAS, upon commencement of and during investigation as a result of filing a report to MOKAS under (c) above;
 - the MLCO responds to requests from MOKAS and determines whether such requests are directly connected with the case reported and, if so, provides all the supplementary information requested and fully co-operates with MOKAS;
 - the MLCO provides advice and guidance to other employees of the firm on money laundering matters;
 - the MLCO acquires the knowledge and skills required which should be used to improve the firm’s internal procedures for recognising and reporting money-laundering suspicions;
 - the MLCO determines whether the firm’s employees need further training and/or knowledge for the purpose of learning to combat money laundering;
 - the MLCO is primarily responsible, in consultation with the firm’s senior management and

Internal Audit Department (if any), to ICPAC in implementing the various Guidance Notes issued by it as well as all other instructions/recommendations issued by ICPAC, from time to time, on the prevention of the criminal use of services offered by accountants and auditors for the purpose of money laundering.

600. Sections 6.12 onwards covers internal reporting procedures and records. A firm should make the necessary arrangements in order to introduce measures designed to assist the functions of the MLCO and, in the reporting of suspicious transactions by employees, firms have an obligation to ensure:
- that all their employees know to whom they should be reporting money laundering knowledge or suspicion; and
 - that there is a clear reporting chain under which money laundering knowledge or suspicion is passed without delay to the MLCO.
601. Criterion 15.1.1 is therefore satisfied by the G-Accountants. Similar information is contained in sections 3.02, 6.05 and 6.07 of the G-Lawyers although there are no sections on internal reporting procedures and records analogous to sections 6.12 onwards of the G-Accountants.
602. Paragraph 5.09 of the G-Accountants states that the overriding objective of record retention is for firms to be able to retrieve the relevant information without undue delay and in a cost effective manner. Paragraph 5.10 advises firms to consider both the statutory requirements and the potential needs of MOKAS. Although the Notes provide that firms should make the necessary arrangements in order to introduce measures designed to assist the functions of the MLCO, they do not explicitly state that the MLCO and other appropriate staff should have timely access to customer identification and other CDD information, transaction records and other relevant information (Criterion 15.1.2).
603. With reference to Criterion 15.2, although as outlined above, the G-Accountants includes requirements for internal reporting records, there is no specific requirement to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with these procedures, policies and controls. The same point applies to the G-Lawyers.
604. Criterion 15.3 deals with employee training. Section 7.01 of the G-Accountants requires firms to take appropriate measures to make employees aware of :
- policies and procedures maintained to prevent money laundering including those of identification, record keeping and internal reporting; and
 - the requirements imposed by the law;

and to provide such employees with training in the recognition and handling of suspicious transactions. The rest of chapter 7 of the Notes includes provisions on the need for awareness by partners and staff, the timing and content of training programmes, new professional staff, advisory staff, staff who can accept new clients, partners and managers, Money Laundering Compliance Officers, refresher training and methods of providing training. The timing, content and methods of training for the various levels/types of staff should be tailored to meet the needs of the particular firm, depending on the size and nature of the organisation and the available time and resources. As noted in respect of financial institutions, in the opinion of the evaluators, limiting training according to time and resources is undesirable. Criterion 15.3 is not met as there is no requirement to ensure employees are kept informed of new developments, including information on current money laundering and terrorist financing techniques, methods and trends. Section 7.01 of the G-Lawyers contains identical provisions to those in section 7.01 of the G-Accountants but it does not contain the rest of the guidance in the G-Lawyers referred to above.

605. Pursuant to Criterion 15.4 of the Methodology, DNFBP should be required to put in place screening procedures to ensure high standards when hiring employees. Neither the G-Accountants nor the G-Lawyers contains such provisions.

4.4.2. Recommendations and comments

606. The AML Guidance Notes contain provisions on training and internal procedures. A few elements could be enhanced.

607. The evaluators recommend to:

- amend the existing AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology);
- amend the AML Guidance Notes to specify the Compliance Officer should have timely access to information (Criterion 15.1.2 of the Methodology);
- include reference in the AML Guidance Notes to an independent audit function to test compliance (Criterion 15.2 of the Methodology);
- include a training requirement in the AML Guidance Notes for developments in money laundering and terrorist financing techniques, methods and trends (Criterion 15.3 of the Methodology);
- amend the AML Guidance Notes to remove the undesirable ability of institutions to use a lack of time or resources to carry out training;
- amend the AML Guidance Notes (and possible the AML Law) and require DNFBP to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology).

4.4.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.4 underlying overall rating
R.16	Partially compliant	No requirement for training on countering terrorist financing; audit function not necessarily independent; no requirement for training on money laundering developments; lack of time or resources may be used as a reason not to provide training; no requirement for staff screening procedures.

4.5 Regulation, supervision and monitoring (R.17, 24-25)

4.5.1 Description and analysis

Recommendation 17

608. Recommendations 12 (Criterion 12.3) and 16 (Criterion 16.4) state that countries should apply Recommendation 17 to DNFBP.

609. Section 58(2/a) of the AML Law, as noted earlier, stipulates that any person who allegedly fails to comply with the provisions of the section – which lays down the requirements for identification, record keeping, internal reporting and other appropriate procedures to forestall and prevent money laundering – after giving him the opportunity to be heard, is subject to an administrative fine of up to three thousand pounds, which is imposed by the competent supervisory authority.

610. Section 58 (2)(b) of the AML Law states that a lawyer or auditor who allegedly fails to comply with the provisions of section 58 of the law is subject to the penalties in section 58(2)(a) of the law and, in addition, is referred by the competent supervisory authority to the competent disciplinary body which decides accordingly.
611. This position is echoed in section 1.06 of the G-Accountants and section 2.09 of the G-Lawyers. In addition, section 1.23 of the G-Accountants states that compliance with the Guidance Notes is likely to be an important point of reference in any assessment of the conduct of individual members and of the adequacy of systems of control to guard against money laundering. The Articles of Association of ICPAC include a variety of disciplinary proceedings.
612. For justified complaints made against a certified public accountant, the Disciplinary Committee of ICPAC may decide:
- his/her striking off from the Registrar for a specific period of time or permanently;
 - suspension of the licence to practice the profession for such period as the Disciplinary Committee may deem advisable;
 - keeping the licence to practice the profession under such conditions and for such period as the Disciplinary Committee may deem advisable;
 - withdrawal of the licence to practice the profession;
 - deprivation of the right to obtain a licence to practice the profession;
 - severe reprimand;
 - reprimand;
 - a fine of the amount of which shall be decided by the Disciplinary Committee.
613. If the Member against whom the complaint has been made is a company of Accountants, the disciplinary proceedings can include:
- suspension of the licence to practice the profession for such period as the Disciplinary Committee may deem advisable;
 - keeping the licence to practice the profession under such conditions and for such period as the Disciplinary Committee may deem advisable;
 - withdrawal of the licence to practice the profession;
 - deprivation of the right to obtain a licence to practice the profession;
 - severe reprimand;
 - reprimand;
 - a fine the amount of which shall be decided by the Disciplinary Committee.
614. Separate series of penalties apply to student accountants and graduate accountants. In the opinion of the evaluators the penalties applying to accountants and auditors are effective, proportionate and dissuasive.
615. The Disciplinary Board of the CBA exercises control and disciplinary jurisdiction over every lawyer. All disciplinary matters of members of the CBA are within the exclusive jurisdiction of this body. For justified complaints made against a lawyer, the CBA can refer the lawyer to the Disciplinary Board, which can, under Section 17 of the Advocates' Law:
- a. order the name of the advocate to be struck off the roll of lawyers;
 - b. suspend the lawyer from practicing for such period as the Disciplinary Boards may think fit;
 - c. order the lawyer to pay, by way of a fine, any sum not exceeding one thousand pounds;
 - d. warn or reprimand the lawyer;
 - e. make such order as to the payment of the costs of the proceedings before the Disciplinary Board as the Disciplinary Board may think fit.

The disciplinary proceedings are available under Advocates (Disciplinary Proceedings) Regulations of 2004. The evaluators consider that the penalties applying to lawyers are effective, proportionate and dissuasive.

616. Any other person (for example, real estate agents, dealers in precious metals, dealers in precious stones and trust and company service providers) who is not included in sections 58(2)(a) or (2)(b) of the AML Law, who is not subject to supervision by any supervisory authority, and who violates the provisions of section 58, is guilty of an offence punishable by imprisonment of two years or by a pecuniary penalty of up to three thousand pounds or by both of these penalties. These sanctions have obviously not been changed in 2003 and the evaluators consider them to be in line with Criterion 17.1 of the Methodology. The evaluators note that when the DNFBP not covered by section 58(2)(a) become subject to a supervisory authority, the potential sanctions would decrease so that they will not, in the opinion of the evaluators, be effective, proportionate and dissuasive. Criterion 17.4 also covers the sanctions which should be available, which should include disciplinary and financial sanctions and the power to withdraw, restrict or suspend a licence. The AML Law and ICPAC's disciplinary powers satisfy Criterion 17.4.
617. By virtue of section 60(1/b) of the AML Law the Council of Ministers has appointed the following supervisory authorities for DNFBP:
 - The Council of the Cyprus Bar Association for lawyers;
 - The Institute of Certified Public Accountants, Auditors and Tax Advisors of Cyprus.
618. These supervisory authorities are also empowered by virtue of section 58(2/a) of the AML Law to impose the above mentioned administrative fine of up to three thousand pounds. Thus, Criterion 17.2 of the Methodology is met except that there is no supervisory authority (yet) for real estate agents, dealers in precious metals, dealers in precious stones and trust and company service providers.
619. Section 59 of the AML Law states that where an offence under section 58 AML Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body or any other person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of an offence and shall be liable to imprisonment of two years or to a pecuniary penalty of two thousand pounds or to both of these penalties. The evaluators conclude that Criterion 17.3 of the Methodology is met.
620. The evaluators were told that none of the supervisory authorities has imposed a sanction regarding infringements of identification, record keeping, internal reporting or other anti-money laundering procedures. The CBA and ICPAC have in any case not yet conducted on-site inspections. As indicated earlier, ICPAC has outsourced AML monitoring to the Association of Chartered and Certified Accountants of the United Kingdom. ICPAC will need to monitor this outsourcing relationship as it remains responsible for supervisory matters under the Cyprus legislation (Essential Criterion 24.2).
621. Criterion 25.1 requires competent authorities to issue guidelines that will assist DNFBP to implement and comply with their respective AML/CFT requirements.
622. Guidance Notes on AML but not CFT requirements have been issued by ICPAC to accountants and auditors (and implicitly, tax advisors which are accountants and auditors as for, example, section 1.05 of the G – Accountants refers to accountants, auditors and their staff, whatever the nature of their work). ICPAC may wish to consider referring to tax advice explicitly in the G – Accountants. As indicated in paragraph 114, it is possible that tax advice could be provided by persons other than accountants and auditors

623. The CBC has issued the G-International Businesses which cover AML, but not CFT. Although these Guidance Notes still apply to trust companies which hold licences from the CBC as international trust companies, the concept of international trust companies no longer applies. Guidance Notes have not yet been issued to other trust and company service providers, although it is proposed to issue such guidance following the introduction of the regime for supervising trust and company service providers.
624. The evaluators were provided with a copy of G-Lawyers. This is in draft form and the CBA proposes to issue these Guidance Notes in the near future.
625. Guidelines have also yet to be issued to real estate agents, dealers in precious metals and dealers in precious stones. The Advisory Authority has discussed the appointment of a supervisory authority of these DNFBP. It is possible that MOKAS will undertake this role and issue Guidance Notes.
626. Criterion 25.1 is therefore not yet satisfied.

4.5.1 Recommendations and comments

627. The Cyprus authorities have commenced a major programme to incorporate DNFBP into their anti-money laundering framework. The evaluators recommend to:
- introduce effective, proportionate and dissuasive sanctions for DNFBP who will be covered by section 58(2)(a) of the AML Law (Criterion 17.1 of the Methodology);
 - designate a supervisory or other authority for real estate agents, dealers in precious metals, dealers in precious stones and trust and company services providers which can apply sanctions (Criterion 17.2 of the Methodology);
 - introduce systems to ensure compliance by lawyers with AML/CFT requirements and for ICPAC to monitor outsourcing arrangements;
 - amend the existing Guidance Notes to cover CFT (Criterion 25.1 of the Methodology) and
 - issue guidelines on AML and CFT to all trust and company service providers, lawyers, real estate agents, dealers in precious metals and dealers in precious stones (Criterion 25.1 of the Methodology).

4.5.2 Compliance with Recommendations 17 (DNFBP), 24 and 25 (criterion 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.5 underlying overall rating
R.17	Partially compliant	Authorities not specified to apply sanctions on most DNFBP; no sanctions imposed.
R.24	Partially compliant	Supervisory or other authority for real estate agents, and dealers in precious metals and stones, and trust and company service providers not designated.
R.25	Partially compliant	Existing Guidance Notes do not cover CFT; Guidelines not issued to domestic trust and company service providers, lawyers and other DNFBP.

4.6 Other non-financial businesses and professions

Modern secure transaction techniques (R.20)

4.6.1 Description and analysis

628. Criterion 20.1 states that countries should consider applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBP) that are at risk of being misused for money laundering or terrorist financing.
629. The Cyprus authorities advised the evaluators that the application of the Recommendations beyond the DNFBP listed by the FATF had been considered and that, on the basis of risk, no such application had been considered necessary. The evaluators noted that article 2a of the EU Directive applies to all dealers in high value goods – not only dealers in precious metals and precious stones – whenever payment is made in cash in an amount of EUR15,000 or more.
630. Criterion 20.2 specifies that countries should take measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. Examples of techniques or measures that may be less vulnerable to money laundering provided in the Methodology are reducing reliance on cash, not issuing very large denomination banknotes and secured automated transfer systems.
631. The Cyprus authorities advised that the use of cash is very limited. Most financial transactions are conducted through cheques, credit cards and bank transfers.
632. The majority of techniques to manage money laundering risk appear to be via financial institutions, although other businesses or professions, whether or not they are covered by the FATF Recommendations, will be indirectly covered by these techniques.
633. Section 1 of the G-International Businesses provides information on the international money laundering dimension and notes that, historically, efforts to combat money laundering have, to a large extent concentrated on the deposit-taking procedures for financial sector businesses where the launderer's activities are most susceptible to recognition. It also notes that criminals have responded to the measures taken by the financial sector over recent years by recognising that cash payments made into financial sector businesses can often give rise to additional enquiries. The Notes go on to say that other means have, therefore, been sought to convert the illegally earned cash or to mix it with legitimate cash earnings before it enters the financial system, thus making it harder to detect at the placement stage.
634. The G-MTB highlights the entry of cash into the financial system as a particular vulnerability.
635. Sections 1 of the G-International Businesses, 1.3 of the G-MTB and 1.18 of the G-Accountants discuss the three basic stages of money laundering (placement, layering and integration). The provisions on placement define it as the physical disposal of the initial proceeds derived from illegal activity into the financial system.
636. Section 4 of the G-Banks is dedicated to provisions on cash deposits in foreign currency notes.
637. Banks should not accept cash deposits in foreign currency notes in excess of US\$100,000 or other foreign currency equivalent per calendar year from any person (resident or non-resident) or a group of connected persons. Banks should also not accept cash deposits below the threshold limit of US\$100,000 or other foreign currency equivalent from a person or group of connected persons,

resident or non-resident, where the cash deposit forms part of a series of linked cash deposits whose aggregate amount is in excess of US\$100,000 or equivalent per calendar year.

638. Cash deposits, as described below should be accepted only with the prior written approval of the CBC:
- single cash deposits in foreign currency notes in excess of US\$100,000 or equivalent;
 - cash deposits below the threshold limit of US\$100,000 or other foreign currency equivalent as a result of which the aggregate amount of all cash deposits in a calendar year accepted from the same customer or group of connected customers will exceed US\$100,000 or other foreign currency equivalent; and
 - cash deposits below the threshold limit of US\$100,000 or other foreign currency equivalent from a customer who presents a “Declaration of Imported/Exported Currency/Bank Notes and/or Gold” Form, completed in accordance with The Capital Movement Law 115(1)/2003, which shows that at the time of his arrival in Cyprus he/she imported and declared foreign currency notes in excess of US\$100,000 or other foreign currency equivalent.
639. Requests for permission shall be made in writing by the MLCO of the bank concerned, who shall provide full details on the customer and his activities and explain the nature of the transaction and source of the cash money. The MLCO should also confirm that the bank has fully applied the customer identification and due diligence procedures prescribed in the G-Banks and that the funds involved are not suspected to be associated with illicit activities, including terrorist finance.
640. The following exemptions apply to the foregoing:
- a) cash deposits of foreign currency notes from banks licensed to carry on banking business in Cyprus; and
 - b) cash deposits in excess of US\$100,000 or equivalent for which a specific permission is obtained from the CBC.
641. In addition, the CBC monitors banks’ compliance with their anti-money laundering obligations, inter alia, through the submission of a prudential monthly return in which banks report the following:
- all cash deposits from customers in Cyprus pounds in excess of CYP10.000;
 - all cash deposits from customer foreign currencies in excess of US\$10.000 or equivalent;
 - all their customers’ incoming and outgoing fund transfers in excess of US\$500.00 or equivalent;
 - the total number of internal money laundering suspicion reports submitted by bank employees to the MLCO;
 - the total number of reports submitted by the MLCO to MOKAS.
642. In June 2001, the CBC issued a circular to banks forwarding the Basel Committee’s Paper on “Risk Management Principles For Electronic Banking” to banks. Banks are required to introduce the internal control procedures and adhere to the principles set out in the Paper which covers, amongst other matters, the implementation of control mechanisms for the authorisation of the identity of customers using e-banking services and the maintenance of clear audit trails for e-banking transactions.
643. Section 3.4 of the G-Banks provides guidance for banks on funds transfers – paragraphs 421 to 425 of this report discuss the application of FATF Special Recommendation VII in Cyprus.
644. The CBC also receives monthly reports on the number of incoming and outgoing transfers from both banks and money transmission businesses. The monthly report submitted by banks contains information on the aggregate number and value of incoming and outgoing funds transfers in excess of

US\$500.000 or equivalent in other foreign currencies effected in the reporting month. The monthly report from MTBs contains information on the aggregate number and value of incoming and outgoing funds transfers effected in a month. There is no threshold limit on reporting and, hence, all funds transfers are captured in the said return. The above returns are analysed in order to establish trends and if deemed necessary, more information is sought from reporting enterprises.

645. The evaluators noted that the CBC’s staff examination procedures include a review of banks’ procedures and systems for the compilation of the cash deposits and funds transfers to be reported to the CBC in the monthly return. The examination procedures also make it clear that the CBC will identify weaknesses and make suggestions and recommendations for improvements in procedures.

Recommendations and comments

646. It is suggested that Cyprus authorities extend the AML framework in accordance with article 2a(6) of the EU Directive to all dealers in high value goods, not only dealers in precious metals and precious stones.
647. Cyprus has adopted a number of active steps to monitor banks’ cash deposits to comply with the requirements of Essential Criterion 20.2.

4.6.2 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	Compliant	

5 LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANISATIONS

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and analysis

648. Recommendation 33 requires countries to take legal measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing by ensuring that their commercial, corporate and other laws require adequate transparency concerning the beneficial ownership and control of legal persons. Competent authorities must be able to have access in a timely fashion to beneficial ownership and control information, which is adequate, accurate and timely. Competent authorities must also be able to share such information with other competent authorities domestically or internationally. Bearer shares issued by legal persons must be controlled.
649. 136484 companies are registered with the Department of Registrar of Companies and Official Receiver (DRCOR). Of this number 135189 are Cyprus companies and 1295 are non-Cyprus companies. Section 1.4 of the report provides an overview of the commercial laws and mechanisms governing companies.
650. Cyprus has a strong tradition of a company law. The companies law has undergone and is undergoing partial change and transformation as a result of Cyprus's accession to the EU. Cyprus has harmonised its company law with several EU Directives on company law, which had as their central objectives transparency; the protection of creditors, investors, shareholders and third parties dealing with companies; and the general raising of standards in accountancy. The process of improving and modernising company law in Cyprus is continuing as part of the overhauling of all legal instruments pertaining to the EU internal market. The following control measures exist in Cyprus company law.
651. A register of Cyprus companies is maintained by the DRCOR, which contains details of the natural and legal persons who are the directors and secretary of the company; which directors and secretary have resigned from office; the address of the company; details of charges, mortgages and debentures; and details of shareholders and of any transfer of shares. Certified copies of all documents kept by the DRCOR can be issued to the public on payment of a fee by the applicants.
652. A register of shareholders, a register of debentures, charges and mortgages, a register of directors and secretary and a register of director shareholdings must be kept by each Cyprus company at its registered office. All of these registers are open to inspection by the public by paying a nominal fee or, in certain cases, the company registers can be inspected freely.
653. Transparency is secured through the medium of advertisement of company documents in the Official Gazette under section 365A of companies law, Cap. 113. This section provides for the notification by the DRCOR of the keeping of documents, and interposing of the particulars filed in the Register or published in the Official Gazette of the Republic.
654. The Council of Ministers has the discretion under the companies law to investigate the affairs of any company. This investigation is carried out by one or more inspectors who are appointed by the Council of Ministers (sections 158 to 169 of the companies law, Cap. 113 refer). Such investigations of a company's affairs are held on the application of members and the Council of Ministers may also appoint an inspector without, however, being bound to do so by members. The Council of Ministers appoints inspectors wherever the circumstances demand, for example, when a company is founded for a fraudulent or illegal purpose or the company's business is carried out with intent to defraud the company's creditors.

655. The DRCOR holds some regulatory powers as regards the operation of companies. Section 327 of the companies law, Cap.113 permits him to demand the prompt presentation of an annual return of a company otherwise he may strike off the company from his register. The DRCOR may also demand the filing by a company of a financial report drafted by the company's auditors. If a company omits or neglects the foregoing, the DRCOR may report the company to the prosecuting authorities. The prompt filing of documents with the DRCOR within time limits provided by the statute is controlled by the DRCOR who may report any failure of responsibility to the DRCOR by the company's officer.
656. The companies law includes a requirement to furnish the DRCOR within a specified period of time, usually fourteen days, of all current and accurate information as to any change in the shareholders and directors of a company.
657. The companies law contains penalties if information is not furnished to the DRCOR.
658. The DRCOR has advised that it shares all information it holds with other competent authorities in Cyprus, such as the Attorney General, the Police, the Courts and with competent authorities abroad within a spirit of mutual co-operation.
659. Most large companies have their registers in a computerised form which enables instant access. The DRCOR is in the process of finalising a computerised system, which will enable the information it holds on ownership and control to be available electronically.
660. The foregoing applies only to Cyprus companies and there is nothing to prevent enterprises whose beneficial ownership is unknown from being specified as directors or shareholders of companies registered at the DRCOR. Nominee shareholders could also be appointed.
661. This report has discussed in detail the strengths and weaknesses of the Cyprus system for requiring financial institutions and DNFBP to obtain, verify and retain information concerning the beneficial ownership and control of legal persons (eg see Recommendation 5) and the issue of Guidance Notes by the Cyprus authorities. The ability of the supervisory authorities to obtain and disclose information is discussed in the section of this report dealing with Recommendation 40. The customer due diligence standards in the G-International Businesses apply to the international trust companies. With reference to information held by the International Trustee Service Companies, the CBC is able to utilise the powers of a condition attached to the licence to obtain and disclose a beneficial owner and control information on the customers of the international trust companies which are legal persons. Section 4 of the G-International Businesses states that, in the case of corporate clients, the principal requirement is to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets. The Cyprus authorities have suggested that the vast majority of the company service providers in Cyprus are lawyers (in particular) and international trustee services companies. As indicated in paragraph 18, there are also a number of specialist company formation agents and firms providing directorship services. The Cyprus authorities have also asked the evaluators to note that lawyers are subject to the Anti-Money Laundering Law for various activities (see paragraph 183). Lawyers are required by the Anti-Money Laundering Law to establish and maintain specific policies and procedures to guard against their business and the financial system in general being used for the purposes of money laundering when they create, operate or manage companies or when they participate in the organisation of contributions necessary for the creation, operation or management of companies. The G-Lawyers is being prepared for issue to the legal profession. In addition, the G-Accountants indicates that accountants and auditors should obtain beneficial ownership and control information.
662. The existing monitoring programmes are covered earlier in this report. The CBC has conducted the following on-site inspections to DNFBP:

	2001	2002	2003	2004
International Trustee Services Companies	1	4	1	1

The CBA has yet to conduct on-site inspections to lawyers.

663. Beneficial ownership and control information which is held by a financial institution or a DNFBP can be obtained from investigative purposes by MOKAS using the provisions at section 6(1) of the Criminal Procedure Law without an order of the Court and /or by using the provisions of sections 45 and 46 of the AML Law through a Court Order. MOKAS advised the evaluators that the relevant information had been available and provided to MOKAS when it had used its legal powers to require information to be provided to it.
664. Essential Criteria 33.1 and 33.2 will not be fully satisfied until the legislation providing for the supervision of company service providers is enacted and on-site inspections made to lawyers.
665. Cyprus company law does not provide for the issue of bearer shares. Criterion 33.3 is therefore satisfied. Section 2.7 of the G-Investment Brokers includes specific guidance on mitigating the potential risks posed by clients which are companies with bearer shares.

5.1.2 Recommendations and comments

666. There are positive features to reduce the potential risk of legal persons to the Cyprus system, including the application of the AML-Law to lawyers, who occupy a significant position in forming and administering companies in Cyprus. In considering R.33 the evaluators have given weight to whether institutions are required by law and guidance to obtain and retain customer due diligence information on the beneficial ownership and control of legal persons. Currently, while the AML Law does not explicitly cover company service providers, lawyers are covered in law in connection with the creation, operation or management of companies and with the organisation of contributions necessary for the creation, operation or management of companies. In addition, international trustee services companies are subject to Guidance Notes and on-site inspections. However, guidance notes have yet to be issued to lawyers.
667. The evaluators recommend to consider how best to satisfy those recommendations in this report relating to the beneficial ownership and control of legal persons in Guidance Notes and introduce a framework for the supervision of company services providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, of the beneficial ownership and control of legal persons, and which allows the supervisor to have access to such records. (Criteria 33.1 and 33.2 of the Methodology).

5.1.3 Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	Largely compliant	Mainly lawyers subject to the AML-Law are forming and administering companies, but not all institutions (including company service providers) are required to ascertain beneficial owners and controller information by law and guidance. Not all institutions are monitored for implementation.

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

5.2.1 Description and analysis

668. Recommendation 34 requires countries to take measures to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring that commercial, trust and other laws require adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements.
669. Section 2.8.2 of G-Banks states that a bank must always establish the identity of a trustee or nominee acting in relation to a trust or third party in accordance with the identification procedures for natural persons or corporate customers as the case may be. A bank must also take all additional measures deemed appropriate under the circumstances for the purpose of establishing the identity of any person or persons on whose behalf and for their benefit a trustee or nominee is acting by verifying the identity of all the settlors and the true beneficiaries. The G-MTB does not contain explicit provisions on trusts.
670. Section 2.8.1 of the G-Investment Brokers states that a broker, in addition to establishing the identity of the beneficial owners/shareholders, must always establish the identity of a trustee or nominee acting on account of a third party in accordance with the identification procedures for personal or corporate customers as the case may be. There appears to be no specific reference to verifying the identity of settlors and beneficiaries.
671. The customer due diligence standards in the G-International Businesses apply to the international trust companies. With regard to trustee or nominee clients, section 4 of the G-International Businesses states that the international trustee company must always establish the identity of a trustee or nominee acting in relation to a third party. International trust companies must also take all measures deemed appropriate under the circumstances for the purpose of establishing the identity of any person or persons on whose behalf a trustee or nominee is acting.
672. The licence for each international trust company licensed by the CBC states: “The company shall not knowingly accept or become involved in any way with any trust or trust assets which are directly or indirectly obtained by, connected with or derived from any source which is unlawful or contrary to the interest of Cyprus. In this respect, the company shall make reasonable efforts to determine the true identity of all customers requesting its services. In addition the company is expected, at all times, to know the beneficial ownership of those settlors and beneficiaries who are legal persons and, in this regard, the company shall maintain appropriate records on customer identification so that the beneficial ownership of assets under trust is, at all times, ascertainable; In this respect, the company shall, at all times, abide by any Guidance Notes/regulations issued under Section 60(3) of the Prevention and Suppression of Money Laundering Activities Law of 1996, by the CBC.” The evaluators welcomed this statement.
673. Identical provisions to the G-International Businesses are contained in section 2.4.5.3.6 of the G-Insurers.
674. Sections 4.30 to 4.39 of the G-Accountants cover the identification requirements for partnerships, trusts, nominees and charities. Section 4.30 states that in the case of any entity, the principal requirement is to identify those who have ultimate control or significant influence over the business and its assets. Enquiries should be made to confirm that the entity exists for a legitimate trading or economic purpose and that the controlling principals can be identified. Reasons for changes to the client’s structure or ownership should be ascertained. The G-Accountants goes on to say that for unincorporated businesses or partnerships, firms should identify the principal directors/partners and

beneficial owners. Where firms are asked to act for trustees or nominees, the identity of all major parties – including trustees, the settlor and the principal beneficiaries – should be verified. For occupational pension schemes, the identity of the principal employer and trustees should be verified. With regard to charities, the relevant Government authority should be asked to confirm the registered number of the charity and the name and address of the charity concerned.

675. Identical provisions are contained in the G-Lawyers.
676. Cyprus has two pieces of trust legislation, namely the Trustee Law of 1955 and the International Trusts Law 1992. Section 11 of the latter states: “Subject to the terms of the instrument creating an international trust and where the court has not issued an order for disclosure in accordance with the provisions of subsection (2) the trustee or any other person, including government officials and officers of the CBC, shall not disclose to any person not legally entitled thereto any information or documents which disclose the name of the settlor or any of the beneficiaries”. The Cyprus authorities have suggested that the vast majority of the trust and company service providers in Cyprus are ITCs. They have also asked the evaluators to note that lawyers and accountants are subject to the AML Law for various activities (see paragraph 183). According to a condition attached to the permit issued to International Trustee Service Companies, the CBC is able to demand and obtain information on the customers and activities of the said enterprises where the enterprises hold the information.
677. Beneficial ownership and control information held by a financial institution or a DNFBP can be obtained from investigative purposes by MOKAS using the provisions at section 6(1) of the Criminal Procedure Law without an order of the Court and /or by using the provisions of sections 45 and 46 of the AML Law through a Court Order. MOKAS advised the evaluators that the relevant information had been available and provided to MOKAS when it had used its legal powers to require information to be provided to it.
678. The Methodology provides examples of mechanisms as to how Recommendation 34 can be satisfied. This includes a system of central registration of trusts, which has not been adopted in Cyprus. One of the other suggested mechanisms is to require trust service providers to obtain, verify and retain records of the details of the trust or other similar legal arrangements. The Cyprus authorities have already taken steps and are firmly committed to achieve this objective with legislation for a regime for the supervision of trust service providers being prepared as a priority. It is expected that the CBC will be the supervisory authority for trust service providers.
679. In relation to trusts, the Cyprus authorities have stated that the vast majority of trusts in Cyprus are established by professionals such as lawyers (in particular) and international trustee services companies. Lawyers are covered by the Anti-Money Laundering Law for the creation, operation or management of trusts, while guidance has yet to be issued to lawyers. Whilst the law does not cover international trustee services companies with regard to trusts, guidance has been issued by the CBC. In relation to trusts, it would be helpful for the G-Investment Brokers to state explicitly that the identity of settlors and beneficiaries should be verified. In addition, the guidance on identification and verification for all charities should be clarified. Criteria 34.1 and 34.2 will not be fully satisfied until the legislation providing for the supervision of trust service providers is enacted and on-site inspections are made to lawyers, who have a prominent role in forming and administering trusts and form and administer the vast majority of trusts.

5.2.2 Recommendations and comments

680. There are positive features to reduce the potential risk of legal arrangements to the Cyprus system, including the application of the AML Law to lawyers, who occupy a significant position in forming and administering trusts in Cyprus. In considering R.34 the evaluators have given weight to whether institutions are required by law and guidance to obtain and retain customer due diligence information on the beneficial ownership and control of legal arrangements. Currently, while the AML Law does

not explicitly cover trust service providers, lawyers are covered in connection with the creation, operation or management of trusts or similar structures. In addition, guidance has been issued to international trustee services companies, who are subject to on-site inspections. However, guidance has yet to be issued to lawyers.

681. The evaluators recommend to consider how best to satisfy those recommendations in this report relating to the beneficial ownership and control of trusts and other legal arrangements in Guidance Notes and introduce a framework for the supervision of trust service providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, or the beneficial ownership and control of legal arrangements (Criteria 34.1 and 34.2 of the Methodology).

5.2.3 Compliance with Recommendation 34

	Rating	Summary of factors underlying rating
R.34	Largely compliant	Mainly lawyers are forming and administering trusts. Lawyers are covered by the AML Law and international trust companies are subject to guidance imposed by the CBC, but other trust service providers are not covered; not all institutions are monitored for implementation .

5.3 Non-profit organisations (SR.VIII)

5.3.1 Description and analysis

682. Among non-profit organisations in Cyprus one can find charities as well as societies and institutions.
683. Charities for educational, literary, scientific or public purposes may be licensed and registered by virtue of the provisions of the “Charities Law”, Cap. 41, and a certificate of incorporation is thereby granted. According to section 4 of this Law, applications for certificate of registration must be submitted to “the Governor” (which is now to be understood as the Council of Ministers) enclosing, *inter alia*,
- the objects, rules and regulations of the charity;
 - a statement and short description of the property, movable and immovable, which at the date of the application is possessed by or belonging to or held on behalf of such charity;
 - the names and residences of the trustees of such charity.
684. As the Charities Law was adopted in 1925 and has not been amended, it is unclear from the statute which are the present equivalents of the former colonial authorities. The evaluators were advised, for example, that the application is now made to the Council of Ministers (in practice a Directorate within the Ministry of the Interior).
685. The registration procedure, in principle, should provide for a thorough examination of the background of every charity, at least in terms of composition of the trustees, the purpose for which the charity is set up and the amount of its property. The evaluators were assured by the Cyprus authorities that the Attorney General must be advised of any question that may concern legal implications.
686. The evaluation team was advised that there had been a relatively low number of charities registered in Cyprus, which theoretically should facilitate their monitoring.
687. Registered charities have, according to the provisions of the abovementioned law, to prepare and file accounts for all money received and all payments made:

“10. The trustees of any charity incorporated under the provisions of this Law shall in books to be kept by them for that purpose regularly enter or cause to be entered full and true accounts of all moneys received and paid respectively on account of such charity, and shall also at the end of every year prepare and transmit to the Administrative Secretary the following accounts:

- (a) an account of the gross income arising or which ought to have arisen for the benefit of the charity during the year ending on the 31st day of December then last;*
- (b) an account of all balance in hand at the commencement of every year, and of all moneys received during the same year, on account of the charity;*
- (c) an account for the same period of all payments;*
- (d) an account of all money owing to or from the charity so far as conveniently may be, which accounts shall be certified under the hand of one or more of the said trustees.*

11. The Governor may at any time order that the accounts of the trustees of any charity incorporated under the provisions of this Law shall be audited by the Director of Audit [now the Auditor General] or such other person or persons as he may deem fit to appoint.”

688. An annual report produced by the board of trustees has also to be sent to the Attorney General’s Office, as well as the relevant successor department which undertakes the Governor’s former role. The accounts are examined (by the Auditor General). He/she is expected to look for irregularities or fraud and to do spot checks. The evaluators were advised that approval is usually a formal procedure and the Cyprus authorities were not aware of accounts having given rise to the need for an investigation in a particular case.
689. Apart from the submission of annual accounts and the report to the Attorney General there is no other ongoing monitoring procedure for charities. In this context it was emphasised that Cyprus is a small island and on a day to day basis the police authorities would be aware if something was amiss.
690. Non-profit organisations, other than charities, as noted earlier, are regulated by the Societies and Institutions Law. These institutions – clubs and societies – need also to be licensed / registered. The Council of Ministers is not involved in this process.
691. The replies to the Questionnaire indicate that non-profit organisation accounts have to be audited, though they were told on-site, that accounts do not have to be presented to anyone.
692. The evaluators were advised that no political parties had been registered. There had been occasions where they had needed to remind some organisations with a significant participation of foreign individuals of the need to register. It is understood registration cannot be denied and that accounts can be opened, though the Ministry of the Interior, Investigation Office, the CIS and the Police would always be informed. No formal guidance has been issued in this area to financial institutions or otherwise.
693. That said, there appears to have been some ad hoc reviews in this area. The examiners were advised that there had been in the past a review of the law on registering non-profit organisations which had included all Ministries, but it was unclear when this was and what was the outcome. It did not appear to have been conducted in response to SR.VIII, as such, and the evaluators are unaware of whether its results were promulgated. Beyond this, the Cyprus authorities advised that, after 11 September 2001, they had performed thorough exercises, together with the Police and the Attorney General’s Office, checking the files of each registered charity on a case by case basis and thoroughly examined NPOs with a significant participation of foreign individuals. They had not detected any issues of concern.

5.3.2 Recommendations and comments

694. It appears that some action has been taken in this area post 11 September 2001 but it is not clear that the adequacy of the laws and regulations in respect of enterprises that can be abused for financing of terrorism has been formally reviewed since SR.VIII was introduced.
695. It is recommended that, having first undertaken a formal analysis of the threats posed by this sector as a whole, the Cyprus authorities should review the existing system of laws and regulations in this field, both for charities and NPOs, so as to assess themselves of the adequacy of the current legal framework (as required by Criterion VIII.1).
696. Consideration should also be given in such a review to effective and proportional oversight of the NPO sector and charities sector (after first registration), the issuing of guidance to financial institutions on the specific risks of this sector and consideration of whether and how further measures need taking in the light of the Best Practices document for SR.VIII.

5.3.3 Compliance with SR.VIII

	Rating	Summary of factors underlying rating
SR. VIII	Partially compliant	While some action was taken after 11 September 2001 in checking NPOs with significant participation of foreign individuals, no evidence of a special review of the laws in the NPO sector having been undertaken has been provided.

6 NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and coordination (R.31)

6.1.1 Description and analysis

697. Recommendation 31 is concerned with cooperation and coordination between policy makers, the FIU, law enforcement and supervisors and other competent authorities.
698. Section 55 of the AML Law states that the Council of Ministers shall establish an Advisory Authority for Combating Money Laundering offences, which shall be composed of a representative of:
- (a) the CBC;
 - (b) all other supervisory authorities;
 - (c) the Ministry of Finance;
 - (d) the Ministry of Justice and Public Order;
 - (e) the Attorney-General;
 - (f) the Association of Commercial Banks;
 - (g) the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and other professional bodies which the Council of Ministers may prescribe;
 - (h) any other organisation or service the Council of Ministers may prescribe.
699. The Advisory Authority is now chaired by the Head of MOKAS. MOKAS also provides the Secretariat.
700. Section 56 of the AML Law provides that the Advisory Authority shall:
- inform the Council of Ministers of any measures taken and the general policy applied against money laundering offences;
 - advise the Council of Ministers about additional measures which, in its opinion, should be taken for the better implementation of this Law;
 - promote the Republic internationally as a country which complies with all the conventions, resolutions and decisions of international bodies in respect of combating laundering offences.
701. The Advisory Authority provides an opportunity for the AML/CFT authorities in Cyprus to discuss potential risks and coordinate enhancements to the AML/CFT framework at both a strategic and practical level. The Authority meets quarterly. At recent meetings, it has considered money laundering vulnerabilities, the FATF Recommendations, amendments to the AML Law, Guidance Notes and the breakdown of STRs. This is a commendable approach, although there is still scope for the Advisory Authority to deepen its role, particularly by - facilitating an even more co-ordinated response by the competent authorities to the AML/CFT issue, by developing a more strategic analysis of the threats and vulnerabilities in this area (based on more refined statistical information), and by periodically reviewing the performance of the system as a whole. For example, while the breakdown of STRs has been discussed at a policy level, the Authority as a whole has not considered analysis of the STRs and the implications for that analysis. The evaluation took place at a time of significant regulatory change and, as the enhanced framework beds down, the evaluators anticipate that the Advisory Authority will develop its approach to systematically review money laundering and terrorist financing vulnerabilities, the information required to carry out this task, and enhancements to the anti-money laundering and counter terrorist financing framework. The evaluators consider that the Advisory Authority should also develop some key performance indicators for the system as a whole and review the system periodically against them. To do this it will need to ensure that it receives reliable statistics. It was noted in this context, at paragraph 335, that the evaluators consider that the Advisory Authority should have a complete strategic overview of the whole law enforcement response on money laundering and

financing of terrorism. In the view of the evaluators (as noted earlier), the Advisory Authority needs as a minimum to be aware of the total number of investigations, prosecutions and convictions for money laundering and financing of terrorism. In the case of money laundering, the evaluators advise that the statistics should be disaggregated to show:

- the predicate offence (and whether domestic or foreign);
- in the case of prosecutions, whether the offence was prosecuted autonomously or in the same proceedings as the predicate offence;
- whether the prosecution related to own proceeds' laundering, or third party laundering.

702. The examiners also consider that more comprehensive statistics need to be kept on mutual legal assistance (see section 6 beneath) for review by the Advisory Authority in the context of assessing money laundering vulnerabilities.
703. As discussed above, the Advisory Authority (or one of the supervisory authorities) or groupings could also coordinate the AML Guidance Notes and provide input on quality control. A responsibility for co-ordination need not be limited to the financial sector. The previous examiners recommended, for instance, that guidance as to the respective responsibilities of the various law enforcement agencies could be established by the Advisory Authority, or MOKAS. Issues of co-ordination such as this may more naturally fall to the Advisory Authority.
704. The evaluators consider that the Advisory Authority needs to ensure that the system is capable of providing the best possible information to it on the national AML/CFT response. The evaluators considered that overall more work was needed in ensuring the provision of accurate and meaningful AML/CFT statistical information to support the Advisory Authority in its work.
705. Turning to other forms of national coordination, in 2003 the CBC, SEC, the ICCS and the CSSDA signed an MoU to formalise liaison on the consideration of supervisory issues arising from Cyprus conglomerates, which are subject to more than one supervisory authority. The heads of the four authorities meet at least four times each year and discuss issues at a policy level. Underlying these policy meetings, technical matters are discussed at meetings held by other representatives of the supervisory authorities – at least four of these technical meetings are held each year. These meetings provide an opportunity to discuss vulnerabilities and potential counter-measures in connection with many of Cyprus' largest financial institutions.
706. Section 27(1) of the Banking Law provides that the CBC may co-operate and exchange information with the competent banking and/or insurance and/or securities markets supervisory authorities, whether in the Republic or elsewhere.
707. Section 41H(2) of the CSSDA-Law provides that secrecy entails that confidential information received by a person while performing his duties may be communicated only to other competent authorities of the Republic, including also the CBC, provided that there is reference to issues that fall into their official powers. According to section 41H(3) of the CSSDA-Law, nothing shall hinder the aforesaid authorities from communicating information to the authorities of another country in response to a legitimate request.
708. Section 33 of the Securities and Exchange Commission Law provides SEC with the ability to collect information necessary for the exercise of its statutory responsibilities. Section 30 of the Law states that SEC may disclose information to other competent authorities in Cyprus if it refers to issues that come under their statutory responsibilities.
709. Section 196 of the Law on Insurance Services provides the Superintendent of Insurance with the ability to collect information necessary for the exercise of his functions. While section 7 of the Law

allows for information to be disclosed to other public authorities responsible for overseeing payments systems it does not include a provision analogous to section 31 of the Securities and Exchange Commission Law. Section 7 also permits the disclosure of information to the CBC, the Ministry of Finance and the Cyprus Stock Exchange for preventative control purposes. Nevertheless, the disclosure of confidential information with other domestic authorities is not necessary to cooperate or coordinate policies and activities to combat money laundering and terrorist financing.

710. The evaluators consider that Cyprus complies with Recommendation 31.

6.1.2 Recommendations and comments

711. The Cyprus authorities have undertaken commendable work in bringing together the competent authorities in Cyprus’ anti-money laundering framework. The evaluators none-the-less urge:

- the Advisory Authority to facilitate a more coordinated AML/CFT response by the competent authorities; to systematically review money laundering and terrorist financing vulnerabilities; to review periodically the performance of the system, as a whole against some key strategic performance indicators; and to review the statistical information required by them to carry out these tasks in order to enhance the AML/CFT framework;

6.1.3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	Compliant	

6.2 The Conventions and United Nations Special Resolutions (R.35 and SR.I)

6.2.1. Description and analysis

712. Cyprus has signed and ratified the Vienna Convention, the Palermo Convention, as well as the 1999 United Nations Convention for the Suppression of the Financing of Terrorism and the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, which are all implemented in Cyprus legislation.

713. As discussed in relation to SR.III above, Cyprus has also implemented the United Nations Security Council Resolutions relating to the prevention and suppression of financing of terrorism e.g. S/RES/1267(1999) and S/RES/1373(2001).

714. The implementation of the relevant UNSCR’s, as discussed above, raises a number of issues especially as there appears to be no domestic legislation, apart from the decision issued by the Council of Ministers, specifically designed for the implementation of those Resolutions. The Cyprus arguments for making use of existing legal provisions, as discussed in detail above, are not considered to fully address all the legal issues relating to this matter.

715. Article 18 (1)(b) of the UN Convention requires measures requiring institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

- (i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

- (ii) With respect to the identification of legal enterprises, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customers name, legal form, address, directors and provisions regulating the power to bind the entity;
- (iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;
- (iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

716. Sections 58 to 67 of the AML Law and/or the underlying AML Guidance Notes cover those financial institutions and DNFBP required to meet the special provisions of the law, the identification of customers, the treatment of suspicion and record keeping. Section 27 of the AML Law covers failure to report, while section 26 deals with the protections available for breach of any restrictions on disclosure of information.

6.2.2 Recommendations and comments

717. The same comments as are made above at paragraphs 284-288 in relation to implementation of the UNSCR Resolutions apply here.

6.2.3 Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.35	Compliant	
SR.I	Largely compliant	A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing etc. is not yet fully in place.

6.3 **Mutual Legal Assistance (R.32, 36-38, SR.V)**

6.3.1 Description and analysis

Mutual legal assistance: general rules

718. In addition to the Vienna, Palermo and Strasbourg Conventions already referred to, Cyprus also ratified the Council of Europe Convention on Mutual Assistance in Criminal Matters of 1959 [ETS 30 Convention] and its Second Additional Protocol in 2000 [ETS 182] while the relevant domestic legislation enabling the implementation of this Convention (Law N°23 (1) / 2001), entered into force on 9 March 2001. There is no separate mutual legal assistance act.

719. The Ministry of Justice and Public Order is the central authority for the execution of international rogatory letters and has established a special unit in order to improve and accelerate international co-operation. As for practical issues, the execution of formal rogatory letters in respect of money laundering and, in particular for the identification, freezing or confiscation of laundered property and instrumentalities is mainly the task of the FIU, while a few requests are executed by the police (where

they involve evidence or information relating to the predicate offence as well), though the precise division of responsibilities on this issue was unclear.

720. The forms of mutual legal assistance that are possible cover a whole range: the production, search and seizure of information, documents or evidence including financial records, the taking of evidence or statements from persons, the provision of originals or copies of relevant documents and records and other evidential items (as a matter of practice, copies of the documents are given for the investigations of the foreign authorities immediately, while the original or certified true copies are then mailed formally); and the identification, freezing, and confiscation of assets (intended to be) laundered. In the course of execution of requests the Cyprus authorities always give their consent to foreign investigators or prosecutors to be present in actions taken in Cyprus.
721. Mutual legal assistance provided by the Cyprus authorities is not prohibited or made subject to any restrictive conditions. Legal assistance requires dual criminality, but no strict interpretation of that principle is made and the offences are interpreted in a wide manner if necessary, so in practice this should pose no problem, particularly for less intrusive and non-compulsory measures.
722. Requests for mutual legal assistance are not refused on the sole ground that the offence is also considered to involve fiscal matters. In the course of the execution of requests for mutual legal assistance, issues of secrecy or confidentiality do not present any obstacles. The Banking Law, for instance, provides that secrecy concerning information on bank accounts is to be lifted in the course of any investigation by any authority, including requests by a foreign authority. Furthermore, the AML Law empowers the FIU and the Police to obtain disclosure court orders also in relation to the execution of foreign requests (see above).
723. The tables beneath have been provided which detail requests for mutual legal assistance under the 1959 Convention [ETS 30] and under the Strasbourg Convention [ETS 141]. The statistical information provided in respect of the 1959 Convention does not indicate whether any of the requests relate to money laundering cases. The two tables beneath in respect of Convention 141 indicate that requests made or received under 141 were executed significantly more rapidly.

	Treaty Base			Execution of the Request		Time Required (weeks)		Nature of the Requests		
	1959 Convention	1990 Strasbourg Convention	Other	Granted	Refused	Min.	Max.	Investigative Measures	Provisional Measures	Confiscation Order
2001	Made	3		all		4 months		yes		
	Received									
2002	Made	24			4	5 months		yes		
	Received									
2003	Made	15			2	5 months		yes		
	Received									
2004	Made	25			5	6 months		yes		
	Received									

Comments:

Reasons for refusal: further details were requested and not provided for, or subpoena for witness did not arrive on time.

Typical predicate offences concerning ML cases per year: forgery, uttering false documents, obtaining goods by false pretences, stealing etc.

		Treaty Base			Execution of the Request		Time Required (weeks)		Nature of the Requests			
		1959 Convention	1990 Strasbourg Convention	Other	Granted	Refused	Min.	Max.	Investigative Measures	Provisional Measures	Confiscation Order	
2001	Made											
	Received	63			ALL		20	32	Yes			
2002	Made											
	Received	89			ALL		22	30	Yes			
2003	Made											
	Received	120				8	22	30	Yes			
2004	Made											
	Received	137				7	20	32	Yes			

Comments:

Reasons for refusal:

- further clarifications were requested and not provided,
- information concerning companies/ banks on the occupied part of Cyprus,
- requests for taking of evidence were refused because the person no longer resided in Cyprus

Typical predicate offences to the concerning ML cases per year, and any other important circumstances: VAT evasion of payment, fraud, requesting information for companies registered in Cyprus

		Treaty Base			Execution of the Request		Time Required (weeks)		Nature of the Requests		
		1959 Convention	1990 Strasbourg Convention	Other	Granted	Refused	Min.	Max.	Investigative Measures	Provisional Measures	Confiscation Order
2001	Made		7				16	22			
	Received		13		YES		12	20	Yes		
2002	Made		5				12	20			
	Received		11		YES		6	20	Yes		
2003	Made		1				12	20			
	Received		6			1*	15	22	Yes		
2004	Made										
	Received		4		YES	7	16	22	Yes		

Comments:

Reasons for refusal: the facts described in the request do not provide a connection with the actual offence indicated.

Typical predicate offences to the concerning ML cases per year, and any other important circumstances: drug trafficking, suspicion of laundering and misappropriation of property belonging to others, fraud, breach of trust

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 1990

Year	Number of Requests Received	Execution – Granted / Refused	Average Time Required for Execution (weeks)	Nature of Offence	Nature of Investigation
2001	13	ALL	12-20	*Possession of Drugs, *Suspicion of money laundering through offshore companies, *Possession/Usage of the Proceeds of Criminal Conduct	Investigative Measure
2002	11	ALL	16-20	*Laundering of Proceeds of drug trafficking *Legalization (Money laundering) of the proceeds of criminal activity *Swindling	Investigative Measure
2003	6	ALL	15-22	*Tax evasion	Investigative Measure
2004	4	ALL	16-22	*Tax evasion	Investigative Measure
Year	Number of Requests SENT	Execution-Granted / Refused	Average Time Required for Execution (weeks)	Nature of Offence	Nature of Investigations
2001	7	All	16-22	Money laundering	
2002	5	All	12-20	Money laundering	
2003	1	all	12-20	Money laundering	
2004					

Confiscation / Freezing

724. Execution of any foreign request regarding freezing proceeds, including foreign orders for the confiscation of proceeds as well as restraint orders, may be carried out in two different ways. First, the MOKAS has the possibility to apply to a court in Cyprus to make a domestic restraint or charging order using Sections 14 or 15 of the AML Law for this purpose. In case of a foreign court order, MOKAS may also have it registered by a Cyprus Court for the purpose of its enforcement. Special rules concerning the procedure of registration and enforcement can be found in Sections 37-42 of the AML Law. The effect of such registration is that it carries the same consequences as if the order was issued by a competent court in Cyprus. The Court when exercising these powers is bound by the findings as to the facts in the decision of the foreign country.
725. Registration for enforcement is limited to foreign orders made under certain international treaties, most important of which are the Vienna and the Strasbourg Conventions. In the absence of a specific provision on terrorist financing, foreign requests concerning a sui generis terrorist financing offence could only be executed in the first way described above (FIU applying to a Cyprus Court).
726. There are no provisions in Cyprus law that would allow for the enforcement of foreign non-criminal confiscation orders in Cyprus.

Asset sharing

727. Cyprus meets Criterion 38.5 as it can share with other countries assets confiscated as a result of co-ordinated law enforcement actions. The relevant provision can be found in Section 39 (3) of the AML Law:

“Where the foreign order concerns the confiscation of proceeds or property, the proceeds or property may, after the enforcement of the said order, be distributed among the competent authorities of the foreign country and the Republic of Cyprus.”

728. At the time of the on-site visit, confiscated assets were deposited in the State Budget. In these circumstances, Criterion 38.4 was not fully met. However, very shortly after the on-site visit (in May 2005), a special fund was created under the budget of the Law Republic with the approval of the Ministry of Finance. This has been created for the purpose of depositing confiscated assets, including those shared with foreign authorities, and are to be used for the purposes provided for in Criterion 38.4.

Terrorist financing

729. As for terrorist financing, there is no exception provided for the application of the above mentioned rules. As terrorist financing is an offence under Cyprus law, the normal mutual legal assistance principles apply. However, the problems explained in respect of the current domestic offence of financing of terrorism would severely limit mutual assistance where dual criminality is required²⁰.

6.3.2 Recommendations and comments

730. Complete, detailed and precise statistics must be kept on AML/CFT mutual legal assistance, which will assist in strategic analysis as well as identifying efficiency issues / timing and fulfilment of requests in whole or in part. It is important to be able to identify from which countries the requests came; the nature of the request (including the sector about which information is sought), in order for

²⁰ See footnote 10 at paragraph 236 in respect of the Law amending the Ratification Law [18 (111)/2005.]

the Cyprus authorities to fully assess their domestic vulnerabilities to money laundering and financing of terrorism. This information should be available to the Advisory Authority.

731. It appears from the language of the AML Act that the procedures set out therein relate only to applications from contracting parties under the Vienna and Strasbourg Conventions. Where no bilateral treaties with other countries exist, it is assumed that Cyprus would have to start its own domestic proceedings to allow for confiscations in situations not covered by the Vienna and Strasbourg Conventions. A procedure that requires a case to be made out before a local court on the basis of foreign evidence is inherently less effective than one where the requested country satisfies itself that a foreign court has made an order and then gives effect to it (as is broadly the case with the procedures under Sections 37-42 of the AML Act). The Cyprus authorities may wish to consider more general domestic legislation to cover the enforcement of foreign orders.

6.3.3 Compliance with FATF Recommendations

	Rating	Summary of factors relevant to Section 6.3 underlying overall rating
R.32	Largely compliant	No complete and detailed statistics for mutual legal assistance issues. In ML/FT cases, no sufficient information on whether any of the requests made or received upon any treaty base other than 141 refers to money laundering cases.
R.36	Largely compliant	The definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality, though these problems had already been identified by the Cyprus authorities at the time of the on-site visit.
R.37	Compliant	
R.38	Compliant	
SR.V	Largely compliant	The definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality, though these problems had been identified by the Cyprus authorities at the time of the on-site visit.

6.4 **Extradition (R.32, 37 and 39, and SR.V)**

6.4.1 Description and analysis

732. Extradition rules are provided for by the Extradition of Fugitive Offenders Law N° 97 of 1970 and by the “European Arrest Warrant and the Surrender Procedures between Member States of the European Union Law” N° 133(I) of 2004. Cyprus also ratified the Convention relating to Extradition between the Member States of the European Union (Ratification Law 11(III) of 2004.)
733. According to Section 5 of the Extradition of Fugitive Offenders Law, persons found in Cyprus may be extradited for the purpose of criminal proceedings if, as a general rule, the act or omission constituting the offence meets double criminality requirements. However, in case there is an extradition treaty with the given foreign country, offences so provided by the treaty may be extraditable with no regard to dual criminality.
734. Furthermore, it is clearly defined by Section 69 of the AML Law that “*a prescribed offence shall constitute an offence for the purposes of extradition of fugitives under the relevant law*” which means that both money laundering and any predicate offences thereto are extraditable offences under Cyprus law.

735. The Constitution of Cyprus precludes the extradition of nationals. However, under the provisions of the Criminal Code (Section 5) citizens may be prosecuted in Cyprus for offences committed in a foreign country if the act or omission constituting the offence meets double criminality requirements and the offence is punishable in Cyprus with imprisonment exceeding two years. These requirements are likely to be met in any money laundering or terrorist financing cases, given the broad definitions of these crimes applicable in Cyprus law. In case of such domestic prosecutions, Cyprus authorities seek the necessary assistance, mainly evidential material, from the foreign jurisdiction where the offence had been committed.
736. Extradition between European Union member States is carried out by application of the European Arrest Warrant as it is implemented by the “European Arrest Warrant and the Surrender Procedures between member States of the European Union Law” (EAW Law).
737. Following a European arrest warrant, a person found in Cyprus may be arrested and surrendered for criminal proceedings or the execution of a sentence in the requesting state. The requested person shall be surrendered without verifying the otherwise required dual criminality, for the offences listed in the Annex to the EAW Law. The list expressly contains money laundering offences (“laundering of the proceeds of crime”) If for the offences listed in the Annex I the punishment for the offence in the issuing member State is less than three years maximum, or for offences not mentioned in the list, the dual criminality still applies.
738. Cyprus citizens will not be extradited for execution of custodial sentences or detention orders in a case where the execution is taken over by the Cyprus authorities. For the criminal proceedings themselves, nationals can be extradited as far as it is ensured that after being heard, they are to be returned to Cyprus for execution of the sentence passed against them in the issuing state of the warrant.
739. The execution of the European arrest warrant may be refused, *inter alia*, if it relates to offences committed in whole or in part on the territory of Cyprus.
740. According to the above-mentioned legislation at European level time limits are envisaged at each stage of the procedure. Similarly, time limits are set in the general law (Extradition of Fugitive Offenders Law) in relation to the procedures to be followed for the execution of such requests. (Relevant provisions can be found e.g. in Section 12 of the Extradition of Fugitive Offenders Law or Section 23 of the EAW Law.)
741. As far as the implementation of the European arrest warrant is concerned, the legislation also provides for a simplified procedure of extradition in respect of consenting persons who waive the formal extradition proceedings (c.f. Section 19 of the EAW Law).
742. As for terrorist financing, there is no exception provided for the application of the above-mentioned rules. As terrorist financing is an offence under Cyprus law, the normal mutual legal assistance principles apply. It is worth noting that the list annexed to the EAW Law contains the offence of terrorism but not the financing of terrorism as a *sui generis* crime.

6.4.2 Recommendations and comments

743. The tables beneath have been sent by the Cyprus authorities covering extradition requests sent and received (and the number of European Arrest Warrant applications they have received). It appears that nobody has been extradited (or surrendered) by or to Cyprus in relation to such offences. The average speed for extradition in other matters based on the European Convention appears satisfactory and the examiners consider that the system is functioning properly.

EUROPEAN CONVENTION ON EXTRADITION – 1957

Requests received

Year	Number of Requests Received	Nature of Request	Average period for extradition	Number of Requests successfully extradited	Outcome
2001	8	Fraud, forgery, murder	4 months	1	*Not traced in Cyprus(2) *Voluntary transfer
2002	7	Embezzlement, Fraud, Tax Evasion, Forgery	4 months	1	*withdrawal of extradition request *Voluntary transfer
2003	15	Fraud, Theft, Assault, Drug Trafficking	3-4 months	2	*Not traced in Cyprus
2004	5	Tax evasion, Theft, Fraud, Illegal Trafficking in Human Beings	4-5 months	-	*not traced in Cyprus(2)

Requests sent

Year	Number of Requests	Outcome of the Request
2001	1	- Voluntary return to Cyprus.
2002	1	- Successfully extradited to Cyprus.
2003	3	- 1 Fugitive not been traced; - 1 Returned to Cyprus; - 1 Extradition not proceed with.
2004	3	- 2 Requests successfully been extradited to Cyprus; - 1 Extradition procedure is pending.

	Country	Outcome
1	Sweden	The Swedish authorities cancelled the extradition proceedings
2	Denmark	Voluntary transfer to Denmark
3	Greece	The EAW executed - transfer to Greece

6.4.3. Compliance with FATF Recommendations

	Rating	Summary of factors relevant to Section 6.4 underlying overall rating
R.32	Largely compliant	Statistics were provided at the request of the assessors. They appeared not to have been available to the Cyprus authorities earlier for reviewing effectiveness of the system.
R.37	Largely compliant	Impossibility at the time of the on-site visit, of extraditing / prosecuting Cyprus nationals involved in financing of terrorism offences, though this problem has already been identified at the time of the on-site visit.
R.39	Compliant	
SR.V	Largely compliant	The problems with the offence of financing of terrorism would limit extradition possibilities, though these problems had already been identified by the Cyprus authorities at the time of the on-site visit. ²¹

6.5 Other forms of international co-operation (R.32 and 40 and SR.V)

6.5.1 Description and analysis

744. The competent authorities in Cyprus aim to provide the widest range of international co-operation to their foreign counterparts.
745. In addition to the formal mutual legal assistance and extradition requests based on International Conventions, Cyprus has concluded a number of bilateral agreements with a large number of countries. These bilateral agreements include provisions for exchange of information, documentary evidence, execution of warrants etc. They include all kinds of criminal activities including money laundering.
746. Police authorities directly exchange information with police authorities of foreign countries, using Europol or Interpol channels. There was no statistical data available showing the level of informal police international assistance.

MOKAS

747. MOKAS has signed Memoranda of Understanding with the FIUs of Belgium (CTIF / CFI), France (TRACFIN), Slovenia (OMLP), Czech Republic (FAU), Israel (IMPA), Ireland, Malta (FIAU), Australia (AUSTRAC), Poland (GIIF), Ukraine (SDFM), Albania (DCFAML), Canada (FINTRAC), Russia (FMC), USA (FINCEN) and South Africa.
748. MOKAS takes into account the Egmont Group Statement of Purpose and its Principles for Information Exchange between FIUs for money laundering cases in all its work.
749. MOKAS co-operates and exchanges information with all foreign counterpart FIUs of any type (judicial, police, administrative). This is expressly provided under Section 54 (1) of the AML Law. Such information exchanges can be made upon request or spontaneously. Additionally, Cyprus, as a European Union member, is bound by the European Union Council Decision of 17 October 2000,

²¹ The Law was changed on 22 July 2005 and Cypriot citizens are now clearly covered.

which *inter alia* obliges all member countries to create a legal framework allowing direct co-operation between different Anti-Money Laundering Units, irrespective of their nature.

750. MOKAS can also instruct a financial institution to postpone a transaction for a certain period as deemed necessary, if the inquiries or analysis is conducted in co-operation with a foreign FIU.
751. The condition for the exchange of information between the FIU of Cyprus and its counterparts in other countries is the principle of reciprocity. The consent of the FIU is needed before the foreign FIU disseminates any of the submitted information to any other foreign authority e.g. to law enforcement authorities for further investigation.
752. Information requests are not refused because a request is also considered to involve fiscal matters. Exchanged information is subject to the same confidentiality provisions as apply to similar information from domestic sources.
753. MOKAS can exchange information with FIUs which are not yet members of the Egmont Group. Moreover, it exchanges information with police authorities of other countries. The FIU, as a matter of practice, discloses to the requested authority the purpose of the request giving a summary of the suspicions which generate the information request.
754. The following statistics on information requests from and to the FIU were provided.

	Requests made by the Unit	Requests received by the Unit
2001	17	88
2002	66	118
2003	94	130
2004	68	155

755. The Cyprus authorities also advised that MOKAS makes spontaneous referrals to foreign authorities, but no statistics were available to which indicated how often this happened.

CBC

756. Section 27(1) of the Banking Law provides that the CBC may co-operate and exchange information with the competent banking and/or insurance and/or securities markets supervisory authorities, whether in the Republic or elsewhere. According to section 25(2) of the Banking Law, the CBC may require a bank to submit at its request information within the time as may specified by the CBC. The CBC has signed MoUs with the Central / National Banks of Russia, Bulgaria, Belarus, Ukraine, Yugoslavia, Romania, Latvia, Slovakia, Tanzania, Jordan and Greece. In addition, eight MoUs are currently in the stage of negotiation. There are no impediments to the spontaneous exchange of information between the Central Bank of Cyprus and other domestic and foreign supervisory authorities.
757. The CBC and the legislation it administers satisfies Recommendation 40.

SEC

758. Section 33 of the Securities and Exchange Commission Law enables SEC to request and collect information necessary for the exercise of its statutory functions. Persons requested by SEC are required to provide the information timely, fully and accurately. Failure to provide the information is subject to administrative penalties. Section 30 of the Law allows SEC to cooperate spontaneously and on request with competent supervisory authorities abroad charged with the exercise of similar

responsibilities. Section 143 of the UCITS Law also provides SEC with to collect information necessary for the exercise of its statutory responsibilities, while Section 5 gives SEC the ability to cooperate with other authorities either within or outside Cyprus.

759. SEC attaches a high importance to cooperating with its foreign counterparts. SEC has signed the MoU of the Committee of European Securities Regulators and it has applied to become a signatory to the IOSCO Multilateral memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information – SEC is currently included on Appendix B to the MoU, thus indicating its commitment to become a signatory.
760. Comparatively few requests for assistance have been received from foreign supervisors but they are accorded high priority. SEC wish other supervisors to treat its requests for information with the same expedition that it accords the requests it receives. MoUs have been signed with supervisors in jurisdictions where the Cyprus investment community is active. These jurisdictions include Romania, Greece, Russia, Portugal, Malta, Germany, Egypt, Slovakia, Hungary, Austria and the Czech Republic.
761. SEC and the legislation it administers satisfies Recommendation 40.

ICCS

762. Section 196 of the Law on Insurance Services enables the Superintendent of Insurance to collect information necessary for the exercise of its functions and to address relevant written requests for assistance. Section 6 of the Law states that the Superintendent may cooperate with foreign competent supervisory authorities, charged with carrying out analogous functions and to exchange with them the necessary information for the carrying out of their functions. Section 7 of the law adds that the secrecy provisions to which the Superintendent is subject do not preclude the exchange of information with supervisory authorities in the EU and the EEA. Indeed, the Superintendent of Insurance has confirmed that spontaneous exchange of information with all supervisory authorities in EU and non-EU/EEA states is permitted as long as the Superintendent has not reason to doubt the validity of the request for the information.
763. Section 7 goes on to say that the Superintendent may conclude cooperation agreements with foreign supervisors, subject to appropriate confidentiality provisions. There has been no necessity to sign a cooperation agreement to date. The Superintendent gives a high priority to requests for information from foreign supervisors. Three such requests have been received since the start of 2004.
764. The ICCS and the legislation it administers satisfies Recommendation 40.

6.5.2 Recommendation and comments

765. MOKAS has a broad capacity to exchange information, and there appear to be no major obstacles in the way of prompt and constructive information exchange. The examiners have no information on how quickly or how fully requests for information are answered, in the absence of relevant statistical data. They are certainly not aware of any unreasonable delays on the part of the Cyprus authorities. The FIU are recommended to keep more detailed statistical data showing, in particular, the number of formal requests to them for information, their response times, and whether the request was fulfilled in whole or in part or was incapable of being fulfilled. Statistical information should be kept in relation to the numbers and types of spontaneous disclosures made by MOKAS.
766. The Cyprus authorities should satisfy themselves that the supervisory bodies are also exchanging information on request (and otherwise) with their foreign counterparts. Statistics should also be kept which show whether the requests received were able to be fulfilled.

767. It is advised that all statistical data kept by all the competent authorities on all of these issues should be available to the Advisory Authority for periodic review.

6.5.3 Compliance with Recommendations 32 and 40 and SR.V

	Rating	Summary of factors relevant to Section 6.5 underlying overall rating
R.32	Largely compliant	FIU statistics need refining to include spontaneous disclosures and whether or not requests were capable of being fulfilled in whole or in part (and the timescales and in which responses were provided).
R.40	Largely compliant	Broad capacity for information exchange by MOKAS and financial regulators.
SR.V	Largely compliant	There is little practice in information exchange in relation to financing of terrorism, terrorist acts or terrorist organisations. Legally the powers are in place for information exchange as the FIU has a remit in this area. The restricted width of the domestic financing of terrorism offence may cause problems in provision of information in financing of terrorism cases, which could not be prosecuted domestically.

IV TABLES

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating ²²
Legal systems		
1. Money laundering offence	Largely compliant	Although there is a broad and firm legal basis to enable successful prosecutions the effectiveness of money laundering criminalisation could be enhanced by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions.
2. Money laundering offence Mental element and corporate liability	Compliant	
3. Confiscation and provisional measures	Compliant	
Preventive measures		
4. Secrecy laws consistent with the Recommendations	Compliant	
5. Customer due diligence	Partially compliant	No general rule to identify the beneficial owner except in the G-Banks; no CDD measures required 1) regarding occasional wire transfers, 2) irrespective of the insurance premium exemption when there is a suspicion of money laundering or terrorist financing and 3) in cases of doubts regarding previously obtained customer data; no general rule in an act of primary or secondary legislation except the Banking Law concerning identification using reliable and independent source documents and concerning ongoing due diligence. In addition, the AML Guidance Notes other than the G-Banks and the G-MTB need to be enhanced with regard to understanding ownership and control structures; obtaining information on the purpose and nature of business relationships; the application of CDD requirements for existing customers; consideration of making STRs on terminating existing business relationships.
6. Politically exposed persons	Largely compliant	No PEP provisions in the G-MTB, the G-Investment Brokers, the G-Insurers and the G-International Businesses.
7. Correspondent banking	Largely compliant	No guidance regarding payable-through accounts.
8. New technologies and non face-to-face business	Largely compliant	No provisions regarding the misuse of technological developments
9. Third parties and introducers	Compliant	

²² These factors are only required to be set out when the rating is less than Compliant.

10.	Record keeping	Largely compliant	The date of completion of all activities being treated at the date on which the business relationship was terminated is not in line with R.10; No definition of minimum information regarding the insurance companies.
11.	Unusual transactions	Largely compliant	The recommendation is satisfied in respect of banks . No guidance requiring non-banks to examine as far as possible the purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing; no guidance to keep such findings available for competent authorities for at least five years.
12.	DNFBP – R.5, 6, 8-11	Partially compliant	AML Law does not cover CDD 1) suspicion of money laundering or terrorist financing, and 2) in cases of doubt regarding previously obtained customer due diligence information. No general rule in legislation concerning identification using reliable and independent source documents and ongoing due diligence. The AML Guidance Notes need to be enhanced with regard to understanding ownership and control structures; obtaining information on the purpose and nature of business relationships ; undertaking enhanced due diligence for higher risk customers; the application of CDD requirements for existing customers; consideration of making STRs on terminating existing business relationships. Also no PEP provisions or provisions on misuse of technological developments in the Guidance Notes. The AML Law needs amendment so that records are kept for five years after the formal termination of a business relationship.
13.	Suspicious transaction reporting	Compliant	
14.	Protection and no tipping-off	Partially compliant	Tipping off seems unreasonably restricted, and the safe harbour provisions should clearly cover all civil and criminal liability.
15.	Internal controls, compliance and audit	Partially compliant	Terrorist financing is not covered; access to information by the Compliance Officer is not necessarily timely; there is mostly no requirement for an independent audit function to test compliance; no reference in the Guidance Notes to training on developments in money laundering and terrorist financing techniques, methods and trends; no specific provisions on employee screening.
16.	DNFBP – R.13-15 & 21	Partially compliant	tipping off provisions are unreasonably restricted; “safe harbour” provisions do not clearly cover all civil and criminal liability. Regarding R. 15, no requirement for training on countering terrorist financing; audit function not necessarily independent; no requirement for training on money laundering developments; lack of time or resources may be used as a reason not to provide training; no requirement for staff screening procedures.
17.	Sanctions	Partially compliant	Administrative fine of up to three thousand pounds is not effective, proportionate and dissuasive; no sanctions imposed. No specific supervisory authority for insurance intermediaries appointed under the AML Law.
18.	Shell banks	Largely compliant	There are no specific provisions regarding respondent institutions abroad permitting their accounts to be used by shell banks.

19.	Other forms of reporting	Compliant	
20.	Other DNFBP and secure transaction techniques	Compliant	
21.	Special attention for higher risk countries	Largely compliant	No requirement in the G-Investment Brokers, the G-Insurers nor the G-International Businesses to give special attention to business relationships and transactions with persons from/in countries insufficiently applying the FATF Recommendations, to examine such relationships / transactions and set out findings in writing.
22.	Foreign branches and subsidiaries	Largely compliant	While few Cyprus financial institutions have foreign branches and subsidiaries, and the CBC monitor Cypriot banks' application of AML standards to branches/subsidiaries, a general requirement is needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.
23.	Regulation, supervision and monitoring	Largely compliant	Supervisory authorities' prudential approach does not include combating the financing of terrorism.
24.	DNFBP - regulation, supervision and monitoring	Partially compliant	Supervisory or other authority for real estate agents, dealers in precious metals and stones, and trust and company service providers not designated.
25.	Guidelines and Feedback	Largely compliant	Although the record on feedback by MOKAS is particularly strong, Guidance Notes for financial institutions and DNFBP do not cover financing of terrorism. Guidelines not issued to domestic trust and company service providers, and some other DNFBP.
Institutional and other measures			
26.	The FIU	Compliant	
27.	Law enforcement authorities	Largely compliant	There are designated Police authorities with most investigative tools but their competencies could usefully be delineated. More focus needs to be placed on the financial aspects of major proceeds-generating crimes as a routine part of the investigation and some re-orientation of law enforcement resources may be needed to achieve this. More focus on laundering by third parties required.
28.	Powers of competent authorities	Compliant	
29.	Supervisors	Compliant	
30.	Resources, integrity and training	Largely compliant	More staffing and provision of adequate and relevant training required.
31.	National co-operation	Compliant	
32.	Statistics	Partially compliant	Statistical information often incomplete and insufficiently refined for full review of effectiveness of system.
33.	Legal persons – beneficial owners	Largely compliant	Mainly lawyers subject to the AML-Law are forming and administering companies, but not all institutions (including company service providers) are required to ascertain beneficial owners and controller information by law and guidance. Not all institutions are monitored for implementation.

34. Legal arrangements – beneficial owners	Largely compliant	Mainly lawyers are forming and administering trusts. Lawyers are covered by the AML Law and international trust companies are subject to guidance imposed by the CBC, but other trust service providers are not covered; not all institutions are monitored for implementation
International Co-operation		
35. Conventions	Compliant	
36. Mutual legal assistance (MLA)	Largely compliant	The definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality, though these problems had already been identified by the Cyprus authorities at the time of the on-site visit.
37. Dual criminality	Compliant	
38. MLA on confiscation and freezing	Compliant	
39. Extradition	Compliant	
40. Other forms of co-operation	Largely compliant	Broad capacity for information exchange by MOKAS and financial regulators.
Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	Largely compliant	A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing etc. is not yet fully in place.
SR.II Criminalise terrorist financing	Partially compliant	The criminalisation of financing of terrorism, as defined in the 1999 United Nations Convention for the Suppression of the Financing of Terrorism, is not completely achieved as offences committed by Cyprus citizens on Cyprus territory appear inadvertently to have been excluded. ²³ Reliance on Section 58 of the Criminal Code is insufficient for these purposes. Moreover in addition to criminalising the activities enumerated in the Terrorist Financing Convention, countries are also obliged to criminalise collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Cyprus has not yet criminalised this type of activity.
SR.III Freeze and confiscate terrorist assets	Largely compliant	A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons, including publicly known procedures for de-listing, etc. is not yet fully in place.
SR.IV Suspicious transaction reporting	Compliant	
SR.V International co-operation	Largely compliant	The definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality and limit extradition possibilities.
SR.VI AML requirements for money/value transfer services	Largely compliant	<ul style="list-style-type: none"> • No rules regarding PEPs; • No provision determining what kind of information regarding transactions should be recorded as a

²³ After the on-site visit, on 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and now Cypriot citizens are clearly covered.

		<p>minimum;</p> <ul style="list-style-type: none"> • Infringement of SR.VII-obligations are not sanctionable; • No regulation requiring money transfer companies to examine as far as possible the purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing; no regulation to keep such findings available for competent authorities for at least five years; • Value transfer business not licensed/registered; • No on-site visits conducted; • Low risk due to conditions on the licences.
SR.VII Wire transfer rules	Compliant	
SR.VIII Non-profit organisations	Partially compliant	While some action was taken after 11 September 2001 in checking NPOs with significant participation of foreign individuals, no evidence of a special review of the laws in the NPO sector having been undertaken has been provided.
SR.IX Cash Couriers	Largely compliant	IX.1 not entirely fulfilled as declaration system appears not to cover bearer negotiable instruments.

Table 2: Recommended Action Plan to improve the AML/CFT system

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	<ul style="list-style-type: none"> The maintenance of meaningful and comprehensive statistics on AML/CFT performance, and for strategic analysis of Cyprus's AML/CFT vulnerabilities.
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 and 2)	<ul style="list-style-type: none"> Having regard to the broad and firm legal basis provided by the AML Law, further attention should be given to enhancing the effectiveness of money laundering criminalisation by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions. Cyprus authorities should also consider whether the benefits of negligent money laundering and corporate liability in the statute are being fully maximised by law enforcement and prosecutors.
Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> In order to close the major gap in the criminalisation of terrorist financing, section 9 of the Ratification Law should be repealed without delay or amended to ensure section 2 applies to Cyprus citizens.²⁴ Criminalisation should be extended to the collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Consideration should be given to achieving these goals by introducing a clear separate criminal offence of financing of terrorism which covers all the essential criteria in SR.II and all the characteristics of a financing of terrorism offence as explained in the Interpretative Note of June 2004.
Confiscation, freezing and seizing of proceeds of crime (R.3)	No action required.
Freezing of funds used for terrorist financing (SR.III)	<p>With regard to the lack of a comprehensive and effective freezing/confiscation regime, there is need for a clear statutory framework which covers:</p> <ul style="list-style-type: none"> procedures for considering de-listing requests and unfreezing assets of de-listed persons as well as for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism; a procedure for authorising access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S / Res / 1452 (2002); a procedure for court review of freezing actions.
The Financial Intelligence Unit and its functions (R.26, 30 and 32)	<ul style="list-style-type: none"> Processing times for money laundering STRs should be kept under review; More detailed breakdowns of STRs would assist strategic analysis (e.g. between domestic and offshore sectors). Review S.26(2)(c) of the AML Act as a statutory basis for suspending transactions.

²⁴ On 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and this difficulty no longer applies.

<p>Law enforcement, prosecution and other competent authorities (R.27, 28, 30 and 32)</p>	<ul style="list-style-type: none"> • Investigative competencies of the various police bodies could usefully be delineated; • MOKAS should be informed of all AML/CFT investigations prosecutions and convictions, and the types of case to which they refer so that the Advisory Authority has a complete statistical overview of the law enforcement response; • Some re-orientation of existing police resources should be considered for more financial investigation; • Prosecutors (and investigators) need more training on types of evidence a court may accept in cases of money laundering by third parties; • Consideration of prosecutorial guidance on third party laundering, possibly by the Attorney General.
<p>3. Preventive Measures– Financial Institutions</p>	
<p>Risk of money laundering or financing of terrorism</p>	<ul style="list-style-type: none"> • Improve or enhance the Guidance Notes as outlined in the report particularly in respect of CDD and identification of beneficial ownership of companies and trusts.
<p>Financial institution secrecy or confidentiality (R.4)</p>	<ul style="list-style-type: none"> • Delete the requirement in Section 27(2) of the Banking Law that the CBC should not divulge any information relating to an individual deposit account; and • Draw a direct link in the regulatory legislation to the supervisory authorities’ (CBC, SEC, ICCS) ability to disclose information relating to money laundering and terrorist financing.
<p>Customer due diligence, including enhanced or reduced measures (R.5 to 8)</p>	<ul style="list-style-type: none"> • Undertake CDD measures in cases of occasional wire transfers, when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to under the AML Law, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology); • On terminating a business relationship to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (all AML Guidance Notes; Criterion 5.16 of the Methodology); • Amend the AML Law and require financial institutions to verify the customer’s identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology); • Identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology); • Understand ownership and control structures (all AML Guidance Notes; Criterion 5.5.2(a) of the Methodology); • Obtain information on the purpose and intended nature of the business relationship; (the G-Investment Brokers, the G-Insurers, the G-International Businesses; Criterion 5.6 of the Methodology); • Conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology); • Perform enhanced due diligence for higher risk customers; the G-International Businesses; Criterion 5.8 of the Methodology); • Describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology).

	<ul style="list-style-type: none"> • Seek and obtain satisfactory evidence of identity of their customers in any case at the time of establishing an account relationship or describe cases where an identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken in the latter case (the G-Banks; Criteria 5.13, 5.14 and 5.14.1 of the Methodology); • Apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (the G-MTB, the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 5.17 of the Methodology).
(R.6)	<ul style="list-style-type: none"> • Have in place rules regarding PEPs according to Criteria 6.1-6.4 of the Methodology (all AML Guidance Notes except the G-Banks).
(R.8)	<ul style="list-style-type: none"> • Put in place procedures to prevent the misuse of technological developments (the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 8.1 of the Methodology).
(R.9)	<ul style="list-style-type: none"> • No recommendation.
Record keeping and wire transfer rules (R.10 and SR.VII)	<ul style="list-style-type: none"> • Repeal and amend section 66(3/b) of the AML Law, section 3.2.3(iii) of the G-Banks, section 3.2.3(iii) of the G-Investment Brokers and section 5 of the G-International Businesses and amend the G-Insurers so that it is clear that records must be maintained for at least five years following the termination of the business relationships (Criterion 10.2 of the Methodology); • amend the AML Law requiring all financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology).
Monitoring of transactions and relationships (R.11 and 21)	<ul style="list-style-type: none"> • Investment, insurance and international business sectors need guidance to pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology); • Require financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology); • Amend the G-Investment Brokers, the G-Insurers and the G-International Businesses to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations; to examine the background and purpose of such transactions where they have no apparent economic or visible lawful purpose; and for written findings to be available to assist competent authorities (Criteria 21.1 and 21.2 of the Methodology); • All financial institutions to keep such findings available for competent authorities for at least five years (Criterion 11.3 of the Methodology).
Suspicious transaction reports and other reporting (R.13 and 14, 19, 25 and SR.IV and SR.IX)	<ul style="list-style-type: none"> • The Law should expressly provide for the reporting of attempted transactions; • The safe harbour provisions should clearly cover all civil and criminal liability; • The tipping off offence should be reconsidered to ensure the full range of coverage as required by criterion 14.2 of the Methodology without unnecessary restrictions; • More training and guidance to support the reporting of suspicious transactions related to financing of terrorism (SR.IV).

Internal controls, compliance, audit and foreign branches (R.15 and 22)	<ul style="list-style-type: none"> • Amend the AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology); • Include reference in the AML Guidance Notes to an <u>independent</u> audit function to test compliance (Criterion 15.2 of the Methodology); • Amend the various Guidance Notes (and possibly the AML Law) to require financial institutions to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology); • Ensure that financial institutions' foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations (Criteria 22.1 to 22.2 of the Methodology).
The supervisory and oversight system – competent authorities and SROs Roles, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)	<ul style="list-style-type: none"> • Introduce effective, proportionate and dissuasive sanctions for financial institutions in respect of money laundering and terrorist financing (Criterion 17.1 of the Methodology); • Increase staff resources at the ICCS, the CBA and ICPAC and technical resources at the ICCS (Criterion 30.1 of the Methodology) in a sustainable way; • Provide training on combating money laundering to the ICCS and the CBA and on combating the financing of terrorism to all supervisory authorities (Criterion 30.2 of the Methodology); • Introduce greater coordination between the supervisory authorities, including coordination of the AML Guidance Notes and consideration as to whether the number and functions of the supervisory authorities is appropriate. Quality control of Guidance Notes would be helpful; • Designate a supervisory authority under the Anti-Money Laundering Law for insurance intermediaries; • Pursue active vetting of controllers, directors and managers of foreign insurance undertakings.
Shell banks (R.18)	<ul style="list-style-type: none"> • Create a specific provision requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks (see Criterion 18.3 of the Methodology).
Financial institutions – market entry and ownership/control (R.23)	<ul style="list-style-type: none"> • AML Guidance Notes have been issued by each of the supervisory authorities. The evaluators recommend that this framework should be enhanced by issuing transparent and explicit Guidance Notes to those sub-sectors – investment enterprises (other than brokers), insurance intermediaries and value transfer services – not yet in receipt of guidance.
Ongoing supervision and monitoring (R23, 29)	<ul style="list-style-type: none"> • Start on-site visits regarding money transfer business, insurers and insurance intermediaries on a risk based and random basis and formalise a programme of such visits for the investment sector (Criteria 23.4, 23.6 and 29.2 of the Methodology);
AML/CFT Guidelines (R.25)	<ul style="list-style-type: none"> • The AML Guidance Notes should cover techniques of terrorist financing (Criterion 25.1 of the Methodology); • Guidance Notes should be explicitly issued to insurance intermediaries and to all undertakings carrying on investment business (including UCITS managers and investment firms other than brokers) (Criterion 25.1 of the Methodology).
Money or value transfer services (SR.VI)	<ul style="list-style-type: none"> • The relevant recommendations have already been made above.

4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • Extend section 61 of the AML law to cover trust and company service providers, notaries, casinos and dealers in all high-value goods whenever payment is made in cash in an amount of EUR 15,000 or more (definitions of DNFBP in the Methodology and article 2(a) of the EU Directive); • Undertake CDD measures in cases of occasional wire transfers, when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to under the AML Law, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology); • Amend the AML Law and require financial institutions to verify the customer’s identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology); • Identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology); • Conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology); • Describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology); • Repeal and amend section 66(3)(b) of the AML Law (Criterion 10.2 of the Methodology); • Require DNFBP to ensure that all customers and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology). <ul style="list-style-type: none"> - understand ownership and control structure (Criterion 5.5.2(a) of the Methodology); - obtain information on the purpose and intended nature of the business relationship (Criterion 5.6 of the Methodology); - perform enhanced due diligence for higher risk customers (Criterion 5.8 of the Methodology); - on terminating a business relationship to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (Criterion 5.16 of the Methodology); - apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (Criterion 5.17 of the Methodology); - have in place rules regarding PEPs (Criteria 6.1 to 6.4 of the Methodology); - put in place procedures to prevent the misuse of technological developments (Criterion 8.1 of the Methodology); - clarify the transaction records to be held (Criterion 10.1. of the Methodology).

Monitoring of transactions and relationships (R.12 and 16)	<ul style="list-style-type: none"> • Pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology); • Examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology); • Keep such findings available for competent authorities for at least five year (Criterion 11.3 of the Methodology); • State that transactions by persons from or in countries which do not or insufficiently apply the FATF Recommendations, where those transactions have no apparent or legal purpose, the background and purpose should be examined and written findings be available to the competent authorities (Criterion 21.2 of the Methodology).
(R.13)	<ul style="list-style-type: none"> • The Law should expressly provide for the reporting of attempted transactions
(R.14)	<ul style="list-style-type: none"> • The examiners consider that the safe harbour provisions do not fully comply with Criterion 14.1. The examiners recommend that this issue is reconsidered to clearly cover all civil and criminal liability. • The tipping off offence should be reconsidered at outlined above.
Internal controls, compliance and audit (R.16)	<ul style="list-style-type: none"> • Amend the existing AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology); • Include reference in the AML Guidance Notes to an independent audit function to test compliance (Criterion 15.2 of the Methodology); • Include a training requirement in the AML Guidance Notes for developments in money laundering and terrorist financing techniques, methods and trends (Criterion 15.3 of the Methodology); • Amend the AML Guidance Notes (and possible the AML Law) and require DNFBP to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology).
Regulation, supervision and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> • Introduce effective, proportionate and dissuasive sanctions for DNFBP who will be covered by section 58(2)(a) of the AML Law (Criterion 17.1 of the Methodology); • Designate a supervisory or other authority for real estate agents, dealers in precious metals, dealers in precious stones and trust and company services providers which can apply sanctions (Criterion 17.2 of the Methodology); • Amend the existing Guidance Notes to cover CFT (Criterion 2.5.1 of the Methodology); • Issue guidelines on AML and CFT to all trust and company service providers, lawyers, real estate agents, dealers in precious metals and dealers in precious stone (Criterion 25.1 of the Methodology).
Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • Suggest AML framework is extended to all dealers in high value goods (EU Directive).
3. Legal Persons and Arrangements and Non-profit Organisations	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Introduce a framework for the supervision of company services providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, of the beneficial

	ownership and control of legal persons, and which allows the supervisor to have access to such records. (Criteria 33.1 and 33.2 of the Methodology).
Legal Arrangements–Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> • Introduce a framework for the supervision of trust service providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, on the beneficial ownership and control of legal arrangement (Criteria 34.1 and 34.2 of the Methodology); • Clarify the obligations regarding customers which are legal arrangements across the Guidance Notes (Criterion 34.1 of the Methodology); • Monitor implementation by all financial institutions and DNFBP of the FATF Recommendations.
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • Having first undertaken a formal analysis of the threats posed by this sector as a whole, review the existing system of laws and regulations so as to assess the adequacy of the current legal framework (Criterion VIII.1); • Consideration should be given to effective and proportional oversight of the NPO sector and the issuing of guidance for financial institutions on the specific risks of this sector; • Consider whether and how further measures need taking in the light of the Best Practices document for SR.VIII.
6. National and International Co-operation	
National Co-operation and Co-ordination (R.31)	<ul style="list-style-type: none"> • The Advisory Authority should deepen its role: by facilitating a co-ordinated response to AML/CFT issues: (e.g. co-ordinating Guidance Notes); by developing a strategic analysis of the AML/CFT threats and vulnerabilities; by reviewing the system periodically against developed key performance indicators (including the breakdown of the total number and types of AML/CFT investigations, prosecutions and convictions as set out in the report.
The Conventions and UN Special Resolutions (R.35 and SR.I)	<ul style="list-style-type: none"> • Provide for adequate domestic legislation implementing the UN Resolutions.
Mutual Legal Assistance (R.32, 36-38, SR.V)	<ul style="list-style-type: none"> • Since the definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality, immediate legislative steps should be taken for the proper criminalisation (see above)²⁵; • Complete, detailed and precise statistics must be kept on AML / CFT mutual legal assistance;
Extradition (R.32, 37 and 39, and SR.V)	<ul style="list-style-type: none"> • The problems with the offence of financing of terrorism would limit extradition possibilities as well, which makes the above mentioned legislative steps even more important (see above); • Complete, detailed and precise statistics must be kept on extradition in ML /FT cases.
Other forms of co-operation (R.32)	<ul style="list-style-type: none"> • FIU to keep more detailed statistical data on requests to it, including response times, and whether the request was able to be fulfilled. • Cyprus authorities to satisfy themselves that supervisory bodies are exchanging information with foreign counterparts.

²⁵ After the on-site visit, on 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and now Cypriot citizens are clearly covered.

V LIST OF ANNEXES

- ANNEX 1** Details of all persons and bodies met on the on-site mission - Ministries, other government authorities or bodies, private sector representatives and others.
- ANNEX 2** Copies of key laws, regulations and other measures (2 A – 2 L).
- ANNEX 2A** The Prevention and Suppression of Money Laundering Activities Law (1996) (AML Law)
- Law amending the Prevention and Suppression of Money Laundering Activities Law of 1996 – N° 120 (I) of 1999
- Law amending the Prevention and Suppression of Money Laundering Activities Law of 1996 to 1999 – N° 152 (I) of 2000
- Law amending the Prevention and Suppression of Money Laundering Activities Law of 1996 to 2000 – N° 118 (I) of 2003
- Law amending the Prevention and Suppression of Money Laundering Activities Law of 1996 to 2003 – N° 185 (I) 2004
- ANNEX 2B** AML Guidance Note to Banks, issued by the CBC in November 2004 (G-Banks)
AML Directive to Co-operative Credit institutions, issued by the CBC in May 2005 (G-Banks)
- ANNEX 2C** AML Guidance Note to brokers, issued by SEC in September 2001 (G-Investment Brokers)
- ANNEX 2D** AML Guidance Note to life and non-life insurers, issued by the Insurance Companies Control Service in March 2005 (G-Insurers)
- ANNEX 2E** AML Guidance Notes to International Financial Services Companies, issued by the CBC in January (G-International Financial / Trustee Businesses)
- ANNEX 2F** AML Guidance Notes for accountants and auditors, issued by the Institute of Certified Public Accountants of Cyprus in November 2004 (G-Accountants)
- ANNEX 2G** Draft AML Guidance Notes for lawyers, issued by the Cyprus Bar Association, in March 2005 (G-Lawyers).

- ANNEX 2H** Ratification Law N° 29 (III) of 2001 to ratify the United Nations International Convention for the suppression of the financing of terrorism, including supplementary provisions for the immediate implementation of the Convention.
- ANNEX 2I** Decision N° 54.374 taken by the Council of Ministers of the Republic of Cyprus, on 4 October 2001.
- ANNEX 2J** Section 6 (1) of the Criminal Procedure Law
- ANNEX 2K** AML Guidance Note to Money Transfer Businesses, issued by the CBC in January 2005 (G-MTB)
- ANNEX 2L** Law on European Arrest Warrant and Annex
- ANNEX 3** List of all laws, regulations and other material received.

ANNEX 1

DETAILS OF ALL PERSONS AND BODIES MET ON THE ON-SITE MISSION

- The Unit for Combating Money Laundering (MOKAS) – The FIU
- The Police (Representatives of the Criminal Investigation Department of the Police Headquarters, the Financial Crime Unit and the Drugs Law Enforcement Unit)
- Ministry of Justice and Public Order (Central Authority for International Co-operation)
- Customs and Excise Department
- Minister of Finance
- Central Bank of Cyprus – Supervisory Authority for the Banks and Money Transmitters
- Co-operative Societies' Supervision and Development Authority - Supervisory Authority for the Co-operative Credit Institutions
- Securities and Exchange Commission – Supervisory Authority for the Stock Exchange
- Supervisory Authority for the Insurance Companies
- Representatives from Cypra Life Insurance Company
- Director and Representatives of the Stock Exchange
- Association of Commercial Banks
- Association of International Banking Units (IBUs)
- Cyprus Stock Exchange Members Association
- Council of the Cyprus Financial Services Companies Association
- Council of the Cyprus Bar Association – Supervisory Authority for Lawyers
- Council of Certified Public Accountants – Supervisory Authority for Accountants / Auditors
- Representatives of an investment company
- President of the District Court of Nicosia
- Ministry of Interior – Authority for the registration of Associations and Clubs
- Registrar of Companies and Official Receiver
- The Laiki Bank
- Representatives of the Legal and Accountancy Professions
- The Hellenic Bank
- A Representative of the Prosecution Service
- Central Information Service
- Cyprus International Financial Services Association
- Russian International Business Association.