



Strasbourg, 18 March 2009

MONEYVAL (2009)2

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

Second written progress report submitted to MONEYVAL
by CYPRUS¹

¹ Adopted by MONEYVAL at its 29th Plenary Meeting (Strasbourg, 16-20 March 2009). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref: MONEYVAL(2009)16 at www.coe.int/moneyval)

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

Position as a date of last progress report (5 December 2006)

The money laundering situation in Cyprus has not changed since the last Evaluation Report. Cyprus has a relatively low level of domestic crime. Domestic crimes which generate illegal proceeds are: fraud (including the offence of obtaining money by false pretences), burglary, theft and drug trafficking offences.

Soon after the adoption of the Third Round Evaluation Report, the Advisory Authority for Combating Money Laundering, which was established according to the provisions of the Prevention and Suppression of Money Laundering Activities Law, and it is composed of representatives of public authorities and the private sector, met a number of times in order to examine the contents of the report and the recommendations made.

During these meetings the Report was analysed and it was decided that the recommendations should be implemented through legislative amendments, practical measures and revision of the Directives issued by the Supervisory Authorities.

However, the Advisory Authority also took into consideration the Third EU Anti-Money Laundering Directive and decided that any legislative and other measures should also be applied concurrently and in line with the implementation of the Third EU Directive.

In this respect the FIU in cooperation with the Central Bank of Cyprus following a decision of the Advisory Authority has already prepared a preliminary draft bill which will be presented for comments, to all members of the Advisory Authority.

An important development is the decision of the Council of Ministers to designate the FIU, MOKAS, as the Supervisory Authority for the Real Estate Agents and for the Dealers in precious metals and stones. Based on this decision, the FIU is at present discussing the whole issue with representatives of these professionals, and it is in the process of preparing Directives to be issued to these sectors and organising training seminars.

A new Guidance Note, based on the recommendations made on the law enforcement section of the MONEYVAL Report, was issued by the FIU to all police investigators and prosecutors.

Further training was conducted for the financial institutions, professionals such as lawyers and accountants and the law enforcement.

Furthermore, technical experts from the Supervisory Authorities of the financial sector are meeting on a regular basis for the purpose of cooperating and coordinating the revision and amendment of existing Directives in line with the Evaluation Report and the Third EU Directive.

An important development since the Third Round Evaluation Report is the employment by MOKAS of 5 more financial analysts/accountants as permanent staff, as from June 2006.

New developments since the adoption of the 1st progress report

(In particular, please indicate all new relevant legislative acts with a brief description, and any changes since the adoption of the last progress report in the roles and responsibilities of relevant AML/CFT competent authorities)

On 13/12/2007 the House of Representatives enacted “The Prevention and Suppression of Money Laundering Activities Law” (hereinafter to be referred to as “the Law”) by which the former Laws on the prevention and suppression of money laundering activities of 1996-2004 were consolidated, revised and repealed. Under the current Law, which came into force on 1 January 2008, the Cyprus legislation has been harmonised with the Third European Union Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Directive 2005/60/EC) hereinafter to be referred to as the “European Union Directive”. Furthermore, the recommendations made in the Moneyval 3rd Evaluation report were also adopted.

New Directives were issued and circulated by the Supervisory Authorities to persons/entities under their Supervision in order to guide and assist them in the implementation of their duties and responsibilities under the new law.

Specifically, in April 2008, the Central Bank of Cyprus’ Directive (Third Edition) (hereinafter to be referred to as “the CBC Directive”) was issued to all banks in accordance with Article 59(4) of the Law laying down the specific policy, procedures and internal controls that all banks should implement for the effective prevention of money laundering and terrorist financing so as to achieve full compliance with the requirements of the Law. It is noted that the Law explicitly states that Directives issued by supervisory authorities are binding and compulsory to all persons to whom they are addressed.

In February 2009, the Cyprus Securities and Exchange Commission issued a revised Directive (hereinafter to be referred to as “the CYSEC Directive”), to all Investment Firms, UCITS Variable Capital Investment Companies and Management Companies (hereinafter to be referred to as “Financial Organisations”), according to article 59(4) of the Law and article 20 of the Investment Services and Activities and Regulated Markets Law of 2007 that implements the European Directive 2004/39/EC (‘MIFID’). The CYSEC Directive lays down specific provisions that all Financial Organisations should implement for the effective prevention of money laundering and terrorist financing so as to achieve full compliance with the requirements of the Law, which includes the obligations of Financial Organisations, the role and duties of the Money Laundering Compliance Officer, a risk-based approach to manage money laundering and terrorist financing risk, customer identification and due diligence procedures, recognition and reporting of suspicious transactions/activities to the FIU, record keeping procedures, education and training of employees.

The third edition of the Insurance Companies Control Service (ICCS) Orders was sent in February 2009, to all life-insurance companies and insurance intermediaries licensed to transact life class business (referred in the Orders and hereinafter in this Report as “insurance companies and intermediaries”) in accordance with Article 59(4) of the Law. The Orders prescribe the policy, procedures and internal controls that all life insurance companies and insurance intermediaries should implement for the effective prevention of money laundering and terrorist financing so as to achieve full compliance with the requirements of the Law.

New Directives were also issued by the professional bodies of Accountants and Lawyers. Moreover, the FIU, which is the Supervisory Authority for Real Estate Agents and dealers in precious metals and stones issued directives for these professionals.

Training is carried out to all supervised entities as well as to the police and prosecutors, on a continuing basis.

One issue which was considered important by the Moneyval evaluators namely the issue of the obligations under AML/TF Law of company service providers, has been covered by the new law and now they are included in the law as obliged entities.

Furthermore, it should also be mentioned that the FIU MOKAS will be designated, with a decision of the Council of Ministers, as the Asset Recovery Office in compliance with the Council Decision 2007/845/JHA of December 2007. Nevertheless, the functions of the ARO are already carried out by MOKAS.

2. Key recommendations

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

| Recommendation 1 (Money Laundering offence) | |
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| Rating: Largely compliant | |
| Recommendation of the MONEYVAL Report | <i>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. Please describe any steps taken on this issue since the evaluation</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | Under the auspices of the Advisory Authority for Combating Money Laundering, meetings took place between the FIU, public prosecutors and investigators of the Police. During these meetings the provisions of the Law regarding the Money Laundering Offence were analysed and in particular the elements of the offence. Emphasis was given to the issue of the Money Laundering offence as an autonomous offence and the evidence needed to establish the underlying predicate criminality. Meetings were also held with the Chief of Police and high ranking officials of the Cyprus Police where it had been decided that the new Guidance Note issued by MOKAS be distributed to all police investigators. Furthermore, during the same meeting it was decided to enhance the training seminars for all members of the police in all the Districts of the country. Same meetings and training seminars have been decided for the public prosecutors as well. |
| (Other) changes since the last evaluation up to 5 December 2006 | |
| Measures taken to implement the recommendations since the adoption of the first progress report | This issue continues to be of priority and addressed regularly in training seminars to the police investigators and public prosecutors. As a result more investigations are carried out involving 3 rd party Laundering and indeed we already had prosecutions as well as convictions. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other | |

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| enforceable means” and other relevant initiatives) | |
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| Recommendation 5 (Customer due diligence) I. Regarding financial institutions |
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| Rating: Partially compliant |
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| Recommendation of the MONEYVAL Report | <i>There is no general rule to identify the beneficial owner except in the AML Guidance Note to Banks issued by the Central Bank of Cyprus in November 2004.</i> |
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| Measures reported as of 5 December 2006 to implement the recommendation of the report | The Directive to insurance companies issued by the Insurance Control Service and the Directive issued to stockbrokers and investment service providers by the Securities and Exchange Commission explicitly provide that, in the case of privately owned companies, supervised entities should always identify the major beneficial shareholders. |
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| Measures taken to implement the recommendations since the adoption of the first progress report | <p>The new Law explicitly requires the identification and verification of identity of the beneficial owner(s) of corporate and legal entities. Article (2) of the Law provides the following definition for “beneficial owners:</p> <p>“beneficial owner” means the natural person or natural persons, who ultimately own or control the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:</p> <p>(a) In the case of corporate entities: the natural person or natural persons, who ultimately own or control a legal entity through direct or indirect ownership or control of a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, a percentage of 10% plus one share be deemed sufficient to meet this criterion; the natural person or natural persons, who otherwise exercise control over the management of a legal entity.</p> <p>(b) In the case of legal entities, such as foundations and legal arrangements, such as trusts, which administer and distribute funds: Where the future beneficiaries have already been determined, the natural person or natural persons who is the beneficiary of 10% or more of the property of a legal arrangements or entity; Where the individuals that benefit from the legal arrangement or entity have not yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(iii) The natural person or natural persons who exercise control over 10% or more of the property of a legal arrangement or entity.</p> <p>Article 61(1) of the Law requires, inter- alia, that the customer identification and due diligence procedures, include the following:</p> <p>(i) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;</p> <p>(ii) identifying the beneficial owner and taking risk-based and adequate measures to verify his identity based on documents, records or information issued or obtained from an independent, reliable source so that the person carrying on financial or other business is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer;</p> |
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| Recommendation of the MONEYVAL Report | <i>There are 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.</i> |
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| Measures taken to implement the Recommendation of the Report | With regard to the requirement for CDD measures for occasional wire transfers, it is noted that as from 1 January 2007, Cyprus applies European Union’s Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds which provides for verification of identity for non account holders when involved in a single or a series of operations exceeding Euro 1.000. With regard to points (2) and (3), the proposed amendment of the AML Law shall also cover the issues raised. |
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| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>Articles 58 and 60 of the Law require persons carrying on financial and other business to apply adequate and appropriate systems and procedures in relation to the identification of a customer's identity and exercise of due diligence in the following cases:</p> <ul style="list-style-type: none"> (i) when establishing a business relationship; (ii) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked; (iii) when there is a suspicion of money laundering or terrorist financing, regardless of the amount of the transactions; (iv) when there are doubts about the veracity or adequacy of previously obtained customer identification data, documents or information. <p>In addition, Cyprus applies, as a member of the European Union, Regulation (EC) No 1781/2006 on the information on the payer accompanying transfers of funds which provides for the identification and verification of identity of persons requesting the transfer of funds in excess of Euro1.000</p> |
| <p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</p> | |
| <p>Recommendations of the MONEYVAL report</p> | <p><i>There is 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.</i></p> |
| <p>Measures taken to implement the Recommendation of the Report</p> | <p>The Directives issued by the supervisory authorities (Central Bank of Cyprus, Insurance Control Service and Securities & Exchange Commission) provide that customers' identification should be made on the basis of documents issued by reputable sources and which are the most difficult to obtain illicitly, e.g. national identity card, passport, utility bills etc.</p> <p>The Directives issued by the Central Bank of Cyprus to banks and money transmitters require that supervised entities put in place adequate management information systems for the on-going monitoring of customers' accounts and transactions. Furthermore, the Central Bank of Cyprus's Directives as well as the Directive issued by the Insurance Control Service require that supervised entities should ensure that customer identification records remain up-to-date and relevant throughout the business relationship and should undertake, on a regular basis, or whenever there are doubts about the veracity of previously obtained identification data, reviews of existing records. If as a result of these reviews, the supervised entities become aware that they lack sufficient information about an existing customer, they are required to take all necessary action to obtain the missing information as quickly as possible.</p> |
| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>With respect the identification procedures using reliable and independent source documents it should be noted that Article 61(1) of the Law requires that the customer identification and due diligence procedures, include the following:</p> <ul style="list-style-type: none"> (i) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source; (ii) identifying the beneficial owner and taking risk-based and adequate measures to verify his identity based on documents, records or information issued or obtained from an independent, reliable source so that the person carrying on financial or other business is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer; (iii) obtaining information on the purpose and intended nature of the business relationship. <p>Furthermore, the Directives issued by supervisory authorities of the financial sector (CBC, CYSEC, ICCS) requires that banks and financial institutions should establish to their satisfaction that they are dealing with a real person (natural or legal) and obtain sufficient evidence of identity to establish that a prospective customer is who he/she claims to be. The verification procedures necessary to establish the</p> |

identity of the prospective customer should be based on reliable data, documents and information issued or obtained from independent reliable sources, i.e. those data, documents and information that are the most difficult to amend or obtain illicitly.

Concerning ongoing due diligence it should be noted that Article 61(1) (d) of the Law requires persons engaged in financial or other business to conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with data and information maintained by the person who carries on financial or other business in respect of the customer, the business and the risk profile of the customer, including the source of funds as well as ensuring that the documents, data or information held are kept up-to-date.

Article 60(d) of the Law requires persons carrying on financial or other business to apply customer identification and due diligence measures when there are doubts about the veracity or adequacy of previously obtained customer identification documents, data or information. Furthermore, article 62(6) of the Law requires the application of customer identification and due diligence procedures not only to new customers but also at appropriate times to existing customers, depending on the level of risk of being involved in money laundering or terrorist financing activities.

In addition to the above, the Directives issued by supervisory authorities of the financial sector (CBC, CYSEC, ICCS) require banks and financial institutions to ensure that their customer identification records remain completely updated with all relevant identification elements and information throughout the business relationship. In this respect, banks and financial institutions must examine and check on a regular basis the validity and adequacy of the customer identification data and information they maintain, especially those concerning high-risk customers. Furthermore, if at any time during the business relationship with an existing customer, a bank or financial institution becomes aware that reliable or adequate data and information are missing from the identity and the business/economic profile of the customer, then the bank or financial institution is required to take all necessary action, by applying the customer identification and due diligence procedures to collect the missing data and information, the soonest possible, so as to update and complete the customer's business/economic profile. In addition, banks and financial institutions should check the adequacy of the data and information held with regard to the customer's identity and business/economic profile, whenever an individual transaction takes place which appears to be unusual and/or significant compared to the normal pattern of transactions and the business/economic profile of the customer or there is a material change in the customer's legal status and situation.

Furthermore, the CBC Directive requires banks to introduce and implement adequate automated/electronic Management Information Systems which will be capable of supplying, on a timely basis, all the valid and necessary information for the identification, analysis and effective monitoring of customer accounts and transactions to Management, the Money Laundering Reporting Officer and other responsible officials based on the assessed risk of these accounts and transactions being used for money laundering or terrorist financing purposes.

The Directive of the Central Bank of Cyprus "A framework of principles of operation and criteria for assessment of banks' organizational structure, internal governance and internal control systems" which defines the "Principles for a sound and an effective operation of information technology systems in the context of managing a bank's operational risk" requires banks to apply for the systems and services provided through the internet, inter alia, the following:

- automated systems for the monitoring of transactions, whose effective operation will be based on the creation, by the bank, of statistical models of customers' transactions. These systems, based on the profile established for each customer, should be in a position to identify any transactions indicating extraordinary behaviour and produce, in real time, alerts for the investigation of potential cases of fraud;
- effective management of the risk of money laundering and terrorist financing by the installation of filters and monitoring tools/systems which, as a minimum, will impose limits on specific groups or categories of transactions, thus, providing the possibility of delaying the execution of a transaction until the verification of specified details etc;
- capability of easily accessing and processing the details of old transactions, thus, making it

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| | feasible to identify particularities and/or irregularities in transactions, which help to establish evidence and provide sufficient information to the supervisory authorities, especially in the cases of fraud, money laundering, terrorist financing, provision of investment services etc; |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |
| Recommendations of the MONEYVAL report | <p><i>The AML Guidance Notes - other than the G-Banks (AML Guidance Note to Banks issued by the Central Bank of Cyprus in November 2004) and the G-MTB (AML Guidance Note to Money Transfer Businesses, issued by the CBC in January 2005) - need to be enhanced with regard to inter alia</i></p> <ul style="list-style-type: none"> • <i>understanding ownership and control structures;</i> • <i>obtaining information on the purpose and nature of business relationships;</i> • <i>the application of CDD requirements for existing customers;</i> • <i>consideration of making STRs on terminating existing business relationships.</i> |
| Measures taken to implement the Recommendation of the Report | <p>The Directives issued by the Insurance Control Service and the Securities and Exchange Commission require that supervised entities establish at all times the major beneficial shareholders of corporate customers as well as the company’s nature and scale of activities. Furthermore, the Directive of the Insurance Control Service requires that insurance companies review, at regular intervals, identification records of existing customers for the purpose of identifying and obtaining any missing data. The proposed amendments of the Directive of the Securities and Exchange Commission shall impose a similar obligation on stockbrokers and investment services providers.</p> <p>With regard to the issue of considering the filing of an STR on terminating an existing business relationship, it is noted that according to Section 27 of the AML Law, a reporting obligation arises when a person ‘knows or reasonably suspects that another person is engaged in laundering offences’. Consequently, in the case that suspicions arise upon terminating a business relationship with a client, then a STR needs to be filed with MOKAS.</p> |
| Measures taken to implement the recommendations since the adoption of the first progress report | <p>Article 61(1) of the Law requires, inter-alia, that customer identification procedures and due diligence measures shall comprise the following:</p> <p>(a) identifying and verifying the customer's identity on the basis of documents, data or information issued or obtained from a reliable and independent source;</p> <p>(b) the verification of the beneficial owner’s identity and taking risk-based and adequate measures to verify his/her identity on the basis of documents, data or information issued or obtained from a reliable independent source so that the person carrying on financial or other business is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer; and</p> <p>(c) the collection of information on the purpose and intended nature of the business relationship;</p> <p>(d) Conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the information and data in the possession of the person engaged in financial or other business in relation to the customer, the business and risk profile, including where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date.</p> <p>Article 62(6) of the Law requires the application of customer identification and due diligence procedures not only to new customers but also at appropriate times to existing customers, depending on the level of risk of being involved in money laundering or terrorist financing activities.</p> <p>Article 62(1) of the Law requires that the verification of the identity of the customer and the beneficial owner is performed before the establishment of a business relationship or the carrying out of the transaction.</p> <p>Article 62(4) of the Law provides that in cases where the person engaged in relevant financial or other</p> |

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| | business activities is unable to comply with sub-paragraphs (a) to (c) of paragraph (1) of section 61, it may not carry out a transaction through a bank account, establish a business relationship or carry out the transaction, or must terminate the business relationship and shall consider making a report to MOKAS in accordance with sections 27 and 69 of this law. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

**Recommendation 5 (Customer due diligence)
II. Regarding DNFBP²**

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| Recommendation of the MONEYVAL report | <i>The 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.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | Section 62 (2) of the AML Law requires that customer identification procedures should be applied in respect of any one-off transaction when there is knowledge or suspicion that the customer is engaged in a money laundering offence or that the transaction is carried out on behalf of another person engaged in a money laundering offence. The Directives issued by the Institute of Certified Public Accountants of Cyprus addressed to accountants and auditors as well as the Directive issued by the Cyprus Bar Association addressed to lawyers require all obligated persons to obtain satisfactory evidence of identity of those to whom they provide services. As prescribed by the Directive, an individual’s name and date of birth should be verified by requesting official documents bearing a photograph while address verification should be made through home visit, a recent utility bill, credit reference agency search or checking the telephone directory. With regard to legal entities, verification of identity should be made through a company search and/or other commercial enquiries such as credit reference agency search or reference from a bank or another professional adviser. With regard to the requirements for on going due diligence, the Directives referred to above are in the process of being amended to cover the said issue. |
| Measures taken to implement the recommendations since the adoption of the first progress report | See answers to Recommendation 5 above regarding financial institutions |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |
| Recommendation of the MONEYVAL report | <i>The AML Guidance Notes need to be enhanced with regard to</i> <ul style="list-style-type: none"> • <i>understanding ownership and control structures;</i> • <i>obtaining information on the purpose and nature of business relationships;</i> • <i>undertaking enhanced due diligence for higher risk customers;</i> |

² i.e. part of Recommendation 12.

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| | <ul style="list-style-type: none"> • <i>the application of CDD requirements for existing customers;</i> • <i>consideration of making STRs on terminating existing business relationships.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | <p>The Directives to accountants/auditors and lawyers set as a principal requirement the identification of beneficial owners as well as the persons who have ultimate control or significant influence over the business and assets of their clients. Furthermore, they require the obligated persons to commence enquiries in order to establish that the entity exists for a legitimate trading or economic purpose. Furthermore, they are required to obtain a copy of their latest financial accounts and, if available, audited financial statements.</p> <p>The Institute of Certified Public Accountants of Cyprus and the Cyprus Bar Association are in the process of revising their Directives for the purpose of achieving compliance with the EU Third Money Laundering Directive and implementing the MONEYVAL recommendations. In this context, the revised Directive shall also deal with the issue of risk based approach to customer due diligence and the application of CDD requirements for existing customers.</p> <p>With regard to the issue of considering making a STR when terminating a business relationship, as already mentioned above, Section 27 of the AML Law imposes a reporting obligation on all persons who know or suspect that another person is engaged in a laundering offence. The said circumstances include the case of terminating a business relationship.</p> |
| Measures taken to implement the recommendations since the adoption of the first progress report | See answers to Recommendation 5 above regarding financial institutions. With regard to the recommendation of undertaking enhanced due diligence for higher risk customers, Section 64(1) of the Law requires the application of enhanced due diligence measures for non-face-to face business relationships, correspondent banking relationships and PEPs. In addition, Section 64 (2) of the Law requires that enhanced customer due diligence measures should be applied on a risk sensitive basis, in addition to the situations referred to in the Law, in other business relationships which by their nature present a higher risk of money laundering or terrorist financing. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Recommendation 10 (Record keeping)
I. Regarding Financial Institutions

Rating: Largely compliant

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| <i>Recommendation of the MONEYVAL report</i> | <i>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.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | <p>The proposed amendment to the AML Law shall clarify that the date on which an account is formally terminated shall be treated as the date as from which records should be maintained for a period of at least five years.</p> <p>With regard to the minimum information on transaction records that need to be maintained by insurance companies, the AML Law provides that records maintained by obligated persons should contain details relating to all transactions carried out in the course of relevant financial business.</p> <p>The Directive of the Insurance Control Service which is in the process of being revised shall prescribe the minimum information on transaction records that need to be maintained.</p> |
| Measures taken to implement the recommendations since the adoption of | <p>Article 68(1) of the Law requires persons carrying financial or other business to retain records and keep for a period of at least five years the following documents:</p> <ul style="list-style-type: none"> (i) Copies of the customer identification evidence; (ii) the relevant evidence and details of all business relationships and transactions, including |

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| <p>the first progress report</p> | <p>documents for the recording of transactions in the accounting books; and (iii) the relevant documents and correspondence with customers and other persons with whom a business relationship is maintained.</p> <p>Article 68(2) of the Law, specifically states that the prescribed period of five years commences with the date on which the transactions were completed or the business relationship terminated.</p> <p>In addition to the provisions of article 68(1) of the Law, the CYSEC Directive requires that Financial Organisations records should also include internal and external suspicion reports, annual reports of the money laundering compliance officer, information for suspicion of money laundering or terrorist financing that the Financial Organisation decided not to act upon, records of training of employees and information for the effectiveness of training.</p> <p>Moreover ICCS Orders Require that, for the purpose of enabling MOKAS to compile a satisfactory audit trail of illicit money and to establish the business profile of any policy holder and customer under investigation, insurance companies and intermediaries must ensure that in the case of a money laundering investigation by MOKAS, they will be able to provide the following information: the identity of the policy holder(s); the identity of the beneficial owner(s); the value and volume of premiums or number of policies; for selected policy(ies): the origin of the 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.</p> |
| <p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p> | |

**Recommendation 10 (Record keeping)
II. Regarding DNFBP³**

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| <p><i>Recommendation of the MONEYVAL Report</i></p> | <p><i>The AML Law needs amendment so that records are kept for five years after the formal termination of a business relationship.</i></p> |
| <p>Measures reported as of 5 December 2006 to implement the recommendation of the report</p> | <p>See reply above.</p> |
| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>See reply above</p> |
| <p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p> | |

³ i.e. part of Recommendation 12.

**Recommendation 13 (Suspicious transaction reporting)
I. Regarding Financial Institutions**

Rating: compliant

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)

**Recommendation 13 (Suspicious transaction reporting)
II. Regarding DNFBP⁴**

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)

Special Recommendation II (Criminalise terrorist financing)

Rating: Largely compliant

Recommendation of the MONEYVAL Report

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. Reliance on Section 58 of the Criminal Code is insufficient for these purposes.

Measures reported as of 5 December 2006 to implement the recommendation of the report

On 22.7.2005 and soon after the evaluation visit and before the adoption of the Evaluation Report, the Law was amended with the deletion of section 9 of the “International Convention for the Suppression of the Financing of Terrorism (Ratification and other provisions) Law of 2001.” With this amendment the Cypriot citizens/nationals are now covered under the provisions of the Law.

Measures taken to implement the recommendations since the adoption of the first progress report

Since a relevant amendment of the law was made and reference for this was given in the first progress report, there is no need for any further action to be taken.

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)

⁴ i.e. part of Recommendation 16.

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| Recommendation of the MONEYVAL Report | <i>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.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | An amendment to section 4 of the “International Convention for the Suppression of the Financing of Terrorism (Ratification and other provisions) Law of 2001”, has been drafted criminalising the collection of funds by any person as follows: “Any person who collects funds knowing that they are to be used by a terrorist organisation or an individual terrorist, commits an offence punishable with imprisonment up to 10 years and/or a fine of CY€1.000,000 or both such imprisonment and fine.” The proposed amendment will be submitted before the Council of Ministers for approval and then to the Parliament for enactment. |
| Measures taken to implement the recommendations since the adoption of the first progress report | Based on further consideration on this issue it was decided not to proceed with the abovementioned amendment and it was considered more appropriate to include such provision in the new AML/TF Law. Therefore, the criminalization of this type of activity was made in section 5 of the new AML/TF Law and as such is considered now to be a predicate offence. Specifically, section 5 (b) includes in the Predicate offences the following as predicate offences: “(b) Financing of Terrorism offences as these are specified in Article 4 of the Financing of Terrorism (Ratification and other provisions) Law of 2001 and 2005, as well as the collection of funds for the financing of persons or organizations associated with terrorism”. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Special Recommendation IV (Suspicious transaction reporting)

I. Regarding Financial Institutions

Rating: Compliant

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| Recommendation of the MONEYVAL Report | <i>More training and guidance to support the reporting of suspicious transactions related to financing of terrorism.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | Even though financing of terrorism is covered in the training organised for the financial institutions and in particular in relation to the reporting of suspicions transactions the training on this particular issue has been enhanced after the adoption of the Evaluation Report. Furthermore, members of the Financial Institutions participate in various training seminars or conferences organised abroad on this issue. |
| Measures taken to implement the recommendations since the adoption of the first progress report | The Directives issued by supervisory authorities of the financial sector(CBC, CYSEC, ICCS) contain lists of examples of suspicious and unusual transactions/activities related to both money laundering and terrorist financing and provide guidance to banks and financial institutions on the legal and illegal sources and methods of funding terrorist organisations. Guidance is also given on non –profit and charitable organisations which may be used by terrorist groups as a means of raising funds and/or serving as cover for transferring funds in support of terrorist acts, and the ways with which such organisations may be used. The said examples and guidance form part of the training provided by banks and financial institutions to their employees as well as MOKAS and CBC when invited to participate in training seminars organised by professional associations and market participants. According to ICCS Orders (third edition) the minimum duties of a MLCO should include (amongst others) the provision of advice and guidance to other employees of the insurance company / insurance intermediary on the correct implementation of procedures and controls against money laundering and terrorist financing. |

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| | <p>It is noted that in the cases where the insurance intermediary is a natural person or a very small legal entity, the training and education arrangements should be undertaken by the insurance company which they represent.</p> <p>Further training is organized on a permanent basis and all the new Directives issued by the Supervisory Authorities cover also in more detail issues related to TF.</p> |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Special Recommendation IV (Suspicious transaction reporting)

II. Regarding DNFBP

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| Recommendation of the MONEYVAL Report | <i>More training and guidance to support the reporting of suspicious transactions related to financing of terrorism.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | <p>Even though financing of terrorism is covered in the training organised for the financial institutions and in particular in relation to the reporting of suspicions transactions the training on this particular issue has been enhanced after the adoption of the Evaluation Report.</p> <p>Further more, members of the DNFBP participate in various training seminars or conferences organised abroad on this issue.</p> |
| Measures taken to implement the recommendations since the adoption of the first progress report | Further training is organized on a permanent basis and all the new Directives issued by the Supervisory Authorities cover also in more detail issues related to TF. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

3. Other Recommendations

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

Recommendation 12 (DNFBP)

Rating: Partially Compliant

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| Recommendation of the MONEYVAL Report | <i>No PEP provisions or provisions on misuse of technological developments in the Guidance Notes.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the | The Institute of Certified Public Accountants of Cyprus and the Cyprus Bar Association are in the process of revising their Directives for the purpose of securing compliance with the EU’s Third Money Laundering Directive and the MONEYVAL’s recommendations. To this end, the revised Directives |

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| report | shall include provisions regarding relationships with PEPs and the misuse of technological developments. |
| Measures taken to implement the recommendations since the adoption of the first progress report | <p>Article 2 of the Law defines PEPs as follows: “politically exposed persons” means the natural persons who have their place of residence in another European Union Member State or in third countries and who are or have been entrusted with prominent public functions and their immediate family members or persons known to be close associates of such persons.</p> <p>Section 64(1)(c) of the Law requires in respect of transactions or business relationships with politically exposed persons residing in a country member of the European Economic Area or in a third country, persons carrying on financial or other business to:</p> <ul style="list-style-type: none"> (i). have appropriate risk-based procedures to determine whether the customer is a politically exposed person; (ii). have Senior Management approval for establishing business relationships with such customers; (iii). take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction; (iv). conduct enhanced ongoing monitoring of the business relationship. <p>Article 66(1)(3) of the Law requires persons carrying financial or other business activities to pay special attention to every threat or danger for money laundering or terrorist financing which may result from products or transactions which may favour anonymity, and shall take measures, if needed, to prevent their use for such activities.</p> <p>In the new Directives issued by the Supervisory Authorities there are specific provisions on PEPs.</p> |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Recommendation 14 (Protection and no tipping-off)

Rating: Partially compliant

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| Recommendation of the MONEYVAL Report | <i>Tipping off seems unreasonably restricted, and the safe harbour provisions should clearly cover all civil and criminal liability.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | <p><u>Tipping off</u> Even though the existing provisions of section 48 of the Law cover instances where STRs have been made and investigations have been initiated, legislative drafting is underway in order to adopt a clear separate provision prohibiting the disclosure of the fact that a STR or related information was reported or otherwise provided to the FIU.</p> <p><u>Safe harbour provisions</u> As it is the legal situation in Cyprus, safe harbour provisions are already in place in relation to civil liability of persons reporting or disclosing information in relation to money laundering suspicions. Section 26 (2) (a) of the AML Law clearly provides that: “(2) 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-</p> <ul style="list-style-type: none"> (a) the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract." <p>However, it is not clear to the Cyprus Authorities which safe harbour provisions should exist for criminal liability and in particular for which offence such a “safe harbour provision” should exist. As it is now the legal situation, failing to report money laundering knowledge or suspicion is a criminal</p> |

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| | <p>offence (section 27(1) of the AML Law). Furthermore, according to subsection (3) of section 27, such criminal proceedings can be initiated only with the express approval of the Attorney General. It is our position that according to our AML Law it is obligatory to report and criminal liability arises in the case of a failure to report and not vice versa. Thus, in our opinion, the provisions of the AML Law on this issue are considered as adequate⁵.</p> |
| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>An amendment of the existing section 48 has been made under the new AML/TF Law and now the said section reads as follows:</p> <p>(48) “Any person who discloses that, information or other relevant material regarding knowledge or suspicion for money laundering have been submitted to the Unit or makes 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.”</p> <p>Regarding the “safe harbour” provisions, the relevant section of the Law is section 26(2)(a) which has been amended and in the new AML/TF Law the said section now reads as follows:</p> <p>26 (2) (a) “The bona fide disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract; and does not result in any kind of responsibility for the said person.”</p> |
| <p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p> | |

Recommendation 15 (Internal controls, compliance and audit)

Rating: Partially compliant

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| <p>Recommendation of the MONEYVAL Report</p> | <ol style="list-style-type: none"> 1. <i>Terrorist financing is not covered;</i> 2. <i>access to information by the Compliance Officer is not necessarily timely;</i> 3. <i>there is mostly no requirement for an independent audit function to test compliance;</i> 4. <i>no reference in the Guidance Notes to training on developments in money laundering and terrorist financing techniques, methods and trends;</i> 5. <i>no specific provisions on employee screening.</i> |
| <p>Measures reported as of 5 December 2006 to implement the recommendation of the report</p> | <ol style="list-style-type: none"> 1. The Ratification Law of the United Nations Convention for the Suppression of the Financing of Terrorism enacted on 22 November, 2001, provides that terrorist financing and other linked activities are considered to be predicate offences for the purposes of Cyprus anti money laundering legislation. Therefore, the Directives issued by supervisory authorities requiring the implementation of preventive measures against money laundering equally apply to the prevention of terrorist financing activities. 2. The Directives issued by all supervisory authorities require that the person appointed as a Money Laundering Compliance Officer should be sufficiently senior to command the necessary authority. Effectively, and as a result of their high position in the organisation’s structure, these senior members of staff have unrestricted and timely access to customer identification data and other CDD information, transaction records and other relevant information. 3. The Directive issued to banks by the Central Bank of Cyprus requires that a bank’s internal audit |

⁵ See paragraphs 13 and 4 of the Meeting Report of the 23rd Plenary where the Plenary took note of the Scientific Expert’s opinion that *Recommendation 14 requires clear immunity from civil, criminal or disciplinary action, if damages occur and the disclosure was wrongly made. Also a reporting entity in some countries may need civil and/or criminal protection from a slander action against them. This is why criminal liability for non-disclosure does not provide complete protection from all civil and criminal challenges to a reporting entity arising out of a disclosure made in good faith and why such protection from all criminal and civil liability needs to be in place*

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| | <p>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 verify compliance with the provisions of Central Bank of Cyprus’s Directives. On 19 June 2006, the Central Bank of Cyprus issued a Directive on the “Framework of Principles of Operation and Criteria of Assessment of Banks’ Organisational Structure, Internal Governance and Internal Control Systems” which, inter-alia, requires that all banks establish an Internal Audit Unit which is administratively independent of any other units which have operational responsibilities and which should report directly to the banks’ Board of Directors through the Audit Committee. Furthermore, it requires that banks whose total assets exceed the amount of Euro 1.7 billion should establish a Compliance Unit which should also be administratively independent of any other units having operational responsibilities.</p> <p>4. Section 58 of the AML Law requires that all persons engaged in relevant and other financial business provide education and training to their employees so as to make them aware of the policies and procedures put in place to prevent money laundering and the legislation relating to money laundering. Although not explicitly stated in the Law or the Directives issued by supervisory authorities, educational and training seminars deal, besides the above, with emerging trends and methods used by money launders for carrying out their illicit activities. The Directives of supervisory authorities, which are in the process of being revised, shall also cover the above issue.</p> <p>5. Screening procedures for hiring or recruiting employees have always been in place and include written and oral exams with face-to-face interviews. It is noted however that the recommendation 15.4 of the Methodology does not require the inclusion of such a provision in the anti-money laundering law.</p> |
| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>1. According to Article 5 of the Law predicate offences are:</p> <ul style="list-style-type: none"> a) all criminal offences punishable with imprisonment exceeding one year from which proceeds were generated that may become the subject of a money laundering offence as defined in Article 4. b) Terrorist financing offences as defined in Article 4 of the Ratification Laws of the United Nations Convention for Suppression of the Financing of Terrorism of 2001 and 2005, as well as the collection of funds for the financing of persons or organisations associated with terrorism. c) Offences for drug trafficking as defined in article 2 of the Law. <p>With regard to the terrorist financing offences, it should be noted that on 22 November 2001, the House of Representatives enacted the Ratification Law of the United Nations Convention for Suppression of the Financing of Terrorism. As a result of the above, terrorist financing is considered to be a criminal offence punishable with 15 years imprisonment or a fine of 1.7 mn Euro or both of these penalties. Furthermore, the above Law contains a specific Article which provides that terrorist financing and other linked activities are considered to be predicate offences for the purposes of Article 5 of the Prevention and Suppression of Money Laundering Activities Law of 2007. Consequently, suspicions of possible terrorist financing activities or collection of funds for terrorism financing should be immediately disclosed to MOKAS under Articles 27 and 69 of the Law.</p> <p>2. Article 69(1) of the Law requires, inter-alia, persons carrying on financial and other business to allow the MLCO to have access to other information, records and details which may be of assistance to him/her and which is available to the person carrying on financial or other business. In addition, the Directives issued by supervisory authorities of the financial sector (CBC, CYSEC, ICCS) require banks and financial institutions that the Money Laundering Compliance Officer, the Assistant Money Laundering Compliance Officers and other members of staff who have been assigned with the duty of implementing the procedures for the prevention of money laundering and terrorist financing, have complete and timely access to all information concerning customers’ identity, transactions’ records and other relevant files and information maintained by the bank or financial institution so as to be fully facilitated in the effective discharge of their duties.</p> <p>3. The Directives issued by supervisory authorities of the financial sector (CBC, CYSEC, ICCS) require banks and financial institutions’ Internal Audit units to review and evaluate on a regular basis, the effectiveness and adequacy of the policy, procedures and controls applied for preventing money laundering and terrorist financing and verify the level of compliance with the provisions of the Directives and the Law.</p> <p>In addition, on 19 June 2006, the Central Bank of Cyprus issued a Directive on the “Framework of</p> |

Principles of Operation and Criteria of Assessment of Banks’ Organisational Structure, Internal Governance and Internal Control Systems” which, inter-alia, requires that all banks establish an Internal Audit Unit which is administratively independent of any other units which have operational responsibilities and which should report directly to the banks’ Board of Directors through the Audit Committee.

1. Article 58(f) and (e) of the Law requires banks and financial institutions to provide training to their employees in relation to

- systems and procedures for the prevention of money laundering and terrorist financing,
- the Law,
- the Directives issued by the competent Supervisory Authority, and
- the European Union’s Directives with regard to the prevention of the use of the financial system for the purposes of money laundering and terrorist financing.
- Ongoing training of their employees in the recognition and handling of transactions and activities which may be related to money laundering or terrorist financing.

In addition, the Directives issued by supervisory authorities of the financial sector (CBC, CYSEC, ICCS), inter alia, require banks and financial institutions to ensure that their training programme includes the provision of education on the latest developments in anti-money laundering and terrorist financing including the practical methods and trends used by criminals for this purpose.

2. Paragraph 6 of the CBC Directive requires banks to apply explicit procedures and standards of recruitment and evaluation of new employees’ integrity. The same requirement is included in the ICCS orders.

According to the Investment Services and Activities and Regulated Markets Law of 2007 that implements the European Directive 2004/39/EC (‘MIFID’), the persons who effectively direct the business of an Investment Firm shall be of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management of the Investment Firm. In addition all the persons employed by an Investment Firm must be of sufficiently good repute and have the necessary skills, knowledge and expertise for performing their assigned responsibilities.

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)

Recommendation 16 (DNFBP)

Rating: Partially compliant

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| Recommendation of the MONEYVAL Report | <ol style="list-style-type: none"> 1. <i>tipping off provisions are unreasonably restricted;</i> 2. <i>“safe harbour” provisions do not clearly cover all civil and criminal liability.</i> 3. <i>Regarding R. 15, no requirement for training on countering terrorist financing;</i> 4. <i>audit function not necessarily independent;</i> 5. <i>no requirement for training on money laundering developments;</i> 6. <i>lack of time or resources may be used as a reason not to provide training;</i> 7. <i>no requirement for staff screening procedures.</i> |
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| Measures reported as of 5 December 2006 to implement the recommendation of the report | <ol style="list-style-type: none"> 1. Tipping off provisions – see reply in Rec. 14 above. 2. “Safe harbour” provisions – see reply in Rec. 14 above. 3. Training on countering terrorist financing is already covered by the law. Specifically, section 13 of the International Convention for the Suppression of the financing of Terrorism (Ratification and other provisions) Law of 2001, provides for the direct application and implementation of Part VIII of the Prevention and Suppression of Money Laundering Activities law where under section 58(1)(c) the obligation for training is included. Training provided to employees of banks and financial institutions as well as lawyers and accountants cover among other things the issue of terrorist financing, its |
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| | <p>characteristics and methods used by terrorists for funding their illicit acts.</p> <p>4. The Guidance Notes for accountants/auditors and lawyers require that firms make arrangements to verify, on a regular basis, compliance with policies, procedures and controls relating to money laundering activities. In view of the fact that firms of lawyers and accountants/auditors are small with a limited number of staff, the setting up of an independent audit function is not feasible. The Institute of Certified Public Accountants has outsourced the quality control function of accountancy firms to the Association of Chartered Certified Accountants of UK. The outsourcing agreement includes also examination of anti money laundering procedures.</p> <p>5. Section 58 (c) of the anti-money laundering law expressly provides for the obligation to provide training: “No person shall, in the course of relevant financial business carried on by him in or from within the Republic, form a business relationship or carry out an one-off transaction with or on behalf of another, unless that person – (c) provides <u>from time to time for the training of his employees</u> 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.”</p> <p>It is obvious and it goes without saying that on going training i.e. training from time to time, covers money laundering developments.</p> <p>Apart from the above legislative provisions, the guidance notes for DNFBP include extensive provisions on training and education.</p> <p>For example, in the Guidance Notes for accountants such extensive provisions on training are provided in paragraphs 7.01-7.12. It is also noted that in paragraph 7.09 regarding training and MLCOs it is expressly stated that “The MLCO will require extensive initial and on-going instruction on the validation and reporting of suspicious transactions, on the feedback arrangements <u>and on new trends and patterns of criminal activity.</u>”</p> <p>6. The Guidance Note issued to accountants/auditors requires the education and training of employees, as per the requirements of the Law, and stipulates that 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. The reference made to the availability of time and resources is not considered to be restrictive as the overriding legal requirement is for all persons subject to the Law to provide the necessary education and training to their employees. However, in order to avoid any misunderstanding, the reference to availability of time and resources in connection with the training obligations shall be deleted from the Guidance Notes to accountants/auditors.</p> <p>7. Screening procedures for hiring or recruiting employees have always been in place and include written and oral exams with face-to-face interviews. It is noted however that the recommendation 15.4 of the Methodology does not require to include such a provision in the anti-money laundering law. It is further noted that partners, managers and qualified staff of firms of lawyers and accountants/auditors are members of their respective professional bodies and have to adhere to specific ethical standards. Hence, staff employed by such firms are of high calibre and integrity.</p> |
| <p>Measures taken to implement the recommendations since the adoption of the first progress report</p> | <p>1.”Tipping off provisions”- see reply in Rec.14 above 2. “Safe harbour” provisions – see reply in Rec. 14 above Points 3 & 5: See reply to Recommendation 15 above with regard to the provisions of the Law. Regarding points 4, 6, 7 see reply given in the First Progress Report.</p> |
| <p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means”</p> | |

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| Recommendation 17 (Sanctions) | |
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| Rating: Partially compliant | |
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| Recommendation of the MONEYVAL Report | <i>Administrative fine of up to three thousand pounds is not effective, proportionate and dissuasive; no sanctions imposed.</i> |
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| Measures reported as of 5 December 2006 to implement the recommendation of the report | The Administrative fine will be increased and the relevant provision of the AML Law will be amended accordingly. |
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| Measures taken to implement the recommendations since the adoption of the first progress report | <p>Administrative powers of supervisory authorities have been significantly strengthened under the new Law. According to Article 59(6) of the Law, supervisory authorities may take measures and impose sanctions on any person under their supervision who fails to comply with the Law or the Directives of the supervisory authorities or the European Union Regulation 1781/2006. The measures and sanctions provided in the Law are the following:</p> <ul style="list-style-type: none"> (i). Require the supervised person to take such measures within a specified time limit set by the supervisory authority for remedying the situation. (ii). Impose an administrative fine up to 200.000 euro after first giving the right to the supervised person be heard, and in case the infringement continues, to impose an administrative fine up to 1.000 euro for every day the infringement continues. iii). To amend or suspend or revoke the license of operation of the supervised person. <p>In addition to the Law and according to the Investment Services and Activities and Regulated Markets Law of 2007 that implements the European Directive 2004/39/EC ('MIFID'), the Cyprus Securities and Exchange Commission may take the following measures and impose the following sanctions to Investment Firms that fail to comply with the CYSEC Directive:</p> <ul style="list-style-type: none"> i. Withdrawal of the Investment Firm authorization, ii. Suspension of the Investment Firm authorization iii. An administrative fine not exceeding one hundred and seventy five thousand euro (€175.000), and in case of relapse or continuation of the violation an administrative fine not exceeding three hundred and fifty thousand euro (€350.000). |
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| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives) | |
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| Recommendation of the MONEYVAL Report | <i>No specific supervisory authority for insurance intermediaries appointed under the AML Law.</i> |
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| Measures reported as of 5 December 2006 to implement the recommendation of the report | A relevant proposal will soon be submitted to Council of Ministers so as to cover such activities as well. |
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| Measures taken to implement the recommendations since the adoption of the first progress | <p>According to Article 59(1) of the Law, the Superintendent of Insurance has been designated as the supervisory authority in relation to activities determined by the Law on Insurance Services and Other Related Issues of 2002-2008, which covers the activities carried at by insurance intermediaries.</p> <p>The new ICCS Directives (third edition) are issued for life insurance companies (referred in the Directives as "Insurance companies"), and insurance intermediaries licensed to transact life-class</p> |
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| report | business (referred in the Directives as “insurance intermediaries”). |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Recommendation 24 (DNFBP – regulation, supervision and monitoring)

Rating: Partially compliant

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| Recommendation of the MONEYVAL Report | <i>Designate a supervisory or other authority for real estate agents, dealers in precious metals, dealers in precious stones and trust and company services providers.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | Regarding real estate agents and dealers in precious metals and stones, as we have mentioned above, the Council of Ministers appointed the FIU (MOKAS) as the Supervisory Authority for these two groups of professionals. Based on this decision, the FIU is in the process of discussing the whole issue with representatives of these professionals, in order to issue Guidance Notes in the near future and organise training seminars. Regarding trust and company service providers see reply to specific question 4 (c) below. |
| Measures taken to implement the recommendations since the adoption of the first progress report | Developments include the issue of Directives to these professionals by the FIU and the training seminars which have been organized. Under the draft Law for the licensing and regulation of trust and company services providers, the Central Bank of Cyprus will be designated as the competent supervisory authority for AML/CFT purposes. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Recommendation 32 (Statistics)

Rating: Partially compliant

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| Recommendation of the MONEYVAL Report | <i>Statistical information often incomplete and insufficiently refined for full review of effectiveness of system.</i> |
| Measures reported as of 5 December 2006 to implement the recommendation of the report | Soon after the evaluation visit, the Advisory Authority discussed the need for more detailed statistics to be kept by the Ministry of Justice and the Police. In this respect the statistical information kept by the Ministry of Justice and the Police has been improved. It is noted that the statistics kept by the FIU (e.g. number of STRs, freezing orders, confiscation orders, requests to and from FIUs and Rogatory letters) have always been detailed and satisfactory. |
| Measures taken to implement the recommendations since the adoption of the first progress report | One important development on the issue of statistics is the introduction into the AML/TF Law of a specific section under the title “Statistical Data” in section 76 (1) (2), which reads as follows: 76 (1) “The competent Supervisory Authorities, the Unit, the Ministry of Justice and Public Order, the Police, the Customs and Excise Department, have to maintain comprehensive statistics on matters related to their competences.” 76 (2) “Such statistics shall as a minimum cover the suspicious transaction reports made to the Unit, the inspections made by the Supervisory Authorities, the administrative penalties and the |

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| | <p>disciplinary sanctions imposed by the Supervisory Authorities, the number of cases investigated, the number of criminal prosecutions, the number of convictions and the assets frozen, seized or confiscated.”</p> <p>Moreover, the systems for keeping statistical data by all authorities involved have been developed and improved.</p> |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

Special Recommendation VIII (Non-profit organisations)

Rating: Partially compliant

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| Recommendation of the MONEYVAL Report | <i>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.</i> |
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| Measures reported as of 31 August 2006 to implement the recommendation of the report | <p>Special review of the Charities Law, Cap. 41, and the Societies and Institutions Law (57/1972) has been made by the Ministry of the Interior upon the advice of the Attorney General and the conclusion is that the provisions of the Laws are considered to be adequate.</p> <p>Specifically, non-profit organisations such as Charities, are registered and licensed according to the “Charities Law, Cap. 41”. Every application to register a Charity, shall be in writing, signed by the persons making the same and shall contain the following particulars:</p> <p style="padding-left: 40px;">Section 4 of this Law provides as follows:</p> <ul style="list-style-type: none"> “(a) the objects of the charity and the rules and regulations of the same, together with the date of and parties to every deed, will or other instrument creating, constituting or regulating the same; (b) 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; (c) the names and residences of the trustees of such charity; (d) the proposed title of the corporation; (e) the proposed device of the common seal, which shall in all cases bear the name of incorporation.” <p>The certificate of the incorporation is published on the Official Gazette of the Republic of Cyprus. Sections 10 and 11 of the same Law provide as follows:</p> <p>“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:-</p> <ul style="list-style-type: none"> (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 balances 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, <p>which accounts shall be certified under the hand of one or more of the said trustees.</p> <p>11. The Council of Ministers 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 or such other person or persons as he may deem fit to appoint.”</p> <p>Similar provisions with the “Charities Law”, are contained in the “Societies and Institutions Law (Law. No. 57/1972)” which regulates this type of non-profit organisations.</p> <p>These Institutions also need to be licensed and registered and their accounts also have to be audited.</p> |
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| Measures taken to implement the recommendations since the adoption of the first progress report | According to the above laws monitoring is continuing and is an ongoing process. |
| (other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives) | |

4. Specific Questions

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| a) <i>The examiners considered that all persons conducting financial business should be regulated to the same standard, and recommended, to this end, greater co-ordination between the supervisory authorities. Please describe any developments on this issue since the evaluation.</i> | <p>Within the Advisory Authority all Supervisory Authorities are represented and the Central Bank of Cyprus has the leading role in relation to the measures taken by the Supervisory Authorities.</p> <p>Since the evaluation, a number of meetings took place where this issue was further raised and discussed. In this regard it was decided that the Central Bank of Cyprus shall proceed with the drafting of a revised Directive to Banks, incorporating the MONEYVAL recommendations as well as the EU Third Money Laundering Directive, which will be subsequently discussed and shared with the other supervisory authorities for the purpose of achieving a uniform approach on AML/CFT guidance to financial institutions.</p> <p>There is an extensive and established cooperation and coordination among supervisory authorities through an MOU signed between them which covers all supervisory/regulatory matters, including the issue of money laundering prevention. Furthermore, in line with the recommendation made in the MONEYVAL Evaluation Report, meetings of technical experts from the supervisory authorities are held on a regular basis for the purpose of co-coordinating the drafting and issue of Directives to supervised entities and achieving a uniform approach on the implementation of preventive measures.</p> |
| b) <i>Has Cyprus introduced 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 (Criterion 18.3 of the Methodology)?</i> | <p>The Directive of the Central Bank specifically prohibits the opening of accounts in the name of Banks without a physical presence (Shell Banks). With regard to the issue raised above, the Directive to banks issued by the Central Bank of Cyprus is in the process of being revised. This matter shall be covered and clarified in the revised Directive.</p> |
| c) <i>What further progress has been made in the introduction of company service provider regulation?</i> | <p>The Cyprus authorities have drafted legislation which provides for the licensing and regulation of trust and company service providers in line with the requirements of the EU’s Third Money Laundering Directive and FATF’s recommendations. The draft legislation is now the subject of discussion with the interested professional associations of the private sector and the competent governmental bodies before being finalized and be forwarded to the Council of Ministers for approval and submission to the House of Representatives. It is expected that the draft legislation will be enacted and come into force in the second half of 2007</p> |

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| <p>d) <i>Has legislation concerning the supervision of trust service providers been enacted which requires such providers to obtain, verify and retain adequate, accurate and current records on the beneficial ownership and control of legal arrangements (criteria 34.1 and 34.2 of the Methodology)?</i></p> |
| <p>See answer to (c) above.</p> |
| <p>e) <i>Have on-site inspections by the Bar Association commenced in respect of lawyers? If so, what AML/CFT issues are specifically covered?</i></p> |
| <p>The requirement for on-site inspections by the Bar Association is not included in the Methodology. Thus, apart from the anti-money laundering Directives and Training Seminars there is no intention nor obligation to conduct on-site inspections.</p> |
| <p>f) <i>In relation to trusts, has the guidance to the investment brokers been amended to include reference to the identity of settlers and beneficiaries?</i></p> |
| <p>The Cyprus Securities and Exchange Commission is in the process of revising its Directives to stockbrokers and investment service providers. This issue shall be dealt with in the revised Directives.</p> |
| <p>g) <i>What progress has been made either by amendment to the law or Guidance Notes to ensure that non-bank financial institutions pay special attention to complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purposes (criterion 11.1; see Action Plan)?</i></p> |
| <p>Section 58 of the Law requires that banks, non-banking financial institutions and DNFBP maintain appropriate procedures of internal control, communication and detailed examination of any transactions which by their nature may be considered to be associated with money laundering for the purpose of preventing and forestalling money laundering. The Directives issued by the Insurance Control Service and the Securities and Exchange Commission contain examples of suspicious transactions and activities as a means of assisting supervised entities in detecting and recognizing transactions which may be associated with money laundering.</p> |
| <p>h) <i>Do the AML Guidance Notes now cover techniques of terrorist financing (Criterion 25.1 of the Methodology)?</i></p> |
| <p>The supervisory authorities are in the process of revising their Directives in the context of which guidance shall also be given on terrorist financing techniques. However, it is noted that the FIU with circulars has submitted to the Financial Institutions cases which cover techniques on terrorist financing, including typologies.</p> |
| <p>Additional questions since the 1st progress report</p> |
| <p><i>Do all supervisory inspections cover CFT as well as AML issues and what training on CFT issues has been given to supervisory authority staff since the adoption of the 3rd report?</i></p> |
| <p>The inspections carried out by supervisory authorities of the financial sector (CBC, CYSEC, ICCS) cover CFT as well as AML issues. It is noted that, the CBC has created an AML/CFT examination unit which is responsible to carry out specialized on-site examinations and off-site monitoring in relation to AML/CFT issues. Furthermore, the Directives issued by supervisory authorities contain lists of indicative examples (“red flags”) of suspicious and unusual transactions/activities related to terrorist financing and provide guidance to banks and financial institutions on the legal and illegal sources and methods of funding terrorist organisations in order to assist them to comply with legislative and regulatory requirements. Guidance is also given on non –profit and charitable organisations which may be used by terrorist groups as a means of raising funds and/or serving as cover for transferring funds in support of terrorist acts, and the ways with which such organisation may be used. The said examples and guidance form part of the in house training provided to the supervisory staff for the discharge of their supervisory duties.</p> |
| <p><i>What further progress has been made in the introduction of company service provider regulation? Have there been any AML/CFT inspections of such persons?</i></p> |

The Central Bank of Cyprus in cooperation with the Ministry of Finance and the Unit for Combating Money Laundering (“MOKAS”) is at the final stages for completing the preparation of a proposed law which will regulate the activities of Trust and Company Service Providers. The proposed law, which will designate the Central Bank of Cyprus as the regulatory and supervisory authority for Trust and Company Service Providers, including their anti-money laundering activities, is expected to be submitted to the House of Representatives early in 2009.

It is worth mentioning that the majority of such services are provided by lawyers and accountants who, according to the AML Law, are regulated on the matter by their professional associations.

It is noted that, under the new AML Law, persons providing trust and company services have been brought under obligated entities and are, therefore, required to apply preventive measures against money laundering and terrorist financing.

Have the revised Directives been issued to stockbrokers and investment service providers to ensure that identification covers both the settlers and the beneficiaries?

The Law and the CYSEC Directive requires Financial Organisations in the case where a person acts on behalf of a company or a legal arrangement such as a trust, to verify that this person is appropriately authorised for that purpose and his identity is ascertained and verified. The Law also requires that the identity of beneficial owners of legal entities, such as foundations and legal arrangements such as trusts, to be established as follows:

- (i) When the future beneficiaries have already been determined, the natural person or natural persons who are the beneficiaries of 10% or more of the property of a legal arrangement or entity.
- (ii) When the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates.
- (iii) The natural person or natural persons who exercise control over 10% or more of the property of a legal arrangement or entity.

When Financial Institutions enter into business relationships with trusts, they must ascertain the legal substance of the trust, its name and date of establishment, and verify the identity of the trustors, trustees and beneficial owners.

Furthermore, Financial Institutions should ascertain the nature of activities and purpose of establishing the trust as well as the source and origin of funds requesting sight of the relevant extracts from the trust deed as well as obtaining other relevant information from the trustees.

Have the resources provided both in personnel and IT to the ICCS been augmented since the adoption of the 3rd Report

Since the adoption of the last report, the ICCS has been augmented. More qualified staff has been recruited to the ICCS, as follows: 2 Senior Insurance Officers, who are qualified Actuaries and have been appointed as Deputy Superintendents of Insurance, 2 Insurance Officers who are qualified Chartered Accountants, 4 Insurance Officers with economics and financial academic background, 1 Administrative Officer with accounting and financial academic background, 2 Assistant Insurance Officers with academic background.

All the above-mentioned new staff constitutes a significant addition to the existing professional staff of the ICCS which has in this way almost doubled since 2005, now totaling 17 persons. (The clerical staff, amounting to 7 persons remained largely the same in numbers since 2005).

Also, since June 2008 the ICCS has introduced a complete computerization system which permits the electronic submission of returns by supervised entities as well as the analysis of data, identification of risks and the assumption of corrective action.

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC) ⁶

| Implementation / Application of the provisions in the Third Directive and the Implementation Directive | |
|--|--|
| <p>Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.</p> | <p>Cyprus Law (enacted on 13 December 2007) and supervisory directives issued thereafter on the basis of the said Law have fully transposed the Third Directive, but on certain cases, Cyprus has adopted stricter provisions than those set out in the Directive .Indicative examples of the latter are the following:</p> <ul style="list-style-type: none"> • Article 2(2) of the EU Directive provides that Member States may decide that legal and natural persons who carry financial activities on an occasional or very limited basis may be exempted from the obligation to apply AML/CFT preventive measures:. The Cyprus Law covers all persons engaged in financial activities without any exemption. • With regard to the definition of the beneficial owner, Cyprus Law (Article 2) provides that this is the natural person who owns or controls more than 10% of the share capital or assets of corporate or legal entities, instead of 25% provided in the EU Directive. • Article 62 of the Law requires that the verification of the identity of the customer and the beneficial owner is made before the establishment or during the establishment of a business relationship. No derogation has been given to banks under Article 9(4) of the EU Directive which allows opening of accounts and fulfilment of CDD afterwards. • Article 68(1) of the Law requires, inter-alia, to retain and keep for a period of at least five years copies of the customer identification evidence whereas the EU Directive permits the maintenance of the references of the evidence of identity. |

| Beneficial Owner | |
|---|--|
| <p>Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive⁷ (please also provide the legal text with your reply)</p> | <p>The definition of beneficial owner as set out in the Law corresponds to the 3rd Directive apart from the percentage shareholding which is lower than the one provided in the EU Directive</p> <p>Particularly, article 2 of the Law provides the following definition of beneficial owner: “beneficial owner” means the natural person or natural persons, who ultimately own or control the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:</p> <p>(a) In the case of corporate entities:</p> <ul style="list-style-type: none"> (i) the natural person or natural persons, who ultimately own or control a legal entity through direct or indirect ownership or control of a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, a percentage of 10% plus one share be deemed sufficient to meet this criterion; (ii) the natural person or natural persons, who otherwise exercise control over the management of a legal entity. <p>(b) In the case of legal entities, such as foundations and legal arrangements, such as trusts, which administer and distribute funds:</p> <ul style="list-style-type: none"> (i) Where the future beneficiaries have already been determined, the natural person or natural persons who is the beneficiary of 10% or more of the property of a legal arrangements or entity; (ii) Where the individuals that benefit from the legal arrangement or entity have not yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; (iii) The natural person or natural persons who exercise control over 10% or more of the property of a legal arrangement or entity. |

⁶ For relevant legal texts from the EU standards see Appendix II

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

Risk-Based Approach

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| Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations. | <i>Article 61(2) of the Law</i> requires all persons carrying on financial or other business to apply customer identification and due diligence procedures but allows them to determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship, product or transaction. However, the persons engaged in financial or other business must be able to demonstrate to the competent supervisory authorities that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing. |
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Politically Exposed Persons

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| Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive ⁸ are provided for in your domestic legislation (please also provide the legal text with your reply). | <p>Article (2) of the Law provides that politically exposed persons means natural persons who are residing in another Member State of the European Union or a third country and who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons.</p> <p>In addition to the above the CBC Directive provides that, PEPs, include the following natural persons:</p> <p>(i) natural persons who have, or had a prominent public function in a foreign country:</p> <ol style="list-style-type: none"> 1. heads of State, heads of government, ministers and deputy or assistant ministers; 2. members of parliaments; 3. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances; 4. members of courts of auditors or of the boards of central banks; 5. ambassadors, chargés d'affaires and high-ranking officers in the armed forces; 6. members of the administrative, management or supervisory bodies of State-owned enterprises. <p>None of the categories set out above shall be understood as covering middle ranking or more junior officials.</p> <p>(ii) “Immediate family members ” of PEPs include the following persons:</p> <ol style="list-style-type: none"> 1. the spouse; 2. any partner considered by national law as equivalent to the spouse; 3. the children and their spouses or partners; 4. the parents. <p>(iii) Persons known to be “close associates” of a politically exposed person include the following:</p> <ol style="list-style-type: none"> 1. any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations with a person referred to in subparagraph (i) above. 2. any natural person who has sole beneficial ownership of a legal entity (company) or legal arrangement (trust) which is known to have been set up for the benefit de facto of the person referred to in subparagraph (i) above. <p>Finally, the CBC Directive provides that without prejudice to the application, on a risk sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of the above, for a period of at least one year, banks shall not be obliged to consider such a person as politically exposed.</p> <p>In addition, Article 64(1)(c)of the Law provides that, in respect of transactions or business relationships with PEPs residing in a country of the European Economic Area or a third country, persons carrying on financial or other business should apply the following:</p> <ol style="list-style-type: none"> (i). have appropriate risk-based procedures to determine whether the customer is a PEP; (ii). have Senior Management approval for establishing business relationships with such |
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⁸ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

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| | <p>customers;</p> <p>(iii). take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction;</p> <p>(iv). conduct enhanced ongoing monitoring of the business relationship.</p> |
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“Tipping off”

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| <p>Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.</p> | <p>The prohibition is not limited to the transaction report and it also covers ongoing ML and TF investigations. In particular section 48 of the new AML/TF Law provides as follows:</p> <p>(48) “Any person who discloses that, information or other relevant material regarding knowledge or suspicion for money laundering have been submitted to the Unit or makes 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.”</p> |
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| <p>With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.</p> | <p>Section 49 of the new AML/TF Law provides for exceptions from the restriction on the disclosure of information adopting the relevant provision of the 3rd EU Directive.</p> <p>In particular section 49 provides as follows:</p> <p>49 (1) “Without prejudice to the provisions of section 48 of this Law, persons engaged in financial business according to section 2 of this Law, may disclose to other persons belonging to the same group and are operating in countries of the European Economic Area or third countries which, according to a decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, they have been designated as imposing procedures and measures for preventing money laundering and Financing of Terrorism equivalent to those laid down by the EU Directive, that information has been submitted to the Unit by virtue of section 27 of this Law or that the Unit conducts or will probably conduct investigations for money laundering or terrorist financing offences.</p> <p>It is provided that, for the purposes of this section “group” means a group of companies which consists by the parent company, subsidiary companies as well as entities in which the parent company or its subsidiaries own directly or indirectly at least 20% of the voting right or the share capital of the company. The terms parent and subsidiary companies have the meaning ascribed to them by the International Financial Reporting Standards issued by the International Accounting Standards Board.</p> <p>(2) Without prejudice to the provisions of section 48, persons acting in the exercise of their professional activities as auditors, external accountants, independent legal professionals, may disclose to other persons who perform their professional activities within the same legal person or network which operates in countries of the European Economic Area or third countries which according to the decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing, have been designated as countries which impose procedures and measures for preventing money laundering and terrorist financing, equivalent to those laid down by the EU Directive, information forwarded to the Unit by virtue of section 27 of this law, or that the Unit conducts or will probably conduct inquiries for money laundering or terrorist financing offences. A “network” means the larger structure to which the person belongs and which shares common ownership, management or compliance control.</p> <p>(3) Persons referred to in paragraph (1) and (2) above may exchange between them information related to the same customer and the same transaction involving two or more persons provided that they are situated in countries of the European Economic Area or third countries which according to the decision of the Advisory Authority for Combating Money Laundering and Terrorist Financing have been designated as countries which impose procedures and measures for preventing money laundering and terrorist financing equivalent to those laid down by the EU Directive and that the persons who exchange between them the information belong to the same business purposes of the prevention of money laundering and terrorist financing.</p> <p>(4) The disclosure or the exchange of information according to paragraph (1), (2) and (3) above,</p> |
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| | <p>shall not be treated as a breach of any contractual or other legal restriction on the disclosure of information.</p> <p>(5) The disclosure to the competent Supervisory Authorities from persons engaged in financial business and other business activities that information has been forwarded to the Unit, by virtues of section 27 of this law, or that the Unit conducts or will probably conduct investigations for money laundering and terrorist financing offences, does not constitute breach of any contractual or other legal restriction on the disclosure of information.”</p> |
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“Corporate liability”

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| <p>Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.</p> | <p>Corporate liability can be applied and is indeed applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person. This kind of liability arises under the general provisions of the Criminal Code and Criminal Law.</p> <p>This issue was also covered by the Ratification Law of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Law No. 51(III)/2007 (Article 10(1)), which has superior force over domestic legislation.</p> <p>Furthermore, this liability is covered as well under section 10(1) of the Ratification Law of the Convention on the Protection of the European Communities’ financial interests, Law No. 37(III)/2003, dated 3.10.2003.</p> |
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| <p>Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.</p> | <p>Yes, corporate liability can be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.</p> <p>This issue is covered by the Ratification law of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, Law No. 51(III)/2007 (Article 10(2)), which has superior force over domestic legislation.</p> <p>Furthermore, this liability is covered as well under section 10(2) of the Ratification Law of the Convention on the Protection of the European Communities’ financial interests, Law No. 37(III)/2003, dated 3.10.2003.</p> |
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DNFBPs

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| <p>Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.</p> | <p>The obligation applies to all natural and legal persons trading in all goods where payments are made in cash in an amount of €15,000 or over. In particular section 2 of the new AML/TF law regarding this issue provides as follows:</p> <p>(d) “Trading in goods such as precious stones or metals, wherever payment is made in cash and in an amount of €15,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.”</p> |
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6. Statistics

Money Laundering and Financing of terrorism cases

a) Statistics provided in the last progress report

| 2004 (for comparison purposes) | | | | | | | | | | | | |
|-----------------------------------|------------------|---------|-----------------|---------|---------------------|---------|-----------------|-----------------------------|-----------------|-----------------|----------------------|-----------------|
| | Investigations * | | Prosecutions ** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 325 | 404 | 19 | 19 | 6 | 6 | 7 | 1.543.390 & 4 plots of land | | | 4 | 2.026.667 |
| FT | 2 | 14 | | | | | | | | | | |

Note: Furthermore, the FIU issued 9 Administrative restraint orders affecting bank accounts

* Number of cases, for the current year, submitted to the prosecutor's offices by the Police.

** Number of cases dealt with by the prosecutors (cases dismissed + cases for which a demand for investigation was filed + cases under investigation).

| 2005 | | | | | | | | | | | | |
|------|-----------------|---------|----------------|---------|---------------------|---------|-----------------|--|-----------------|-----------------|----------------------|-----------------|
| | Investigations* | | Prosecutions** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 379 | 415 | 6 | 6 | 1 | 1 | 9 | 890.382 & 5 offices 6 plots of land 1 shop | | | 1 | 5,605 |
| FT | 9 | 38 | | | | | | | | | | |

| 2006 (until 1.7.2006) | | | | | | | | | | | | |
|-----------------------|-----------------|---------|----------------|---------|---------------------|---------|-----------------|------------------------|-----------------|-----------------|----------------------|-----------------|
| | Investigations* | | Prosecutions** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 409 | 456 | 12 | 12 | 7 | 7 | 4* | 2.227.375 & three cars | | | 1 | 1.329.791 |
| FT | 1 | 4 | | | | | | | | | | |

Note: Furthermore, the FIU issued 13 Administrative restraint orders affecting bank accounts

*2 of them were Foreign Restraint Court Orders registered and enforced by Cyprus Courts upon an application made by the FIU

b) Please complete, to the fullest extent possible, the following tables since the adoption of the progress report.

The numbers below represent the cases investigated by the Police or by the Police in co-operation with the FIU:

| 2006 (from 1 st July to 31 st December) | | | | | | | | | | | | |
|---|-----------------|---------|----------------|---------|---------------------|---------|-----------------|-----------------|-----------------|-----------------|----------------------|-----------------|
| | Investigations* | | Prosecutions** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 103 | 31 | 84 | 21 | 57 | 11 | 3* | 503.000 | | | 1 | 1.315.248 |
| FT | | | | | | | | | | | | |

| 2007 | | | | | | | | | | | | |
|-----------|-----------------|---------|----------------|---------|---------------------|---------|-----------------|-----------------|-----------------|-----------------|----------------------|-----------------|
| | Investigations* | | Prosecutions** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 23 | 34 | 16 | 25 | 3 | 6 | 4* | 945.221 | | | 1 | 7.388.602 |
| FT | | | | | | | | | | | | |

| 2008 | | | | | | | | | | | | |
|-----------|-----------------|---------|----------------|---------|---------------------|---------|-----------------|-----------------|-----------------|-----------------|----------------------|-----------------|
| | Investigations* | | Prosecutions** | | Convictions (final) | | Proceeds frozen | | Proceeds seized | | Proceeds confiscated | |
| | cases | persons | cases | persons | cases | persons | cases | amount (in EUR) | cases | amount (in EUR) | cases | amount (in EUR) |
| ML | 72 | 56 | 58 | 47 | 39 | 18 | 7* | 7.603.653 | | | 3* | 34.853 |
| FT | | | | | | | | | | | | |

*For the year 2006

2 of the freezing orders for the amount of €485.000 are Foreign Court Restraint Orders registered and enforced in Cyprus upon an application to the Court filed by the FIU.

*For the year 2007

2 of the freezing orders for the amount of €137.010 are Foreign Court Restraint Orders registered and enforced in Cyprus upon an application to the Court filed by the FIU.

*For the year 2008

2 of the confiscation orders for the sum of €27.623 are External Court Confiscation Orders registered and enforced in Cyprus upon an application to the Court filed by the FIU.

1 of the freezing orders for the sum of €145.800 is an external Court Restraint Order registered and enforced in Cyprus upon an application to the Court filed by the FIU.

Administrative orders for the postponement of transactions issued by the FIU affecting bank accounts:

2006: 4
2007: 10
2008: 19

7. STR/CTR

a) Statistics provided in the last progress report

| 2004 (for comparison purposes) | | | | | | | | | | | |
|---|------------------------------|------------|----|---------------------|----|--|-----|----------------------|----|-------------|----|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | |
| Monitoring entities, e.g. | transactions above threshold | suspicious | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments*** | | convictions | |
| | | ML | FT | ML | FT | ML | FT | ML | FT | ML | FT |
| commercial banks | | 109 | - | 143 | - | N/A | N/A | 19 | - | 6 | - |
| insurance companies | | | | | | | | | | | |
| Notaries | | | | | | | | | | | |
| Currency exchange | | | | | | | | | | | |
| broker companies | | | | | | | | | | | |
| securities' registrars | | | | | | | | | | | |
| lawyers | | 1 | - | | | | | | | | |
| accountants/auditors | | | | | | | | | | | |
| company service providers | | | | | | | | | | | |
| trusts | | | | | | | | | | | |
| money remittance | | 2 | - | | | | | | | | |
| police | | 29 | - | | | | | | | | |
| customs | | 2 | - | | | | | | | | |
| others (Government Departments, Embassies, Individuals, Publications) | | 10 | - | | | | | | | | |
| Total | | 153 | | | | | | | | | |

*** Number of final judgments of conviction, while the data in brackets applies to final convictions in cases, instituted by the FIU.

| 2005 | | | | | | | | | | | |
|--|------------------------------|------------|----|---------------------|----|--|-----|----------------------|----|-------------|----|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | |
| Monitoring entities, e.g. | transactions above threshold | suspicious | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments*** | | convictions | |
| | | ML | FT | ML | FT | ML | FT | ML | FT | ML | FT |
| commercial banks | | 114 | - | 151 | - | N/A | N/A | 6 | - | 1 | - |
| Post office | | | | | | | | | | | |
| Currency exchange | | | | | | | | | | | |
| Insurance companies | | | | | | | | | | | |
| broker companies | | 3 | - | | | | | | | | |
| Gaming saloons | | | | | | | | | | | |
| Savings and credit houses | | 3 | - | | | | | | | | |
| leasing companies | | 4 | - | | | | | | | | |
| casinos | | | | | | | | | | | |
| Saving banks | | | | | | | | | | | |
| State agencies | | 2 | - | | | | | | | | |
| Foreign FIU | | 5 | - | | | | | | | | |
| Exclude by UPPD from Cash | | 13 | - | | | | | | | | |
| Total | | 3 | - | | | | | | | | |
| | | 4 | - | | | | | | | | |
| | | 151 | | | | | | | | | |

*** Number of final judgments of conviction, while the data in brackets applies to final convictions in cases, instituted by the FIU.

| 2006 | | | | | | | | | | | |
|---|------------------------------|-------------------------|----|---------------------|----|--|-----|----------------------|----|-------------|----|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | |
| Monitoring entities, e.g. | transactions above threshold | suspicious transactions | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments | | convictions | |
| | | ML | FT | ML | FT | ML | FT | ML | FT | ML | FT |
| commercial banks | | 147 | - | 179 | - | N/A | N/A | 12 | - | 7 | - |
| insurance companies | | 1 | - | | | | | | | | |
| Notaries | | | | | | | | | | | |
| Currency exchange | | | | | | | | | | | |
| broker companies | | 1 | - | | | | | | | | |
| securities' registrars | | | | | | | | | | | |
| lawyers | | 5 | - | | | | | | | | |
| accountants/auditors | | 1 | - | | | | | | | | |
| company service providers | | | | | | | | | | | |
| trusts | | | | | | | | | | | |
| supervisory authority | | 3 | - | | | | | | | | |
| money remittance | | 9 | - | | | | | | | | |
| police | | 7 | - | | | | | | | | |
| customs | | - | - | | | | | | | | |
| others (Government Departments, Embassies, Individuals, Publications) | | 5 | | | | | | | | | |
| Total | | 179 | | | | | | | | | |

b) Please complete the fullest extent possible, the following tables since the adoption of the 1st progress report

Explanatory note:

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

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

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

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

The number of indictments and convictions shown below do not include proceedings and results initiated from reports submitted to the FIU by the Police. These are shown in the previous tables.

| 2006 (from 1 st July to 31 st December) | | | | | | | | | | | | | | | |
|---|--|---------------------------------------|----|---------------------|----|--|------------------|----------------------|---------|-------|---------|-------------|---------|-------|---------|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | | | | | |
| Monitoring entities, e.g. | reports about transactions above threshold | reports about suspicious transactions | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments | | | | convictions | | | |
| | | ML | FT | ML | FT | ML | FT | ML | | FT | | ML | | FT | |
| | | | | | | | | cases | persons | cases | persons | cases | persons | cases | persons |
| commercial banks | | 57 | - | 67 | | N/A ⁹ | N/A ⁹ | 1 | 1 | - | - | 1 | 1 | - | - |
| insurance companies | | 1 | | | | | | | | | | | | | |
| Notaries | | N/A | | | | | | | | | | | | | |
| Currency exchange | | N/A | | | | | | | | | | | | | |
| broker companies | | 1 | | | | | | | | | | | | | |
| securities' registrars | | - | | | | | | | | | | | | | |
| lawyers | | 1 | | | | | | | | | | | | | |
| accountants/auditors | | - | | | | | | | | | | | | | |
| company service providers | | - | | | | | | | | | | | | | |
| trusts | | - | | | | | | | | | | | | | |
| supervisory authority | | 1 | | | | | | | | | | | | | |
| money remittance | | - | | | | | | | | | | | | | |
| police | | 4 | | | | | | | | | | | | | |
| customs | | - | | | | | | | | | | | | | |

⁹ The FIU of Cyprus is a law enforcement authority with investigative power. All STRs received by the Unit are investigated by the FIU. No STRs are forwarded to other law enforcement authorities.

| | | | | | | | | | | | | | | | |
|---|--|-----------|--|--|--|--|--|--|--|--|--|--|--|--|--|
| others (Government Departments, Embassies, Individuals, Publications) | | 2 | | | | | | | | | | | | | |
| Total | | 67 | | | | | | | | | | | | | |

| 2007 | | | | | | | | | | | | | | | |
|---|--|---------------------------------------|---------|---------------------|---------|--|---------|----------------------|---------|-------|---------|-------------|---------|-------|---------|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | | | | | |
| Monitoring entities, e.g. | reports about transactions above threshold | reports about suspicious transactions | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments | | | | convictions | | | |
| | | ML | FT | ML | FT | ML | FT | ML | | FT | | ML | | FT | |
| | | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons |
| commercial banks | | 172 | 4 | | | | | | | | | | | | |
| insurance companies | | - | | | | | | | | | | | | | |
| Notaries | | N/A | | | | | | | | | | | | | |
| Currency exchange | | N/A | | | | | | | | | | | | | |
| broker companies | | - | | | | | | | | | | | | | |
| securities' registrars | | - | | | | | | | | | | | | | |
| lawyers | | 4 | | | | | | | | | | | | | |
| accountants/auditors | | 1 | | 205 | 4 | | | | | | | | | | |
| company service providers | | - | | | | N/A | N/A | 4 | 6 | 0 | 0 | 2 | 4 | 0 | 0 |
| trusts | | - | | | | | | | | | | | | | |
| supervisory authority | | 5 | | | | | | | | | | | | | |
| money remittance | | - | | | | | | | | | | | | | |
| police | | 13 | | | | | | | | | | | | | |
| customs | | 3 | | | | | | | | | | | | | |
| others (Government Departments, Embassies, Individuals, Publications) | | 7 | | | | | | | | | | | | | |
| Total | | 205 | | | | | | | | | | | | | |

| 2008 | | | | | | | | | | | | | | | | | |
|---|--|---------------------------------------|----------|---------------------|---------|--|---------|----------------------|---------|-------|---------|-------------|---------|-------|---------|--|--|
| Statistical Information on reports received by the FIU | | | | | | | | Judicial proceedings | | | | | | | | | |
| Monitoring entities, e.g. | reports about transactions above threshold | reports about suspicious transactions | | cases opened by FIU | | notifications to law enforcement/prosecutors | | indictments | | | | convictions | | | | | |
| | | ML | FT | ML | FT | ML | FT | ML | | FT | | ML | | FT | | | |
| | | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons | cases | persons | | |
| commercial banks | | 217 | | | | | | | | | | | | | | | |
| insurance companies | | - | | | | | | | | | | | | | | | |
| Notaries | | N/A | | | | | | | | | | | | | | | |
| Currency exchange | | N/A | | | | | | | | | | | | | | | |
| broker companies | | 1 | | | | | | | | | | | | | | | |
| securities' registrars | | - | | | | | | | | | | | | | | | |
| lawyers | | 3 | | 255 | 3 | N/A | N/A | 5 | 7 | 0 | 0 | 2 | 3 | 0 | 0 | | |
| accountants/auditors | | 1 | | | | | | | | | | | | | | | |
| company service providers | | - | | | | | | | | | | | | | | | |
| trusts | | - | | | | | | | | | | | | | | | |
| supervisory authority | | 6 | | | | | | | | | | | | | | | |
| money remittance | | - | | | | | | | | | | | | | | | |
| police | | 15 | | | | | | | | | | | | | | | |
| customs | | 3 | | | | | | | | | | | | | | | |
| others (Government Departments, Embassies, Individuals, Publications) | | 9 | | | | | | | | | | | | | | | |
| Total | | 255 | 3 | | | | | | | | | | | | | | |

Note:

1. Persons include natural and legal persons

APPENDIX I - 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 | |
| Criminalization 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 criminalization 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. |
| Criminalization 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.¹⁰ 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 authorizing access to funds/assets that are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S / |

¹⁰ On 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and this difficulty no longer applies.

| | |
|--|---|
| | <p>Res / 1452 (2002);</p> <ul style="list-style-type: none"> • 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. |
| Law enforcement, prosecution and other competent authorities (R.27, 28, 30 and 32) | <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. |
| 3. Preventive Measures– Financial Institutions | |
| Risk of money laundering or financing of terrorism | <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. |
| Financial institution secrecy or confidentiality (R.4) | <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. |
| Customer due diligence, including enhanced or reduced measures (R.5 to 8) | <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 |

| | |
|--|---|
| | <p>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);</p> <ul style="list-style-type: none"> • 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). • 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 |

| | |
|--|--|
| | <p>least five years following the termination of the business relationships (Criterion 10.2 of the Methodology);</p> <ul style="list-style-type: none"> • 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); |

| | |
|---|---|
| | <ul style="list-style-type: none"> • 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 |

| | |
|--|---|
| | <p>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);</p> <ul style="list-style-type: none"> - 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 Organizations | |
| 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-coordinated response to AML/CFT issues: (e.g. co-coordinating 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 criminalization (see above)¹¹; • 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. |

¹¹ 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.

APPENDIX II

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

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

(a) in the case of corporate entities:

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

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

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

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

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

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

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

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

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

Article 2

Politically exposed persons

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

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

(b) members of parliaments;

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

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

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

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

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

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

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

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

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

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

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

