

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

MONEYVAL(2016)3

Montenegro

First Compliance Report

4th round evaluation

6 April 2016

Montenegro is a member of MONEYVAL. This compliance report was adopted at MONEYVAL's 50th Plenary Meeting (Strasbourg, 12-15 April 2016). For further information, please refer to MONEYVAL website: <http://www.coe.int/moneyval>.

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4th round evaluation of Montenegro First Compliance report

1. General update

Note: This section should only cover a brief general update on :

- 1. ML/FT risks and vulnerabilities as well as any trends identified based on national reviews/assessments*
- 2. List of recent AML/CFT legislation, regulations and guidance adopted and in force*

[to be completed]

After the decision has been taken on 47th Moneyval Plenary Meeting, under its Compliance Enhancing Procedures, concerning the adoption of the IV Round Mutual Evaluation, Montenegro has gone and is still going through numerous activities and efforts to improve the system of countering money laundering and financing of terrorism.

Apart from introducing new legal solutions, or adapting the existing ones to better meet the standards, one of the very important projects that was conducted and finalized was the National Risk Assessment. The tool that was used was the National Money Laundering and Terrorist Financing Risk Assessment Tool developed and provided by the World Bank. The assessment was supported also by the OSCE Office Montenegro, together with the European Commission Office in Montenegro. This was an overreaching project involving 53 representatives from 25 different institutions. Institutions, organizations and industries represented were: APMLTF, Courts (different levels), Prosecution Offices (different levels), Ministry of Finance, Ministry of Interior, Ministry of Defence, Ministry of Justice, Ministry of Foreign Affairs, Police Administration, Customs Administration, Tax Administration, State Property Administration, Inspection Administration, Central Registry of Commercial Courts, National Statistics Agency (MONTSTAT), Central Bank, Securities Commission, Insurance Supervision Agency, Games on Chance Administration, National Security Agency, Lawyers Chamber, Notaries Chamber, Certified Accountants and Auditors Institute, Central Depository Agency and Chamber of Commerce.

NRA working group had Chief Coordinator, Secretary and seven different working groups with their chiefs and deputies, with a specific sub-group for risk assessment on terrorism financing, all of which were conducting the risk assessment on money laundering and terrorism financing with respect to the following areas: I group – pecuniary gain from criminal acts with the sub-group on terrorism financing risk, II group – risk exposure at the national level, III – banking sector vulnerability, IV – securities sector vulnerability, V – insurance sector vulnerability, VI – sector of other financial institutions vulnerability, VII – non-financial sector vulnerability with the sub-group on terrorism financing. The project was formally launched in March 2014 and the report was adopted by the Government in December 2015.

As a result NRA determined that basically two criminal offences bring the highest possible risk to money laundering prevention. These criminal offences are trade in narcotic drugs on international level and usury. The international element is dominant in respect to trade in narcotic drugs and several indictments confirm the analysis.

When speaking about trends and typologies, several were identified in the past period of which few are given below. First typology would be: numerous transfers totalling significant amounts of money made by foreign natural/legal persons, from abroad to the accounts opened in Montenegrin banks (own accounts or accounts of the mutually connected natural/legal persons). The amounts are then transferred based on different grounds, such as invoices for which the reporting entity is not in position to fully verify the correctness or based on loan contracts. These amounts are then transferred to the accounts of legal/natural persons abroad, based on same or similar grounds as the incoming transfers. Second typology would be: cash deposits made by several (mutually connected) persons in amounts often below the threshold or slightly above it with no clear purpose which from the accounts are soon after transferred to the accounts abroad, based on sales contracts, loans contracts or invoices which are doubtful. Third typology would be: numerous non-resident legal persons perform high turnovers on the accounts in a relatively short period of time, with the incoming transfers from

numerous legal persons from different countries, based on invoices. These amounts are soon than transferred to the accounts of other legal persons abroad, based on different invoices. Large transfers in rounded amounts are made soon one after another and the incoming transfers are followed by fast withdrawals, meaning that the amounts are just passing through the account and are further on transferred to the accounts of other numerous legal entities having accounts open in large number of countries. Fourth typology would be: non-resident legal person is receiving incoming transfers from abroad from several non-resident legal persons with significant amount of money being transferred from the account from off-shore destinations. Authorized non-resident natural person of this non-resident legal person is withdrawing major part of transferred amounts with similar reasoning "for business travel. The funds transferred in described manner were usually used for real-estate trade". Focusing on these patterns reporting entities were gathered for meetings and discussions, so as to better understand and based on it counter these activities. Specific typologies or patterns with reference to terrorism financing were not so to say recognized, since Montenegro as a system has not yet had experiences with this problem, but as a way of theoretical knowledge special attention is given to money remitters such as Western Union, wherefore legal environment has been improved, as well as trainings on this issue.

In the previous period Montenegro encountered numerous demands and obligations as being the EU accession candidate and at time awaiting for the NATO candidacy status. Particular emphasis and focus were given to organized crime issues, therefore in this context legislation has undergone through serious analysis, such as the organizational structures of some institutions, while some new were introduced. With regard to the system of money laundering and terrorism financing prevention, following was introduced:

- Law on Prevention of Money Laundering and Terrorism Financing (Official Gazette of Montenegro no.33/14, dated 4th August 2014.);
- Rulebook on Conditions and Manners of Data Delivery on Cash Transactions in the Amount of at Least 15.000€ and Suspicious Transactions (Official Gazette of Montenegro no. 49/14, dated 20th November 2014.);
- Rulebook on the Manner of Work of Reporting Entity, Manner of Conducting Internal Control, Data Keeping and Protection and the Manner of Record Keeping and Education of Employees (Official Gazette of Montenegro no. 48/14, dated 13th November 2014.);
- Rulebook on Guidelines for Developing Analysis and Risk Factors with the Purpose of Preventing Money Laundering and Terrorism Financing (Official Gazette of Montenegro no. 53/14, dated 19th December 2014.);
- Rulebook on Indicators for Recognizing Suspicious Clients and Transactions (Official Gazette of Montenegro no. 50/14, dated 28th November .2014.);
- Guidelines on Risk Analysis for the Purpose of Money Laundering and Terrorism Financing Prevention (Official Gazette of Montenegro no. 12/15, dated 16th March 2015) ;
- Methodology for creating the list of countries, adopted 15th May 2015;
- Reporting Entities Control Department Procedures- adopted on 1st September 2015;
- Reporting Entities Control Department Methodology- adopted on 1st September 2015;
- Data Dissemination Procedures APMLTF – adopted on 1st September 2015;
- APMLTF Guidelines for Auditors - adopted on 1st September 2015;
- Current Records Category List with Keeping Deadlines– 15th December 2015;
- Law on the Constitutional Court of Montenegro (Official Gazette of Montenegro no. 11/15) and entered into force on 20th March 2015;
- Law on Courts (Official Gazette of Montenegro no. 11/15) and entered into force on 20th March 2015;
- Law on Judicial Council and Judges (Official Gazette of Montenegro no. 11/15) and entered into force on 20th March 2015
- Law on State Prosecution (Official Gazette of Montenegro no. 11/15)and entered into force on 20th March 2015
- Law on the Special State Prosecutor's Office (Official Gazette of Montenegro no. 10/15, and entered into force on 18th March 2015);
Significant innovations in these laws (Law on the Constitutional Court of Montenegro, Law on Courts, Law on Judicial Council and Judges, Law on State Prosecution and Law on the Special State Prosecutor's Office are the main precondition for further reforms in judiciary, fight against corruption and protection of human rights;
- Rulebook on internal organization and systematization of working positions at the Ministry of Internal Affairs , adopted on 19th March 2015;

- Payment System Law (Official Gazette of Montenegro no. 62/13 and 06/14) came into force on 8th January 2014 and its implementation started on 9th January 2015;
- *The Guidelines on Money Laundering and Terrorism Financing Risk Analysis in Life Insurance Sector*, adopted on 28th May 2015;
- Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism for the participants in the postal services market, adopted on 12th March 2015.
- Guidelines for risk analysis aimed at preventing money laundering and terrorism financing for securities market participants, adopted in January 2015;
- Law on Prevention of Corruption (Official Gazette of Montenegro no. 53/14 of 19/12/2015) came into force on 27th December 2014 and its implementation started on 1st January 2016;
- Customs Service Law (Official Gazette of Montenegro no. 3 of 15th January 2016).

The Government of Montenegro recently proposed introduction of a new criminal offense "Participation in foreign armed formations", and the Parliament supported this initiative through the adoption of the Law on Amendments to the Criminal Code of Montenegro ("Official Gazette of Montenegro" no. 14/15), in March 2015.

- Law on Amendments to the Criminal Procedure Code ("Official Gazette of Montenegro" no. 35/15) entered into force on 15th July 2015.
- Law on Compensation of Victims of Violent Crimes ("Official Gazette of Montenegro" no. 35/15) entered into force on 15th July 2015).
- Law on Seizure and Confiscation of Material Benefit Derived from Criminal Activities, ("Official Gazette of Montenegro" no. 58/15) entered into force on 8th November 2015.)

In December 2015 Government of Montenegro adopted the Countering violent extremism strategy 2016 – 2018. The CVE Strategy contains priority areas and goals for counter-extremism in Montenegro, cross-cutting issues related to countering extremism, and steps to be taken in the future, as a basis for the development of the Action Plan for implementation of this Strategy.

The first Strategy for Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing (further on: Strategy), developed in 2010, covered the period 2010-2014. In order to meet the obligation of reporting to the Government on the implementation of the Strategy (twice a year), the National Commission in charge for its implementation adopted the VII Report on the Implementation of the Strategy Action Plan (2012-2014) in December 2014. This was also the final report on the implementation of the first Strategy. The report contains a review of the measures realized in the period July – December 2014. Since the period of validity of the Strategy 2010-2014 expired, the final Report on its implementation stated that the National Commission would prepare the new Strategy for the period 2015-2018. The new Strategy for Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing 2015-2018 was adopted in May 2015. The National Inter-Institutional Operational Team, established by the Bureau for Operational Coordination of the work of Security Services, in accordance with the conclusions of the Government of Montenegro, is in charge for monitoring the implementation of the Strategy 2015-2018 and accordingly developed Action Plan 2015-2016. The Operational Team consists of: Special State Prosecutor's Office, High Court in Podgorica, Ministry of Justice, Ministry of Interior and Police Directorate, Ministry of Defense together with the Supreme Command, National Security Agency, Administration for the Prevention of Money Laundering and Terrorist Financing, National Security Authority, Tax Administration and Customs Administration. Also, the Operational Team could be supported by: Bar Association, Insurance Supervisory Agency, Agency for Electronic Communications and Postal Services, Central Bank of Montenegro, Judicial Training Center of Montenegro, Securities Commission, Ministry of Economy, Ministry of Sustainable Development and Tourism, Ministry of Transport and Maritime Affairs, Notary Chamber, Police Academy, Secretariat of Judicial Council of Montenegro and the Administration for Inspection Affairs. As a report to the Government on the implementation of the Strategy, the Operational Team determined the draft of the VIII Report on the Implementation of the Action Plan (2015-2016) for the Strategy (2015-2018). The report, adopted in October 2015, contains a review of the measures realized in the period January – June 2015.

Agency for Prevention of Corruption

The fight against corruption in Montenegro was improvised through adoption of the Law on Prevention of Corruption (Official Gazette of Montenegro no.53/14 of 19/12/2015) whose implementation on 1 January 2016.

The subject to this Law is to prescribe measures for prevention of conflict of public and private interest and regulate restrictions in the exercise of public functions, submission of reports on assets and income by public officials, protection of persons reporting threats to the public interest that indicate the existence of corruption, as well as other issues of importance to the prevention and suppression of corruption

Additionally, in accordance the Law was established the new Agency for Prevention of Corruption which started with its work on 1 January 2016. The Agency took over all competences previously performed by the Directorate for Anticorruption Initiative and Commission for Prevention of Conflict of Interests, and due to that the mentioned authorities cease to exist. Also, the Agency took over a part of competences of the State Election Commission of Montenegro.

The main tasks of the Agency are prevention of conflict of public and private interest, restrictions in the exercise of public functions, verification of the reports on income and assets by public officials, acting upon whistle-blower applications, whistle-blower protection, as well as other activities in accordance with this Law shall be performed by the Agency for Prevention of Corruption as an autonomous and independent body, established by the Parliament of Montenegro, in accordance with this Law. Moreover, the Agency shall carry out activities of control of lobbying and control of financing of political entities and election campaigns, in accordance with the special law.

The Agency has two bodies that are Council of the Agency and director of the Agency. The Council has five members that are elected by the Parliament, on the proposal of the working body responsible for anti- corruption affairs, for a term of five years and may not be elected more than twice.

The Special State Prosecutor's Office was established by entering into force of the Law on Special State Prosecutor's Office in 2015 ("Official Gazette of Montenegro, No.10/2015"). The unique and independent authority was established for the territory of Montenegro within the State Prosecutor's Office. The Special State Prosecutor's Office undertakes all the activities falling within its jurisdiction, before the Special Division of the High Court in Podgorica. The seat of the Special State Prosecutor's Office is in Podgorica. The Special State Prosecutor's Office is headed by the Chief State Special Prosecutor. The Special State Prosecutor's Office has jurisdiction for the prosecution of perpetrators of criminal offences as follows:

1. organized crime, regardless of duration of prescribed punishment;
2. high-level corruption;
 - a) If a state official committed the following criminal offences:
 - abuse of office;
 - fraud in the performance of an official duty;
 - trading in influence;
 - inciting to engage in trading in influence;
 - active bribery;
 - passive bribery;
 - b) If the proceeds of crime exceeding the amount of forty thousand Euros have been obtained by committing the following criminal offences:
 - abuse of position in business undertakings;
 - abuse of authority in economy;
3. money laundering;
4. terrorism and
5. war crimes.

Special Investigative Team - The Law prescribes that Special Prosecutor can, for acting in a particularly complex case, establish s Special Investigative Team. This Team, besides the Special Prosecutor, consists of police officers from the Police Division, investigators and state employees from other state authorities. The head of the Special Investigative team is special prosecutor, in accordance with whose orders and under whose supervision the members of the team act. Also, the Head Special Prosecutor can entrust performance of certain activities to the state employees from the FIU, Tax Administration, Custom Administration, and Administration for Inspection Affairs. The representatives

of the mentioned authorities are defined as “investigators” and they are employees that have relevant working experience and skills to perform supervision and control, as well as other professional knowledge significant for investigating criminal offences within competences of the Special Prosecutors Office.

The heads of the competent state authorities, upon the request of the Head Special Prosecutor, deliver the list of the employees that have previously described skills and knowledge. The Supreme State Prosecutor creates annual list of investigators upon the suggestion of the Head Special Prosecutor and sends it to the heads of the competent state authorities and Head Special Prosecutor. The head Special Prosecutor, prior providing the proposal list of investigators to the Supreme State Prosecutor, can conduct an interview with the state employees proposed as investigators by their Heads.

Police Division

This Law also defines relationship between Special State Prosecutor and **Police Directorate**. Namely, Police affairs referring to criminal offences from Article 26 of this Law, shall perform police officers that work within special organisational unit of the authority competent for police affairs for work with Special State Prosecutors Office (hereinafter Police Division)

The chief of the police Division shall be appointed by the director of the authority competent for police affairs (hereinafter: Police Directorate), upon with the approval of the Head Special Prosecutor.

Additionally, the Head and the Police officer from the Police Division shall act in accordance with the orders of the Head Special Prosecutor or Special Prosecutor.

Ministry of Internal Affairs - Police Directorate

In accordance with Article 37 paragraphs 2 and 3 of the Law on State Administration (Official Gazette of Montenegro No.42/11) upon the proposal of the Minister of Internal Affairs, the Government of Montenegro, on its session held on 19 March 2015 adopted the Rulebook on internal organization and systematization of working positions at the Ministry of Internal Affairs.

In accordance with the Rulebook, the Ministry of Internal Affairs - Police Directorate consist of several different departments and one of these departments is the Criminal police Department, which is made of different divisions, and this list of the divisions include the Division for fight against the organized crime and corruption and the Division for preventing economic crime.

Also, the Rulebook prescribes establishment of six(6) different groups within Division for fight against the organized crime and corruption and it includes the Group for leading financial investigations, suppression of criminal offences of money laundering and financial crime, which is a successor of a former group for combating against Organized financial crime.

Main tasks of this group are:

- to lead financial investigations,
- suppression of criminal acts of money laundering,
- and other criminal acts of financial crime and organized crime, organized criminal groups etc..
- criminal acts of corruption on the municipal and state level,
- criminal acts committed by public officials, and other criminal offenses.

It is planned that the Group for leading financial investigations, suppression of criminal offences of money laundering and financial crime include 7 working positions. Employment of police officials in this Group started on 01.08.2015.

Along with the aforementioned Group that is a part of a Division for fight against the organized crime and corruption, the Rulebook defines, the existence of the Division for preventing economic crime which is a part of the Criminal police department. The officers who work at this Division (Division for preventing economic crime) deal with different criminal acts relating to the economy and financial system.

Another part of the Rulebook defines the establishment of the Special police investigation team consisting of police officers from the Criminal Investigation Department will be combating against all types of criminal acts as well as with money laundering and to conduct financial investigations.

2. Measures that have been adopted and implemented to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

*Note: Information in this part should include only actions taken as at the date of submission of the report to MONEYVAL which are aimed at implementing the **specific recommendations rated NC or PC** by outlining **all the specific identified deficiencies**.*

*This section should only include information on measures that have not been **adopted and implemented** at the time when the report was submitted.*

*Any draft measures, or measures under review, elaboration or pending formal adoption in the context of the country's internal procedures (eg. at the level of the competent authority(ies), within the parliamentary process or subject to Presidential confirmation) should not be included in Section 2. These **should only be referred to in Section 3**, with a clear indication of the stage in which those measures are.*

*In addition, as recommended actions may sometimes include additional measures which are not necessarily reflected in the table of underlying factors, the country should also report on **action taken to implement the recommendations** formulated by the evaluation team. If the identified deficiency/factor underlying rating is directly linked with a recommendation, those two should be added together.*

Please amend headings below to reflect the rating (NC or PC) or otherwise delete headings as relevant where the rating is LC/C.

Example [for each Recommendation]

Deficiency 1: [to be completed]

Measures adopted and implemented: [to be completed]

Recommended action X [when applicable] : [to be completed]

1. R.1 - Criminalisation of Money Laundering – rated PC

Deficiencies

- Not all types of property are covered by the ML offence;
- The concealment or disguise of rights with respect to property is not covered.

Effectiveness

- Very low number of ML investigations, prosecutions and convictions;

Measures adopted and implemented: In the 4th round MER it is stated that in Montenegro there is very low number of investigations, prosecutions and convictions. In order to overcome this obstacle Montenegro undertook several steps in order to better fight against money laundering and terrorist financing. Thus, the new Law on Special Prosecutor has been passed in March 2015 and based on it the Special Prosecutor's Office has been formed. Since that during the 4th round MER the money laundering was in the competences of Higher State Prosecutor as well as in the competences of Special Prosecutor, the new law regulated that money laundering offence is now only in the competences of Special Prosecutor. The organization of the new Special Prosecutor has been changed and now has new divisions such as: department for criminal procedures, department for financial investigations, department for analysis and investigations and department for international cooperation. Such structure is formed with the aim to enhance the investigation and prosecution of money laundering offences.

- Concerns over evidential thresholds to establish underlying predicate criminality;

Measures adopted and implemented: Even though the evaluators made their own concern over the thresholds to establish underlying predicate offence it is clear from the text of the criminal offence of money laundering that there is no need for ML offence to have specific or proved predicate offence. Money laundering case of "S..." is an example where there were no prosecution nor conviction for the predicate offence and the case has first instance conviction for two persons. The procedure before the Appellate Court is ongoing at this moment. All the trainings provided for the law enforcement authorities stress the importance of this question.

- Underutilisation of FIU generated reports for the prosecution of ML resulting in convictions;

Measures adopted and implemented: Statistic shows that since the new Special Prosecutor's Office has been formed there are 13 cases that are in the phase of preliminary investigations and all of those cases are formed only based on the FIU notification. It is worth mentioning that in all cases that are processed in Montenegro even though they were not based on the FIU notification, the information from the FIU were used and there were very important for the investigation and prosecution.

- Issues regarding timeliness of ML proceedings.

Recommended action

The authorities are encouraged to proceed with the national risk assessment. The extent to which money laundering is being properly investigated and prosecuted should be assessed in light of the results of the risk assessment. Efforts should be focussed on those areas which present the highest ML risks.

Measures adopted and implemented

National risk assessment has been finished and adopted by the Government of Montenegro. In the analysis of the ML threats and risks law enforcement agencies have been involved and the result of the analysis shows that the highest threat for money laundering offence of criminal offence of drug trafficking abroad. According to this most of the prosecuted cases of ML relates to drug trafficking abroad.

Recommended action

The perception among law enforcement authorities and the judiciary of the importance of the added value of money laundering prosecutions should be enhanced. The relevant authorities should identify and analyse the difficulties encountered in ML investigations and prosecutions. Measures should be taken to ensure that ML cases are investigated and prosecuted in a timely manner.

Measures adopted and implemented

During the work on the National Risk Assessment analysis was done regarding the investigated and prosecuted cases in order to identify difficulties. The main difficulties that resulted from the analysis was the problem of obtain the evidence from the off shore destinations. There have been several trainings regarding the international cooperation in the criminal matters, including cooperation need for obtain evidences from the off shore destinations.

Law on Courts from 2015 makes reform of the court organization. Criminal offence of money laundering is in jurisdiction of Special Department within the High Court in Podgorica. Criminal procedures for money laundering and predicate criminal offences have priority. Besides that, the moment of filing indictment also makes influence on time lapse from committing predicate offence to rendering final decision regarding money laundering.

Recommended action

Jurisprudence should be developed in order to avoid the obligation of proving a concrete predicate offence in ML prosecutions.

Measures adopted and implemented

In our country there is no need for proving predicate offence of money laundering. Since Montenegro is not a big country and having in mind what are the major predicate offences in Montenegro it not expectable to show the jurisprudence of 50 or more cases that resulted to conviction. However, the case law that we had since now, explicitly shows that there is no need for proving the predicate offence in order to prosecute ML case. Again, the clear example of this is the "S...." case where we did not proved predicate offence.

Recommended action

The efforts and competencies of law enforcement and the judiciary should be more coordinated and enhanced in order to ensure a higher interest in the fight against ML, as well as more effective and timely investigations, prosecutions and proceedings. A more pro-active approach towards prosecution of ML cases should be promoted. The law enforcement should put to higher use the information received from the FIU.

Measures adopted and implemented

Since the adoption of the Mutual Evaluation Report several steps have been taken in order to strengthen cooperation between law enforcement agencies. First of all, in 2014 the Agreement was signed between Supreme State Prosecutor's Office and Police Administration on common work during pretrial phase and criminal proceedings. Furthermore, Criminal Procedure Code has been amended in the parts of the competences of the police, the application of special investigative measures has been broaden. In the first quarter of 2015, the law of Special Prosecutor's Office was passed and new Special Prosecutor's Office was formed in June 2015. In this law it is prescribed that Special Prosecutor can use "investigators" in order to investigate criminal offences from their competences. Investigators can be from the FIU, Tax Administration, Custom Administration, and Administration for Inspections. Furthermore, according to this Law, Special Prosecutor can form Special Investigative Team in charge for complex cases. The team can be formed from the different state authorities, from the police and also investigators can be included. Also, according to this Law in the Police Administration the special division is formed whose competences is to undertake action for the criminal offences from the competences of Special Prosecutor's Office (including the offence of ML). The chief of this police unit is appointed with the consent of the Chief Special Prosecutor.

Recommended action

The authorities should address the following technical shortcomings in relation to the ML offence:

- a definition of property applicable to the ML offence should be introduced in the CC;
- "The conversion or transfer of property...for the purpose of...helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action" should be specifically included in the ML offence;
- The acts of concealment and misrepresentation within the ML offence should be extended to the 'rights with respect to property'.

Recommended action

The definitions of money laundering in the different pieces of legislation should be aligned.

Measures adopted and implemented:

Regarding Recommendation 1, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the criminal offence of money laundering from Article 268 of the Criminal Code of the Republic of Montenegro (official gazette of the Republic of Montenegro no. 70/03, 13/04 and 47/06 and no. 40/08, 25/10, 32/11, 40/13, 56/13, 14/15 and 42/15) was not amended in its legal description.

Following the above-stated, Ministry of Justice is in process of drafting of the Amendments to the CC in regard to implement all MONEYVAL recommendations regarding evaluation of measures for prevention and criminalization of money laundering.

Recommended action

While it is commendable that the authorities have ratified and implemented the Warsaw Convention, the evaluation team urges the authorities to make full use of the additional tools provided by the Convention, such as for instance the application of provision for criminalization of negligent ML under Article 268(5) of CC.

Measures adopted and implemented

For this recommended action please see comment regarding R.1 - Criminalisation of Money Laundering – rated PC under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

2. R.3 - Confiscation and provisional measures – rated PC

Deficiencies

- The absence of a definition of property in the CC may restrict the widest use of the confiscation regime;
- The confiscation of proceeds is not adequately covered;

- No requirement to confiscate property of corresponding value to laundered property and instrumentalities and the requirement to confiscate property of corresponding value to proceeds is inadequate;
- No requirement to confiscate property that is derived indirectly from proceeds; including income or profits;
- No power to prevent or void actions which may prejudice the authorities' ability to recover property subject to confiscation.

Effectiveness

- No information was provided on confiscation measures for predicate offences;

Measures adopted and implemented: Regarding this measure we are now in the process of establishing new information system which will enable us to provide statistician data on the confiscation measures for the predicate offence. Beside this, for the purpose of National Risk Assessment we have collected the information on confiscation measures for the predicate offences that were analysed.

- No information was provided on provisional measures applied for predicate offences;

Measures adopted and implemented: Please see the answer above.

- Very low number of provisional measures and confiscation orders for ML offences.

Measures adopted and implemented: In all investigated and prosecuted cases provisional measures have been applied. Also, in all conviction for ML cases confiscation order was made for the offenders.

Recommended action

The authorities should amend the law to include the ability of confiscation of proceeds of crime obtained indirectly.

Measures adopted and implemented

As it is explained under the countries response to the recommended action plan for recommendation 1, new Law on Special Prosecutor's Office now prescribed that the new departments in the prosecutor's office are formed: department for criminal procedures, department for financial investigations, department for analysis and investigations and department for international cooperation. Thus, specific training have been provided for the employed in those departments. Also, the main focus during the last year is financial investigations and trainings have been provided from the relevant foreign partners such as TAIEX, Embassy of USA and through our Centre for education of prosecutors and judges.

In September 2015 the Parliament of Montenegro adopted the Law on seizure and confiscation of material benefit derived from criminal activities. This law governs the conditions for seizure and confiscation of material benefit derived from criminal activities, seizure and confiscation procedure and other matters of importance for the seizure and confiscation of such material benefit, as well as the management of seized and confiscated material benefit derived from criminal activities/criminal offence, of instrumentalities of crime and items seized in criminal and misdemeanour proceedings, as well as of property pledged to the court as bail.

The law is fully harmonised with the EU Directive 42/2014. Non-conviction based confiscation is introduced in Montenegrin system, as well as the confiscation of an equivalent value and definitions of the property, material benefit and instrumentalities. System of conducting financial investigations is improved. Asset Recovery office is established within the Police Directorate.

In article 3 of the Law on seizure and confiscation of material benefit derived from criminal activities is prescribed that material benefit derived from criminal activities means each increase or prevention of decrease of criminal assets, as well as revenues or other benefit acquired **directly or indirectly** from criminal activities, as well as the estate it has been converted into or merged with. Property implies property rights of all types, irrespective of whether they relate to assets of tangible or intangible nature, movables or immovables, securities and other documents which serve to prove property rights.

Recommended action

The authorities should also introduce the following measures:

- Confiscation of property of corresponding value to proceeds based on a confiscation order (rather than an order of payment on the perpetrator);

- Confiscation of property of corresponding value to laundered property and instrumentalities;

Measures adopted and implemented:

New Law on seizure and confiscation of material benefit derived from criminal activities in art. 2 para.4 prescribes that if the confiscation is not possible, the value that shall be confiscated will be equal to the value of the material benefit derived from criminal activities.

Recommended action

The authorities should also introduce the following measures:

- Power to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.

Measures adopted and implemented:

In article 19 of the Law on seizure and confiscation of material benefit derived from criminal activities are prescribed types of provisional measures to secure assets such as: prohibition to dispose of and use immovables, with an annotation of prohibition in the real estate register; order to the bank to refuse the payment of an amount of money against which a provisional measure to secure assets is being imposed; prohibition to dispose of a claim arising from a contractual relation; prohibition to dispose of and encumber shares or stakes in the company, with a registration of prohibition in public records; prohibition to use or dispose of the rights stemming from shares or stakes in a company or other securities; introduction of interim administration into the company.

Within these provisional measures state prosecutors have power to preserve material benefit derived from criminal activities as well as for a possible subsequent confiscation of such material benefit.

Recommended action

The authorities should also introduce the following measures:

- Remove the limitations regarding seizure of objects “(5) The following objects cannot be provisionally seized regarding persons that are exempted from the duty to testify pursuant to Article 109 of the CPC (e.g. family members)

Recommended action

The restrictions applicable to provisional measures under Article 85 paragraphs 5 and 6 should be removed.

Measures adopted and implemented:

Regarding to his part of the Recommendation 3, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the article 85 para. 5 and 6 of the Criminal Procedure Code (official gazette of the Republic of Montenegro no. 57/09, 49/10, 35/15) was not amended in its legal description.

Limitation prescribed in art.85 para.5 has a conditional character. In terms of point 1 limitation existing until the competent authority decides otherwise (secret data). Point 2 refers to the rights of defender and his/her obligation to protect confidential information and to the rights of persons exempt from the duty to testify. Paragraph 6 is a corrective to the provisions of paragraph 5 point 2. Both, para.5 and 6 have a *ratio legis* in accordance with the rules of our criminal procedure. If we remove/delete these provisions we risk breaking a principle guaranteed by Article 109 (person exempted from the duty to testify) of the CPC and the criminal procedure itself.

Following the above-stated, Ministry of Justice, respectively Government of the Republic of Montenegro, in Final Proposal of the Act on Amendments of CPC from 23th April 2015 did not include amendments of art.85 para.5 and 6.

Recommended action:

The authorities should, as a matter of priority, establish a policy for the confiscation of property in ML, FT and predicate offences. This should include specialised training to law enforcement and prosecutorial authorities in the identification and tracing of funds.

Measures adopted and implemented

In September 2015 the Parliament of Montenegro adopted the Law on seizure and confiscation of material benefit derived from criminal activities. This law governs the conditions for seizure and

confiscation of material benefit derived from criminal activities, seizure and confiscation procedure and other matters of importance for the seizure and confiscation of such material benefit, as well as the management of seized and confiscated material benefit derived from criminal activities/criminal offence, of instrumentalities of crime and items seized in criminal and misdemeanour proceedings, as well as of property pledged to the court as bail. The law is fully harmonised with the EU Directive 42/2014. Non- conviction based confiscation is introduced in Montenegrin system, as well as the confiscation of an equivalent value and definitions of the property, material benefit and instrumentalities. System of conducting financial investigations is improved. Asset Recovery office is established within the Police Directorate.

For additional information please see comment under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

3. R.5 - Customer due diligence – rated PC

Deficiencies

- Not all activities or operations covered by the FATF's definition of financial institution would be subject to preventive measures under the LPMLTF if lawfully conducted in Montenegro;

Measures adopted and implemented:

The definition of financial institutions was not introduced in the previous Law on PMLTF (Official Gazette of Montenegro no.14/12 of 7th March 2012) but in the new Law on PMLTF (Official Gazette of Montenegro no.33/14 of 4th August 2014) the definition of financial institution is introduced in Article 5 paragraph 1 item 8 and it reads:

Article 5

The terms used in this Law have the following meaning:

.....

8) *financial institution means* a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro;

Additionally, the new Payment system Law (OGM 62/13 of 31 December 2013, 6/14 of 4 February 2014), that came *into force on 8 January 2014 and it shall apply as of 9 January 2015*, in Article 1 defines the following:

“(1) The payment system operations shall be performed in the manner and under the conditions specified under this law.

(2) The payment system shall include the provision of payment services, electronic money issue, the functioning of payment systems and other activities of the payment system.”

Article 4 of the Payment System Law reads:

“(1) Payment services in Montenegro may be provided by:

1) banks and other credit institutions having their head offices in Montenegro;

2) a payment institution having its head office in Montenegro;

3) an electronic money institutions having its head offices in Montenegro;

4) a branch of a third-country credit institution having its head office in Montenegro;

5) the Central Bank of Montenegro (hereinafter: the Central Bank);

6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above”.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

Considering the two above cited laws the definition of financial institution is introduced and is covering all institutions that might be called financial as per FATF’s definition. Therefore, they are all subject to preventive measures.

- Reporting entities are not required to undertake full CDD measures when carrying out occasional transactions that are wire transfers; (c.5.2)
- For customers that are foreign legal persons, reporting entities are not required to verify that any person purporting to act on behalf of the customer is so authorised, or to obtain information on directors or provisions regulating the power to bind the legal person; (c.5.4)

Measures adopted and implemented:

Please see answers below regarding recommended actions referring to changes of the LPMLTF Articles 10,15,16,17.

- For customers that are legal persons, reporting entities are not always required to verify the identity of persons purporting to act on behalf of such customers; (c.5.4)

Measures adopted and implemented:

Please answers below, regarding recommended actions referring to changes of the Law on PMLTF Articles 10,15,16,17.

For customers that are legal persons (including limited partnerships, legal entities or legal arrangements), reporting entities are required to verify the identity of persons purporting to act on behalf of the customer, to check the power of authorization, to verify the legal status and to obtain information on legal form. Article 18 of the LPMLTF defines that, when the customer is other person, i.e. legal entity equal to it, a reporting entity is obliged to:

- establish and verify the identity of its representative;
 - obtain a written representation power of attorney;
 - obtain the data from Article 79 item 2 of this Law (name, address of permanent or temporary residence, date and place of birth and tax ID number of a representative or an authorized person who concludes the business relationship or executes transaction for the legal person or other person i.e. legal entities equal to them from the Article 18 of this Law, and number, type and name of the authority that issued the personal identification document).
- For customers that are limited partnerships, legal entities (but not persons) or legal arrangements, reporting entities are not required to verify that any person purporting to act is so authorised, to verify the legal status, to obtain information concerning legal form, or to collect information on provisions regulating the power to bind; (c.5.4)

Measures adopted and implemented:

Articles 15, 16, 17, 18 and 79 point 15 of the LPMLTF (quoted in answer recommended actions referring to changes of the LPMLTF Articles 10, 15, 16, and 17) lay down provisions covering the criteria from Article 5.4.

- Reporting entities are not required to take reasonable measures to understand the ownership and control structure for customers that are limited partnerships or legal arrangements, or to determine who are the natural persons that are the ultimate owners or controllers of limited partnerships, legal entities (but not persons) or legal arrangements; (c.5.5)

Measures adopted and implemented

The Law on PMLTF in Articles 20 and 21 define who is considered as a beneficial owner and obligation for reporting entities to establish a beneficial owner of a legal person or foreign legal person to, as follows:

Beneficial Owner

Article 20

(1) Beneficial owner is the natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction is being conducted or a business relationship established, as well as the person that ultimately exercises control over a legal entity or legal arrangement.

(2) A beneficial owner of a business organization, or legal person, in the context of this Law, shall be:

1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than 25% share of the capital or has a dominating influence in the management of the assets of the business organization or legal person;

2) a natural person that indirectly has ensured or ensures funds to a business organization or legal entity and on that basis has the right to influence significantly the decision making process of the managing body of the business organization or legal entity when decisions concerning financing and business are made

(3) As a beneficial owner of a foreign legal person or other form of legal organizing (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered a natural person that:

1) indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity;

2) is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.

Establishment of a beneficial owner of a legal person or foreign legal person

Article 21

(1) **A reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 79 item 14 of this Law.**

(2) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register that must not be older than three months of their issue date or obtain them by checking CBR or other public register in accordance with Article 15 paragraph 4 of this Law.

(3) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 2 of this Article, a reporting entity shall obtain the missing data by checking the original or certified copy of an identification document or other business documents submitted by the representative or authorized person of the legal person.

(4) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 3 of this Article, a reporting entity shall obtain those data from the written statement of the representative or authorized person.

(5) A reporting entity shall verify the data on beneficial owner of a legal person or foreign legal person to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer in accordance with risk-degree assessment.

(6) When establishing the identity of the beneficial owner of a legal person or foreign legal person a reporting entity shall obtain photocopy of a personal identification document of that person in accordance with Article 14 paragraph 5 of this Law.

Also, in Montenegrin legislation the term "legal person" covers all forms of organizations pursuing economic activities.

Status of Legal Person

Article 3

(1) Joint stock company and limited liability company shall acquire the status of a legal person on the day of their registration.

- Simplified measures can be applied in cases where risks are not lower; (c.5.9)
- Where simplified measures can be applied, customers are not subject to the full range of CDD measures; (c.5.9)

Measures adopted and implemented

- In accordance with Art. 7 of the LPMLTF reporting entities are obliged to develop the risk analysis for determining the risk assessment of an individual customer, a group of customers, a country or geographic areas, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing and to update it regularly and keep it in accordance with this Law. A reporting entity shall, on the basis of risk analysis undertake appropriate activities for decreasing the defined risk of money laundering and terrorist financing. A reporting entity shall prepare the risk analysis on the basis of guidelines on risk analysis determined by the competent authorities from Article 94 of this Law.

- The Rulebook on Guidelines for developing risk analysis and risk factors in order to prevent money laundering and terrorist financing defines the criteria for developing guidelines for risk analysis in order to prevent money laundering and terrorist financing, as well as the ML and TF risk factors.

The Guidelines define the risk factors and upon them the assessment of risk of certain client, group of clients, country or geographic area, business relationship, transaction or product, is determined.

In case there is no ML/TF risk, a reporting entity may place a client, group of clients, business relationship, transaction or product in the insignificant risk category.

- Furthermore, Article 37 of the new LPMLTF (regulating the application of simplified CDD measures, Art. 29 of the previous LPMLTF) defines the cases when simplified CDD measures can be applied:

If there is insignificant risk of money laundering or terrorist financing in relation a customer, transaction from Article 9 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there is not a suspicion of money laundering or terrorist financing a reporting entity can apply simplified customer due diligence.

A reporting entity can apply simplified customer due diligence from paragraph 1 of this Article on customers, business relationships, transactions or products only after it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law (The risk analysis developed by the reporting entity).

Also, the list of countries from Article 29(2) of the previous LPMLTF was deleted.

Article 38 of the new Law on PMLTF regulates obtaining and verifying customer and transaction data, and reads:

“ (1) Simplified customer due diligence from Article 37 of this Law shall include obtaining data when:

3) establishing a business relationship, the data on:

- the name and the registered office of a legal person that establishes, or on whose behalf and for whose account a business relationship is established;
- the personal name of the representative or authorized person that establishes a business relationship for a legal person;
- the purpose, nature and date of establishing a business relationship;

4) executing transactions from Article 9 paragraph 1 item 2 of this Law, data on:

- the name and the registered office of a legal person on whose behalf and for whose account a transaction is being executed;
- the personal name of a representative or authorized person executing a transaction for a legal person;
- date and time of executing a transaction;
- the amount of a transaction, currency and the manner of executing a transaction;
- the purpose of a transaction, personal name and permanent residence, or the name and registered office of a legal person whom the transaction is sent to.

(4) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the originals or certified copies of the documents from CBR or other appropriate public register submitted by a customer or by a direct check.

(5) If the required data cannot be obtained in the manner from paragraph 2 of this Article, the missing data shall be obtained from the originals or certified copies of identification documents and other business files submitted by a customer, or from the written statement of a representative or authorized person.

(6) Documents from paragraphs 1, 2 and 3 of this Article must not be older than three months of the issue date”.

- The application of simplified CDD measures is not limited to countries that are in compliance with and which have effectively implemented the FATF Recommendations; (c.5.10).

Measures adopted and implemented:

Pursuant to Article 7 point 3 of the LPMLTF, the Ministry of Finance adopted the Rulebook on Guidelines for Compiling the Analysis and Risk Factors with a View to Prevention of Money Laundering and Terrorist Financing (OGM 53/14). Article 6 point 3 of the Rulebook lays down factors of insignificant risk referring to specific country and/or geographical area, which read:

“a) if these countries are EU Member States;

b) the countries have efficient system for combating money laundering and terrorist financing, recognised by FATF;

c) countries with determined low level of corruption and other criminal activities;

d) countries implementing FATF Recommendations for combating money laundering and terrorist financing and for which compliance control is implemented in line with these recommendations”.

Pursuant to Article 7 point 3 of the LPMLTF, the Ministry of Finance adopted the Rulebook on Guidelines for Compiling the Analysis and Risk Factors with a View to Prevention of Money Laundering and Terrorist Financing

- Simplified CDD measures may be applied to a customer notwithstanding that there may be specific higher risks; (5.11)
- Where a reporting entity is unable to apply required CDD measures, it does not commit an offence where it subsequently establishes a relationship; (c.5.15)

Please see answer regarding Recommended action that states following: It should be an offence under Article 12(2) of the LPMLTF to establish a relationship in a case where evidence of identity cannot be obtained (in the same way that an offence is committed where evidence of identity cannot be obtained for an occasional transaction). (5.15)

- Where a reporting entity has already commenced a business relationship and is unable to comply with required CDD measures, it is not required to terminate the business relationship; (c. 5.16)

Please see answer regarding Recommended action : Where a reporting entity has already established a business relationship but delayed verification of the identity of a beneficiary (under an insurance contract) under Article 11(3) of the LPMLTF, there should be a requirement to subsequently terminate that relationship when it is not possible to apply CDD measures. (5.16)

Effectiveness

- Reporting entities are still inclined to assume that information held at the Registry (and other public registries) will always reflect the beneficial ownership of a legal person; (5.4)

Measures adopted and implemented: Pursuant to Article 8 of the LPMLTF, Reporting entities are obliged to identify and verify a customer’s identity (including the beneficiary owner) based on documents, data and information from reliable, independent and objective sources;

- Whereas simplified identification measures may be applied by a reporting entity in a case where a customer is an organisation whose securities are traded on an organised market or

stock exchange in a state where international standards are applied at the same or higher level than the EU, there is no explanation of which standards are to be considered; (5.9)

Measures adopted and implemented: This deficiency was removed since the new LPMLTF from 2014 does not contain the provision.

- While the law requires reporting entities to refuse to establish a business relationship with a client or execute a transaction, if the client's identity cannot be determined with sufficient certainty, the guidelines published by the SEC and ISA state that reporting entities may refuse to establish a business relationship which may give rise to ambiguity; (5.15)

Please see comment regarding Recommended action that states: Guidelines published by the SEC and ISA should be revised to reflect the prohibition in Article 12 of the LPMLTF on establishing a relationship or executing an occasional transaction when evidence of the client's identity cannot be obtained. (5.15).

- Banks highlighted possible barriers to the termination of existing business relationships. One cited the need for the prior approval of a customer and a second said that there would be problems where funds remained on an account; (5.16)

Measures adopted and implemented: Pursuant to Article 10 LPMLTF, if a bank cannot conduct complete CDD measures, it is obliged to terminate business relationship with the client.

“ (1) A reporting entity shall apply the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law prior to establishing a business relationship with a customer.

(1)By way of exception from paragraph 1 of this Article, a reporting entity can apply customer verification measures from Article 8 paragraph 1 items 1 and 2 of this Law during the establishment of a business relationship with a customer when a reporting entity estimates it is necessary and when there is insignificant risk of money laundering or terrorist financing.

(2)When concluding a life insurance contract the reporting entity from Article 4 paragraph 2 item 9 and 10 of this Law can verify the identity of the insurance policy beneficiary even after concluding the insurance contract, but not later than the time when the beneficiary according to the policy can exercise his/her rights.

(3)If a reporting entity cannot conduct measures from paragraph 1 of this Article, the business relationship must not be established, and if the business relationship has already been established it must be terminated”.

Pursuant to Article 11 of the LPMLTF, the bank must not execute transaction if it cannot undertake complete CDD measures:

“ (1) When executing transactions from Article 9 paragraph 1 item 2 of this Law a reporting entity shall apply the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law before the execution of a transaction.

(2) If the reporting entity cannot undertake the measures from paragraph 1 of this Article the transaction must not be executed”.

- Not all banks have refused to establish or terminate a relationship on the basis notwithstanding that it was difficult to establish who the beneficial owner was. Whereas this may reflect cooperative dialogue, it may also suggest that CDD measures are not applied effectively; (5.15 and 5.16)

Measures adopted and implemented: With a view to removing the deficiency, the CBM intensified on-site inspections of banks and microcredit financial institutions (MFIs), particularly in 2015 when 17 inspections of banks (10 regular and 7 target inspections) and 3 inspections of MFIs were conducted. During those inspections, there were no irregularities disclosed during the determining of client's beneficiary owner.

Recommendation 5

Recommended action

Guidelines on the application of a risk-based approach published by the ISA should be extended to insurance intermediaries and agents.

Measures adopted and implemented:

The Insurance Supervision Agency (hereinafter: the ISA), in point 2 of the first section of the new Guidelines for Risk Analysis of Money Laundering and Financing of Terrorism in Insurance Sector, which was adopted 28th May 2015, stipulated that the reporting entities under the Law on AMLTF among others are considering insurance intermediation companies and insurance representation companies in the part related to life insurance.

Recommended action

Guidelines on the application of a risk-based approach should be published by the Agency for Telecommunication and Postal Services in respect of the transfer of money or value.

Measures adopted and implemented:

In 2014 the new Law on the Prevention of Money Laundering and Financing of Terrorism was passed (Official Gazette of Montenegro, 33/14).

Based on this Law, the Rulebook on Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism was adopted (Official Gazette of Montenegro, 53/14) and it entered into force in December 2014. Then, the Agency for Electronic Communications and Postal Services developed the Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism for the participants in the postal services market pursuant to Article 7, Paragraph 3 of the new Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of Montenegro, 33/14) and Article 2, Paragraph 1 of the Rulebook on Risk Analysis Guidelines relevant for the prevention of money laundering and financing of terrorism (Official Gazette of Montenegro, 53/14). The Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism were adopted by the Agency at the session of the Council on the 12th March 2015 in line with the obligations laid down in the abovementioned Rulebook and the document was published on the Agency's website.

All postal operators in Montenegro undertake measures and actions for the prevention of money laundering and financing of terrorism in accordance with the Law and the Agency's Guidelines.

Also, when it comes to the comment that the Agency did not pass the Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism, we are hereby providing the following clarification:

Based on the Law on the National Payment System, the Executive Institutions in charge of conducting transfer of funds are the following:

1. The Central Bank of Montenegro,
2. Commercial banks,
3. Branch of a foreign commercial bank
4. Another legal entity granted a license or permit by the Central Bank of Montenegro allowing transfers.

According Article 5 of the abovementioned Law, the Executive Institution, based on the contract, can entrust certain transfer activities to an AGENT. The Agent conducts the entrusted activities on behalf of and for the account of the Executive Institution.

AGENT which is not an Executive Institution cannot be participant in the payment system.

The abovementioned tasks, terms and conditions and the manner of performing specific operations are prescribed by the Central Bank of Montenegro.

In accordance with the Decision on terms and conditions and the manner of performing specific operations concerning transfer of assets by the Agent (Official Gazette of Montenegro, 24/09), the Executive Institution (bank) may entrust the Agent to conduct the operations of receiving transfer order and sending the orders thereof on its behalf and for its account to the Executive Institution as well as the operations of receiving and execution of cash pay-in/pay-out orders.

In accordance with Article 5 of the Law on National Payment System and Article 7 of the Decision on terms and conditions and the manner of performing specific operations concerning the transfer of assets by the Agent, the Executive Institution is responsible for all operations of the Agent and failures in performing tasks.

Montenegro Post conducts all services of operations involving funds in the capacity of the bank's Agent.

In performing these tasks, Montenegro Post applies Risk Analysis Guidelines for banks to prevent money laundering and financing of terrorism. The abovementioned document was published by the Central Bank of Montenegro.

Therefore, Montenegro Post acts as the bank's Agent when performing tasks which include provision of postal services. Thus, when it implements measures for the prevention of money laundering and financing of terrorism, it applies the Guidelines developed by the Central Bank of Montenegro.

According to the Law on the Central Bank of Montenegro only direct participation is allowed in the interbank payment system, where Agent in the payment system is not a participant in the interbank payment system.

The operations performed by the Agent on behalf of the bank, as well as mutual rights, and obligations of the Agent are established by the CONTRACT ENTERED IN BY THE BANK AND THE AGENT. Bank, i.e. the Executive Institution, is responsible for all activities performed by the Agent and for any failure the Agent can make while performing payment operations activities.

Recommended action

Article 31 of the LPMLTF should be slightly amended to clarify that the prohibition on the use of fictitious names applies to all reporting entities (and not just banks). In particular, the authorities may consider including the word 'including' in the bracketed text. (5.1)

Recommended action

Reporting entities should be required to undertake full CDD measures when carrying out occasional transactions that are wire transfers (in addition to those set out in Article 12a of the LPMLTF). (5.2)

Measures adopted and implemented:

The above mentioned deficiency regarding Article 12a was in the previous Law on PMLTF, and it is addressed in Article 30 of the new Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro 33/14, hereinafter LPMLTF) lays down enhanced customer due diligence, which reads: "A reporting entity shall conduct enhanced customer due diligence in the following cases:

.....
4) *in cases of wire transfers*".

In addition, Article 34 of the LPMLTF lays down provisions on wire transfer, and reads:

"(1) A reporting entity that is a payment service provider shall obtain accurate and complete data on a payer and enter them into a form or message accompanying wire transfer, sent or received in any currency that is the subject of the wire transfer.

(2) The wire transfer shall be accompanied with the data from paragraph 1 of this Article when passing through the payment chain.

(3) A payment service provider, that is an intermediary service provider or payee, shall refuse to execute funds transfer if the data on payer are not complete and/or shall require payer data supplement in the shortest possible period of time.

(4) When gathering data referred to in the paragraph 1 of this Article, the payment service provider shall identify the payer by using a personal identification document issued by a competent authority.

(5) The content and type of data from paragraph 1 of this Article and the other activities of the payment service provider, as well as the exceptions in collecting data when executing funds transfer that represents insignificant risk for money laundering and terrorist financing shall be defined by the regulation of the Ministry".

In addition, we are also enclosing the *Rulebook on content and type of sender's data accompanying wire transfer*.

Recommended action

In the case of a business relationship that has been established making use of exemptions or simplified identification measures, reporting entities should be required to undertake full CDD measures where there are subsequently reasonable grounds for suspicion of money laundering or terrorist financing. (5.2)

Measures adopted and implemented:

The new solution in the existing Law on PMLTF, in difference to the old one, explicitly states the action that should be undertaken.

Simplified customer due diligence

Article 37

..

*(2) A reporting entity can apply simplified customer due diligence from paragraph 1 of this Article on customers, business relationships, transactions or products **only after** it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law.*

Recommended action

CDD measures required under Articles 10, 14 and 15 of the LPMLTF should include a clear reference back to Article 5, which defines customer identification. (5.3 and 5.5)

Measures adopted and implemented:

The existing Law on PMLTF addresses the identified deficiencies in the following Articles:

Customer Due Diligence Measures

Article 8

(1) A reporting entity shall conduct the customer due diligence measures and particularly the following:

1) to identify and verify a customer's identity based on documents, data and information from reliable, independent and objective sources;

Establishing and verifying the identity of natural person and of authorized person

Article 14

(5) When establishing the identity of a customer from paragraph 1 of this Article, a reporting entity shall obtain a photocopy of personal document (e.g. identification card, passport, driving license or similar documents containing a photo of a person whose identity a reporting entity is establishing or verifying) on which he/she enters date, time and personal name of a person that checked the photocopy. A reporting entity shall keep the photocopy of a personal document in accordance with this Law.

Recommended action

-Article 10 of the LPMLTF should address the timing of requirements to verify the identity of the legal representative and "authorized person" of a customer that is a legal person (as it currently refers only to obtaining data). (5.4)

Measures adopted and implemented

The existing version of the Law on PMLTF introduces the timing of requirements as follows:

Article 10 Customer identification and verification before establishing a business relationship

(1) A reporting entity shall apply the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law prior to establishing a business relationship with a customer.

as the Article 8 of the Law defines all obligations defined by CDD measures, as to be undertaken (previous Article 10).

Recommended action

Article 16 of the LPMLTF should include a clear requirement to verify that a legal representative of a customer who is a legal person is authorised to act on behalf of the customer. Whilst this may be the effect of the requirement in Article 15(1) to establish and verify the identity of a Montenegrin company, the same cannot be said for a foreign company. (5.4)

Measures adopted and implemented

In accordance with Decision on the Structure, More Detail Conditions and Manner of Transaction Account Opening and Closing adopted pursuant to Article 44 paragraph 2 point 3 of the Central Bank of Montenegro Law (OGM 40/10, 46/10, 06/13) and Article 64 paragraph 8 of the Payment System Law (OGM 62/13), passed by the Central Bank of Montenegro Council, at its meeting held on 10 November 2014, Article 19, paragraph 2, point 6 determines the manner of account opening with all requirements, as well as on the authorization to act on behalf of the customer- *Filled specimen signature card*

Article 19

In addition to the request referred to in paragraph 1 herein, the applicant shall submit the following documents:

....

6) Filled specimen signature card of persons authorized for signing the payment orders;

Further on Article 20 of the same decision lists the following obligation:

Article 20

Specimen signature card referred to in Article 19 paragraph 2 point 6) herein must contain the following data:

- 1) Transaction account number;
- 2) Name of the applicant;
- 3) Head office, address and telephone number of the applicant;
- 4) Name, last name, uniform identification number or a number of foreign personal document and address of a person authorised for signing the payment order;
- 5) Manner of signing (individually or collectively);
- 6) Signature of the person authorised for signing payment orders verified by stamp to be used for the verification of the payment orders;
- 7) Date;
- 8) Signature of the authorised person and stamp of the applicant;
- 9) Signature of the authorised person and stamp of the payment service provider referred to in Article 2 paragraph 1 herein; and
- 10) Other data requested by the payment service provider which opens the transaction account.

Also, Article 17, paragraph 3, of the existing LPMLTF -Establishing and verifying the identity of the authorized person of a legal person, defines:

....

(3) A reporting entity shall obtain data from paragraph 1 of this Article on the representative in whose name the authorized person acts, from the original of written power of attorney issued by the representative or its copy certified in accordance with law.

Additionally, the Law on Business organisations in Article 80 defines Concept and Registration of foreign company and a foreign company branch , as follows:

(1) A foreign company branch shall be a branch of a company established and registered outside Montenegro which performs business activity on the territory of Montenegro. A foreign company branch shall exit and perform the economic activity in accordance with this and other laws of Montenegro.

(2) Any foreign company performing economic activity through its branch on the territory of Montenegro shall be obliged to comply with the relevant provisions of this Law and other laws of Montenegro.

(3) Foreign companies which establish a foreign company branch in Montenegro shall be obliged, within 30 days from the day of the establishment of the branch, to submit to the Central Registry the following data for registration:

- 1) the address of the registered office of the foreign company branch in Montenegro;
- 2) the business activity;

- 3) the name and legal form of the foreign company and the name of the foreign company branch if it is different from the name of the company;
 - 4) an authenticated copy of the charter of the foreign company and a translation of the charter in the language officially used authenticated by a court interpreter;
 - 5) a copy of the foreign company's registration certificate or a corresponding duly authenticated document confirming the legal registration of the company in its home state;
 - 6) the names and addresses of the persons who are authorized to represent the company in dealings with third parties:
 - a) as a company body constituted pursuant to law or as members of any such body;
 - b) as permanent representatives of the company for the activities of the branch, and the authorizations for the persons to represent the company, whether they may do so alone or jointly.
 - 7) the names and addresses of one or more persons with permanent residence in Montenegro authorized to represent the company in legal proceedings;
 - 8) the most recent balance sheet and income statement or similar financial documents prescribed by the law of the country where the company is registered.
- (4) Foreign companies with foreign company branches established on the territory of Montenegro shall submit to the Central Registry changes of data referred to in paragraph 3 of this Article within 20 days of the change, and, in addition, they shall submit the following for registration:
- 1) notice of liquidating the company, the appointment of liquidators, data concerning them, opening of bankruptcy proceedings or other proceedings to which the company is subject;
 - 2) the cessation of economic activity of the branch.
- (5) A foreign company branch shall state in business letters and other business documents:
- 1) Name in the Central Registry;
 - 2) Registration number of the company from the Central Registry;
 - 3) name, legal form and registered office of a foreign company and name of a foreign company branch, if different from the foreign company name;
 - 4) registered office of the foreign company branch;
 - 5) note that a foreign company is under liquidation, if that is the case.

Recommended action

Article 17(2) of the LPMLTF should clearly require a reporting entity to verify that an "authorized person" is authorised to act in the case of an occasional transaction with a legal person (as well as in the course of a continuing business relationship). Whilst this may be the effect of the requirement in Article 15(1) to establish and verify the identity of a Montenegrin company, the same cannot be said for a foreign company.

Measures adopted and implemented:

The Law on PMLTF only recognises the term transaction and does not differ occasional with frequent transactions. Therefore, it does not, by any means, differentiate any obligation of the reporting entity with regard to occasional- frequent transactions.

-Article 17(3) of the LPMLTF should establish a clear requirement to obtain data on, and verify the identity of, an "authorized person" of a customer that is a legal person when carrying out an occasional transaction under Article 9(1) item 2. (5.4).

Measures adopted and implemented:

Please see the previous comment.

Considering all the previous the existing Law brings new and clear definition of all the requirements and obligations regarding CDD measures (Article 15 Establishing and verifying the identity of a legal person, Article 16 Establishing and verifying the identity of the representative of a legal person, Article 17 Establishing and verifying the identity of the authorized person of a legal person, Article 18 Establishing and verifying the identity of other persons, i.e. the entities equal to them)

Article 15 of the new LPMLTF regulates establishing and verifying the identity of a legal person, and reads:

"

- (1) *A reporting entity shall establish and verify the identity of a customer that is a legal person and obtain the data from Article 79 item 1 of this Law by checking the original or certified copy of the document from the Central Business Register (hereinafter: CBR) or other appropriate public register, submitted by the representative on behalf of a legal person.*
- (2) *The document from paragraph 1 of this Article must not be older than three months of its issue date.*
- (3) *A reporting entity can establish and verify the identity of a legal person and obtain data from Article 79 item 1 of this Law by checking the CBR or other appropriate public register.*
- (4) *On the register extract from paragraph 3 of this Article a reporting entity shall state date and time and the name of the person that has made the check.*
- (5) *A reporting entity shall obtain data from Article 79 items 2, 6 and 9- 13 of this Law by checking the originals or certified copies of identification documents and other business files. If data cannot be determined by checking identification documents and other business files, the missing data shall be obtained directly from the representative or authorized person.*
- (6) *A reporting entity shall keep the original or certified copy of the customer's document in its files.*
- (7) *If, when establishing and verifying the identity of a legal person, a reporting entity doubts the accuracy of the obtained data or veracity of identification documents and other business files from which the data have been obtained, he/she shall obtain from the representative or authorized person a written statement on the accuracy of those data before establishing a business relationship or executing a transaction.*
- (8) *If a customer is a foreign legal person performing activities in Montenegro through its business unit, a reporting entity shall establish and verify the identity of that foreign legal person and its business unit.*

Moreover, Article 16 of the LPMLTF regulates establishing and verifying the identity of the representative of a legal person, and reads:

“

- (1) A reporting entity shall establish and verify the identity of the representative of a legal person and obtain data from Article 79 item 2 of this Law by checking the personal identification document of the representative in his/her presence. If the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the representative or authorized person.
- (2) If a reporting entity, when establishing and verifying the identity of a legal person's representative, doubts the veracity of obtained data it shall require his/her written statement on the veracity of those data.
- (3) A reporting entity shall, when establishing identity of the representative of a legal person, obtain photocopy of personal identification documents of that person in accordance with Article 14 paragraph 5 of this Law”.

Article 16 of the LPMLTF regulates establishing and verifying the identity of the authorized person of a legal person, and reads:

- (1) If an authorized person, in the name of a representative, establishes a business relationship or executes a transaction on behalf of a legal person, a reporting entity shall establish and verify the identity of the authorized person and obtain data from Article 79 item 2 of this Law by checking the personal identification document of the authorized person in his presence.
- (2) If the required data cannot be determined from the personal identification document of the authorized person, the missing data shall be obtained from other official document submitted by the authorized person.
- (3) A reporting entity shall obtain data from paragraph 1 of this Article on the representative in whose name the authorized person acts, from the original of written power of attorney issued by the representative or its copy certified in accordance with law.
- (4) If a reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of the representative and authorized person that acts in the name of the representative, it shall obtain their written statements.
- (5) When establishing the identity of the representative of a legal person and of the authorized person, a reporting entity shall obtain photocopy of personal identification documents of that person in accordance with Article 14 paragraph 5 of this Law”.

Article 17 of the LPMLTF regulates establishing and verifying the identity of the authorized person of a legal person, and reads

(1) If an authorized person, in the name of a representative, establishes a business relationship or executes a transaction on behalf of a legal person, a reporting entity shall establish and verify the identity of the authorized person and obtain data from Article 79 item 2 of this Law by checking the personal identification document of the authorized person in his presence.

(2) If the required data cannot be determined from the personal identification document of the authorized person, the missing data shall be obtained from other official document submitted by the authorized person.

(3) A reporting entity shall obtain data from paragraph 1 of this Article on the representative in whose name the authorized person acts, from the original of written power of attorney issued by the representative or its copy certified in accordance with law.

(4) If a reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of the representative and authorized person that acts in the name of the representative, it shall obtain their written statements.

(5) When establishing the identity of the representative of a legal person and of the authorized person, a reporting entity shall obtain photocopy of personal identification documents of that person in accordance with Article 14 paragraph 5 of this Law.

Article 18 of the LPMLTF regulates establishing and verifying the identity of other persons, i.e. the entities equal to them, and reads:

“(1) When the customer is other person, i.e. entity equal to it, a reporting entity shall:

- 1) establish and verify the identity of its representative;
- 2) obtain a written representation power of attorney;
- 3) obtain the data from Article 79 item 2 of this Law.

(1) A reporting entity shall establish and verify the identity of the representative from paragraph 1 item 1 of this Article and obtain the data from Article 79 items 2 and 15 of this Law by checking a personal identification document of the representative in his/her presence, and if the required data cannot be determined from the personal identification document, the missing data shall be obtained from other official document submitted by the representative or authorized person.

(2) If, when establishing and verifying the identity of the representative of the customer from paragraph 1 of this Article, a reporting entity doubts the accuracy of the obtained data or authenticity of the identification documents and other business files from which the data have been obtained, he/she shall obtain a written statement from the customer’s representative”.

Moreover, Article 29 of the Decision on the Structure, More Detailed Conditions and Manner of Transaction Account Opening and Closing (*OGM 48/14*), regulates opening, maintaining and closing of transaction accounts of legal persons – non-residents, and reads:

“Request submitted by a legal person – non-resident for opening transaction account for the execution of national or international payment transactions shall contain the following data:

- 1) *Name of the legal person;*
- 2) *Place and state of its registered office, address and telephone number;*
- 3) *Activity – scope of activity of the legal person;*
- 4) *Signature of a person authorised for representing legal person – non-resident and a seal, if any.*

In addition to the request under paragraph 1 above, the applicant shall submit the following documents:

1) *Statement from the registry in which legal person – non-resident was registered in a country of its registered office or, if it has been founded in a country in which the registration has not been done in such registry – other valid document on founding in accordance with the regulations of the originating country based on which legal form of such non-resident can be determined as well as the date of its founding;*

2) *Verified signature of authorised person of the applicant¹;*

3) Filled specimen signature card of persons authorised for signing payment orders, signed by the authorised person from the decision on registration of the legal person – non-resident in originating country and/or a person to which the authorised person has transferred proxy and/or from other legally valid document of founding, verified by a seal to be used for the verification of payment orders;

4) *Evidence on the payment of fee or taxes, if prescribed;*

5) Other documents requested by the payment service providers referred to in Article 2 paragraph 1 herein in accordance with its business policy.

Note¹: Verified signature of authorised person of the applicant contains names of all directors of legal person verified by relevant court.

A copy of the document referred to in paragraph 2 point 1 above which is verified by a competent body shall be submitted as well as its certified translation to Montenegrin language that cannot be older than three months.

A legal person – non-resident shall, upon the signing of the framework contract on the transaction account opening and closing, submit the document referred to in paragraph 3 above to the payment service provider referred to in Article 2 paragraph 1 herein once a year. If it fails to do so, the payment service provider referred to in Article 2 paragraph 1 herein shall not execute payment transactions of such legal person – non-resident until it submits such document.

When opening transaction account, foreign diplomatic and consular representative offices in Montenegro shall submit the following:

- 1) Certificate on registration issued by state authority responsible for foreign affairs;
- 2) Information of the competent authority in Montenegro on classification of activities;
- 3) Document on registration with the competent tax authority in Montenegro containing tax identification number;
- 4) Verified signature of the authorised person of the applicant;
- 5) Filled specimen signature card of persons authorised for signing payment orders from that account;
- 6) Evidence on the payment of fee or taxes, if prescribed;
- 7) Other documents requested by the payment service providers referred to in Article 2 paragraph 1 herein in accordance with its business policy.

When it is determined based on the submitted request and documentation that the conditions for opening transaction account have been fulfilled, the payment service provider referred to in Article 2 paragraph 1 herein shall sign framework contract on transaction account opening and maintaining with the applicant”.

Recommended action

Article 15 of the LPMLTF should explicitly provide for the collection of information on directors (in addition to the executive director) and include provisions regulating the power to bind the legal person. (5.4)

Measures adopted and implemented:

This recommended action is not quite clear. The Law on Business Organisations clearly defines and divides all forms of business associations and with it different requirements for different business organisations (including the collection of information on different types of management)

The Law on Business Organisations prescribes terms and conditions for establishment of

Joint Stock Company

Concept and Basic Characteristics

Article 17

(1) A joint-stock company shall mean a company made of natural or legal persons formed for the purpose of conducting economic activity, and the ownership of which is represented by shares.

(2) A joint-stock company shall be a legal person, and its assets and liabilities shall be totally separated from that of its shareholders.

(3) A joint stock company shall be liable for its obligations only to the extent of its assets.

Shareholders of joint stock-companies shall bear no personal liability for the obligations of the joint-stock company.

(4) A joint stock company may be established for a period of limited or unlimited duration. A joint stock company shall cease to exist in accordance with the provisions of this Law.

(5) The minimum initial capital of a joint-stock company shall be 25,000 euro. The founders shall be obliged to pay the initial capital in cash in the minimum amount of 25,000 euro.

Initial Registration

Article 21

(1) The following documents and data must be submitted to the Central Registry for the first registration of a joint stock company:

- 1) The foundation agreement;
- 2) The charter and a special act, if the charter does not contain the data referred to in Article 19, paragraph 3 of this Law;
- 3) A list of members of the Board of Directors:
- 4) The first and last names, and in case of change of first/last name any former name of the member of the Board of Directors, and dates and places of their birth;
- 5) Their personal identification numbers;
- 6) Permanent or temporary residence of the members of the Board of Directors;
- 7) Statements of the members of the Board of Directors indicating their citizenship;
- 8) Business occupation of the members of the Board of Directors;
- 9) Data on any other directorships or positions held in Montenegro or elsewhere and the place of registration of such companies if not in Montenegro;
- 10) Name and address of the Executive Director, Secretary of Company, and auditor;
- 11) The name of the company and the address of its registered office or address for receiving official notices;
- 12) The signed consent of the members of the Board of Directors, the Executive Director, the Secretary of Company, and the auditor to their appointments;
- 13) The Decision of the Securities Commission approving the prospectus for initial offering of shares as well as the decision of the Securities Commission confirming the successfulness of the issue, or the decision of the Securities Commission on recording the initial issue of shares in the case of a private joint stock company;
- 14) The proof of the payment of the appropriate fee.

(2) The registration documents shall indicate whether persons authorized to represent the company either as a body or as individuals may act alone or jointly.

(3) The company shall acquire the status of a legal person on the day of its registration with the Central Registry. The registration is evidenced by the issuance of a registration certificate.

(4) The Central Registry shall publish in the Official Gazette of Montenegro the data on company's name and registered office

Limited Liability Company-

Concept of the Limited Liability Company Articles 64

(1) A limited liability company may be formed by natural or legal persons who shall make a monetary or non-monetary contribution in the company for the purpose of generating gain, and its founders shall be liable for the obligations of the limited liability company to the amount of their contributions. The contributions shall constitute the limited liability company's initial capital.

(2) On payment of an initial contribution a person shall acquire part in a limited liability company proportionate to the amount of his contribution.

(3) Upon acquisition of a part a person shall become a member of the limited liability company.

(4) A member of a limited liability company shall hold only one part in the limited liability company representing his percentage in ownership interest.

(5) A part in a limited liability company may entitle a member of the company to cast more than one vote.

Initial Registration Article 70

(1) The following documents and data shall be submitted to the Central Registry and published at the first registration of a limited liability company:

1) the foundation agreement;

2) the charter;

3) a list of founders, members of the company, managers and members of the Board of Directors, if appointed, including--

a) the first and last names and former names in case of change of the first/last name; 79 Application of the Provisions of this Law to Limited Liability Company

b) the date and place of birth of members of the Board of Directors, their personal identification number, or passport number if a foreign national;

- c) the permanent or temporary residence of the members of the Board of Directors;
 - d) the statement of the members of the Board of Directors regarding their citizenship;
 - e) data on any other company memberships, directorships or other functions held in Montenegro or elsewhere, as well as the place of registration of such companies if not in Montenegro;
 - 4) the name of the Executive Director;
 - 5) the name of company, the address of the registered office and address of place for receipt of official notices, if different;
 - 6) persons authorized to represent the company either jointly or individually;
 - 7) the signed consent of the members of the Board of Directors to their appointments, if any;
 - 8) a document confirming payment of the registration fee.
- (2) The company shall acquire the status of a legal person on the day of its registration. The issuance of a registration certificate by the Tax Administration shall be the evidence of registration.
- (3) The Central Registry shall publish in the Official Gazette of Montenegro the data on company's name and registered office, name of Executive Director, names of members of the Board of Directors, if appointed, date of adoption of foundation agreement and charter, as well as date of the registration.
- (4) Publication of documents in the Official Gazette of Montenegro shall be by reference to the document in question.
- (5) All amendments to the foundation agreement, the charter or any other documents or data which a limited liability company is obliged to file, in accordance with this Law, with the Central Registry shall be submitted within seven working days from the day the amendments have been made. The submission of data shall be within the competence of the Executive Director or another designee.
- (6) After every amendment of the charter or the foundation agreement, the complete text as amended shall be submitted to the Central Registry. Amendments to the charter or the foundation agreement shall come into force on the day of their registration.
- (7) The documents and data submitted to the Central Registry shall be binding on the company in relation to third parties from the day of their publication in the Official Gazette of Montenegro, unless the company proves that the third parties had knowledge of them. With regard to transactions taking place within sixteen days following the publication of documents and data, the documents and data shall not be binding on good faith third parties who can prove that they did not know and could not have known about their publication.
- (8) There must not be discrepancy between what is published and what has been filed in the Central Registry. If there is a discrepancy the published text cannot be relied on as against third parties. Third parties may, however, rely on such text unless the company proves that they had knowledge of the text filed in the Central Registry.

Obligation to Submit and Publish Data and Documents

Article 71

- 1) Limited liability company shall be obliged to submit to the Central Registry that shall publish in the Official Gazette of Montenegro, the following documents and data:
- 1) any amendments to the charter or the foundation agreement, including any extension of the duration of the company;
 - 2) any change in the name of the company and the address of its registered office or place for receiving official notices;
 - 3) the appointment, termination of office and data on persons elected as members of the Board of Directors, managers or other authorized persons where applicable. It must be published whether the persons authorized to represent the company may do so alone or jointly;
 - 4) the appointment, termination of office and data on the persons who, either jointly or as individuals, are authorized to represent the company in dealings with third parties. It must be published whether the persons authorized to represent the company may do so jointly or alone;
 - 5) the liquidation of the company;
 - 6) any declaration of nullity of the company by the Commercial Court;
 - 7) the appointment of a liquidator, his identity, qualifications and powers other than those set out in this Law or in the charter;
 - 8) the amount of capital unless an increase in the capital requires an amendment of the charter;

Recommended action

In the case of a relationship or transaction in respect of a limited partnership (which is not a legal person under the Law on Business Organizations) or legal arrangement (such as a trust), there should be a requirement in the LPMLTF to verify the authority of the person purporting to act on its behalf, to verify the legal status of the limited partnership or legal arrangement, to obtain information concerning its legal form, and to collect information on the provisions regulating the power to bind the limited partnership or legal arrangement. (5.4)

Measures adopted and implemented:

Articles 15, 16, 17, 18 and 79 point 15 of the LPMLTF (quoted in answers Recommended actions referring to changes of the LPMLTF Articles 10,15(1),16,17(2) and (3)) lay down provisions covering the criteria from Article 5.4.

The Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro, No. 33/14 dd 04.08.2014) does not differentiate legal persons as foreign and domestic ones. **This means that reporting entities are obliged to approach the client in the same manner regardless of whether it is a foreign or domestic legal person.**

According to Article 17 of the new LPMLTF, reporting entities ***have to verify the identity of persons purporting to act on behalf of customers that are legal persons***, which is defined in the following way - *when an authorized person, in the name of a representative, establishes a business relationship or executes a transaction on behalf of a legal person, a reporting entity shall establish and verify the identity of the authorized person and obtain data from Article 79 item 2 of this Law by checking the personal identification document of the authorized person in his presence (Art.17, par.1).* Also, Art.17 par.3 defines that a reporting entity has to obtain the data on the representative from ***the original written power of attorney***: *A reporting entity shall obtain data from paragraph 1 of this Article on the representative in whose name the authorized person acts, from the original of written power of attorney issued by the representative or its copy certified in accordance with law.*

For customers that are legal persons (including limited partnerships, legal entities or legal arrangements), reporting entities are required to verify the identity of persons purporting to act on behalf of the customer, to check the power of authorization, to verify the legal status and to obtain information on legal form. Article 18 of the LPMLTF defines that, when the customer is other person, i.e. legal entity equal to it, a reporting entity is obliged to:

- establish and verify the identity of its representative;
- obtain a written representation power of attorney;
- obtain the data from Article 79 item 2 of this Law (name, address of permanent or temporary residence, date and place of birth and tax ID number of a representative or an authorized person who concludes the business relationship or executes transaction for the legal person or other person i.e. legal entities equal to them from the Article 18 of this Law, and number, type and name of the authority that issued the personal identification document).

Articles 22, 23, 24 and 25 of the new LPMLTF prescribe the requirement to establish and verify the identity through third party, the prohibition of establishing and verifying customer's identity through third party, obtaining data and documents from a third party and the obligations of third parties.

Recommended action

Article 20 of the LPMLTF should clearly require a reporting entity to understand the ownership structure of a business relationship or occasional transaction in respect of a legal entity that is not a legal person, limited partnership or legal arrangement and explain what information on beneficial ownership is to be collected (c5.5)

The existing Law on PMLTF improves previous Article 20, now Article 21, and clearly defines the imperative of understanding the ownership structure.... as follows :

- (1) A reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 79 item 14 of this Law.
- (2) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register that must not be older than three months of their issue date or obtain them by checking CBR or other public register in accordance with Article 15 paragraph 4 of this Law.

(3) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 2 of this Article, a reporting entity shall obtain the missing data by checking the original or certified copy of an identification document or other business documents submitted by the representative or authorized person of the legal person.

(4) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 3 of this Article, a reporting entity shall obtain those data from the written statement of the representative or authorized person.

(5) A reporting entity shall verify the data on beneficial owner of a legal person or foreign legal person to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer in accordance with risk-degree assessment.

(6) When establishing the identity of the beneficial owner of a legal person or foreign legal person a reporting entity shall obtain photocopy of a personal identification document of that person in accordance with Article 14 paragraph 5 of this Law”.

Moreover, Article 79 (points 14 and 15) of the LPMLTF regulates the content of the reporting entities' records.

Article 79 point 14 LPMLTF reads: "name, address of permanent or temporary residence, date and place of birth of the beneficial owner of the legal person or in case from the Article 20 paragraph 3 of this Law, data on the category of the person, in whose interest is the establishing and operating of the legal person or similar foreign legal person”;

Article 79 point 15 LPMLTF reads: "name of the company or name of another person i.e. entities equal to them, address of permanent or temporary residence, date and place of birth and tax ID number”.

- An express provision should be added to Article 22 of the LPMLTF to scrutinise transactions to ensure that they are consistent with the customer's risk profile. (c.5.7)
- The frequency of monitoring measures explained on page 31 of guidelines published by the APMLTF should be reviewed in order to ensure that they are consistent with the need to regularly monitor customer business activities (which is explained at page 28). (5.7)

Recommended action

Article 10 of the LPMLTF should require a reporting entity to identify the beneficial owner of a legal entity that is not a legal person, limited partnership (which is not a legal person under the Law on Business Organizations) or legal arrangement (such as a trust), and take reasonable steps to obtain sufficient identification data to verify identity. (c.5.5)

Measures adopted and implemented

Article 20 of the LPMLTF lays down the definition of beneficiary owner, and reads:

“

(1) Beneficial owner is the natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction is being conducted or a business relationship established, as well as the person that ultimately exercises control over a legal entity or legal arrangement.

(2) A beneficial owner of a business organization, or legal person, in the context of this Law, shall be:

1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than 25% share of the capital or has a dominating influence in the management of the assets of the business organization or legal person;

2) a natural person that indirectly has ensured or ensures funds to a business organization or legal entity and on that basis has the right to influence significantly the decision making process of the managing body of the business organization or legal entity when decisions concerning financing and business are made

(3) As a beneficial owner of a foreign legal person or other form of legal organizing (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered a natural person that:

- 1) *indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity;*
- 2) *is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed".*

In addition , please see previous comments.

Recommended action

Consequential changes should also be made to Article 19 of the LPMLTF, which defines who is to be understood to be the "beneficial owner". (c.5.5)

Measures adopted and implemented

Please see previous comments (Articles 20 and 21)

Recommended action

Guidance should be published by the CBM and SEC on ways of monitoring a customer's business activities. (5.7)

Measures adopted and implemented

The SEC adopted new Guidelines on 30th January 2015 that address above-mentioned deficiency (the point 1.6.2. of the Guidelines)

- Article 25(3) of the LPMLTF should require a reporting entity to perform enhanced CDD for higher rather than high risk categories of customer, business relationships or transactions (rather than high). (c.5.8)
- Guidelines on risk analysis published by the competent supervisory bodies should address all of the higher risk areas and threats identified in the national strategy and response to the MEQ. (5.8)

Recommended actions

Simplified identification measures applied under Article 29(1) of the LPMLTF should be limited to circumstances where a reporting entity has assessed that there are low risks, which may not be the case for all the customers types listed in that article. (5.9)

Measures adopted and implemented

Article 37 of the existing Law on PMLTF regulates the simplified customer due diligence, and reads:
„ (1) *If there is insignificant risk of money laundering or terrorist financing in relation a costumer, transaction from Article 9 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there is not a suspicion of money laundering or terrorist financing a reporting entity can apply simplified customer due diligence.*

- (1) *A reporting entity can apply simplified costumer due diligence from paragraph 1 of this Article on customers, business relationships, transactions or products only after it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law".*

Article 38 of the new Law on PMLTF regulates obtaining and verifying customer and transaction data, and reads:

- “ (1) *Simplified customer due diligence from Article 37 of this Law shall include obtaining data when:*
- 1) *establishing a business relationship, the data on:*
 - *the name and the registered office of a legal person that establishes, or on whose behalf and for whose account a business relationship is established;*
 - *the personal name of the representative or authorized person that establishes a business relationship for a legal person;*
 - *the purpose, nature and date of establishing a business relationship;*
 - 2) *executing transactions from Article 9 paragraph 1 item 2 of this Law, data on:*
 - *the name and the registered office of a legal person on whose behalf and for whose account a transaction is being executed;*
 - *the personal name of a representative or authorized person executing a transaction for a*

- legal person;*
- *date and time of executing a transaction;*
 - *the amount of a transaction, currency and the manner of executing a transaction;*
 - *the purpose of a transaction, personal name and permanent residence, or the name and registered office of a legal person whom the transaction is sent to.*
- (1) *A reporting entity shall obtain the data from paragraph 1 of this Article by checking the originals or certified copies of the documents from CBR or other appropriate public register submitted by a customer or by a direct check.*
 - (2) *If the required data cannot be obtained in the manner from paragraph 2 of this Article, the missing data shall be obtained from the originals or certified copies of identification documents and other business files submitted by a customer, or from the written statement of a representative or authorized person.*
 - (3) *Documents from paragraphs 1, 2 and 3 of this Article must not be older than three months of the issue date”.*

Recommended actions

Article 29 of the LPMLTF should be amended to exclude customers who are organisers of lotteries and games of chance. (c.5.9)

Measures adopted and implemented

As defined in the previous cited Article 37, by eliminating definition of specific industries or categories the rule is imposed to always make risk evaluation and analysis as to define what would be the risky categories of reporting entities. Therefore, as the time pass by categories may change and to avoid changing this article constantly it is imposed to always consider and analyse every industry and sector. As mentioned in the introductory part, Montenegro has gone through NRA and has identified the stated categories as the national most risky ones.

Recommended action

The list of countries published under Article 29(2) of the LPMLTF should be reviewed in order to ensure that all apply international AML/CFT standards that are at the same level as, or higher than, EU standards. The methodology followed to assess the application of standards overseas should be clarified and published and cover also standards that apply to securities regulation (Article 29(1) – item 3). (c.5.9)

Measures adopted and implemented

The list of countries that apply international AML/CFT standards is updated on 2nd of July 2015 in accordance with the Methodology for creating the list of countries. Additionally, the list of countries that do not or insufficiently apply international AML/CFT standards is updated on 16th November 2015.

Article 29 from the previous Law on PMLTF is now restructured and is now 37, introducing the elimination of requirement to prepare the list of countries.

Recommended action

The scope of CDD exemptions set out in Article 13 of the LPMLTF and scope of simplified identification measures under Article 29 of the LPMLTF should be reviewed and revised such that simplified measures are applied across the full range of CDD measures. (c.5.9)

Measures adopted and implemented

- In accordance with Art. 7 of the LPMLTF reporting entities are obliged to develop the risk analysis for determining the risk assessment of an individual customer, a group of customers, a country or geographic areas, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing and to update it regularly and keep it in accordance with this Law. A reporting entity shall, on the basis of risk analysis undertake appropriate activities for decreasing the defined risk of money laundering and terrorist financing. A reporting entity shall prepare the risk analysis on the basis of guidelines on risk analysis determined by the competent authorities from Article 94 of this Law.

- The Rulebook on Guidelines for developing risk analysis and risk factors in order to prevent money laundering and terrorist financing defines the criteria for developing guidelines for risk analysis in order to prevent money laundering and terrorist financing, as well as the ML and TF risk factors. The Guidelines define the risk factors and upon them the assessment of risk of certain client, group of clients, country or geographic area, business relationship, transaction or product, is determined.

In case there is no ML/TF risk, a reporting entity may place a client, group of clients, business relationship, transaction or product in the insignificant risk category.

- Furthermore, Article 37 of the new LPMLTF (regulating the application of simplified CDD measures, Art. 29 of the previous LPMLTF) defines the cases when simplified CDD measures can be applied:
If there is insignificant risk of money laundering or terrorist financing in relation a costumer, transaction from Article 9 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there is not a suspicion of money laundering or terrorist financing a reporting entity can apply simplified customer due diligence.

A reporting entity can apply simplified costumer due diligence from paragraph 1 of this Article on customers, business relationships, transactions or products only after it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law (The risk analysis developed by the reporting entity).

Also, the list of countries from Article 29(2) of the previous LPMLTF was deleted.

Article 38 of the new Law on PMLTF regulates obtaining and verifying customer and transaction data, and reads:

“ (1) Simplified customer due diligence from Article 37 of this Law shall include obtaining data when:

3) establishing a business relationship, the data on:

- the name and the registered office of a legal person that establishes, or on whose behalf and for whose account a business relationship is established;*
- the personal name of the representative or authorized person that establishes a business relationship for a legal person;*
- the purpose, nature and date of establishing a business relationship;*

4) executing transactions from Article 9 paragraph 1 item 2 of this Law, data on:

- the name and the registered office of a legal person on whose behalf and for whose account a transaction is being executed;*
- the personal name of a representative or authorized person executing a transaction for a legal person;*
- date and time of executing a transaction;*
- the amount of a transaction, currency and the manner of executing a transaction;*
- the purpose of a transaction, personal name and permanent residence, or the name and registered office of a legal person whom the transaction is sent to.*

(4) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the originals or certified copies of the documents from CBR or other appropriate public register submitted by a customer or by a direct check.

(5) If the required data cannot be obtained in the manner from paragraph 2 of this Article, the missing data shall be obtained from the originals or certified copies of identification documents and other business files submitted by a customer, or from the written statement of a representative or authorized person.

(6) Documents from paragraphs 1, 2 and 3 of this Article must not be older than three months of the issue date”.

Recommended actions

Concessions in Articles 13 and 29(1) item 3 of the LPMLTF should not be applied to any customer that is resident in a country that is not in compliance with and has not effectively implemented the FATF Recommendations. (5.10)

Measures adopted and implemented

Please see above.

Additionally, as stated above, Article 37 of the new LPMLTF defines the cases when simplified CDD measures can be applied – in cases of insignificant risk of ML/TF and in cases where there is no a suspicion in ML/TF, which is more precisely defined by the Rulebook on Guidelines for developing risk analysis and risk factors in order to prevent money laundering and terrorist financing ("Official Gazette of Montenegro", No. 53/14 dd 19.12.2014) and the Guidelines themselves. Thus, Art. 3 of the Rulebook defines, among others, that one of the risk factors is when the origin state of the client or its

beneficial owner is on the list of non-cooperative countries designated by FATF as countries that do not or insufficiently apply the FATF recommendations.

Furthermore, the Chapter 6.2.2 item 4 of the APLMTF's Guidelines on drafting risk analysis for the purpose of preventing ML and TF (published in March 2015) more precisely defines the countries designated by FATF as non-cooperative ones:

“jurisdictions that, according to FATF, have no appropriate AML/CFT legislation in place; jurisdictions where there's no supervision of the state over the financial institutions, or if there is one, it is inappropriate; jurisdictions where opening or operating of financial institutions is allowed without approval or registration with the competent state authorities; countries that encourage opening of anonymous accounts or other anonymous financial instruments; jurisdictions with inadequate system of recognizing and reporting suspicious transactions; countries whose legislation does not require identification of beneficial owner, there's no international cooperation or it is inefficient.”

Recommended actions

Concessions in Articles 13 and 29 of the LPMLTF should not be applied in scenarios where higher risks apply. (5.11)

Measures adopted and implemented

Article 37 of the LPMLTF regulates simplified customer due diligence, and reads:

„ (1) *If there is insignificant risk of money laundering or terrorist financing in relation a costumer, transaction from Article 9 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there is not a suspicion of money laundering or terrorist financing a reporting entity can apply simplified customer due diligence.*

A reporting entity can apply simplified costumer due diligence from paragraph 1 of this Article on costumers, business relationships, transactions or products only after it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law”.

Article 13 of the LPMLTF regulates exemptions from application of customer due diligence measures, and reads:

“ (1) Insurance companies conducting life insurance business and branches of foreign insurance companies licensed to conduct life insurance business in Montenegro, founders, managers of pension funds, and legal and natural persons performing representation and brokerage activities in insurance, in cases of concluding life insurance contracts, are not obliged to conduct customer due diligence measures when:

- 1) concluding life insurance contracts where an individual instalment of premium or more instalments of premium, payable in one calendar year, do not exceed the amount of €1, 000, or where the payment of a single premium does not exceed the amount of €2, 500;
 - 2) concluding pension insurance business providing that it is:
 - insurance within which it is not possible to assign the insurance policy to a third person or to use it as security for a credit or borrowing;
 - conclusion of a collective insurance contract ensuring the right to a pension.
- (1) Institutions that issue electronic money and their subsidiaries do not need to conduct customer due diligence measures when:
- 1) issuing electronic money, if a single maximum value issued on the electronic data carrier where it is not possible to re-deposit value, does not exceed the amount of €150;
 - 2) issuing and dealing with electronic money, if the total amount of deposits is kept on the electronic data carrier where it is possible to re-deposit value, and which in the current calendar year does not exceed the amount of €2,500, unless the holder of electronic money in the same calendar year cashes the amount of at least €1,000;
- (2) **The provisions of paragraphs 1 and 2 of this Article do not apply to cases when in relation to a transaction or customer there is a suspicion of money laundering or terrorist financing.**

- As stated above, Article 37 of the new LPMLTF defines the cases when simplified CDD measures can be applied – in cases of insignificant risk of ML/TF and in cases where there is no a suspicion in ML/TF, which is more precisely defined by the Rulebook on Guidelines for developing risk analysis and risk factors in order to prevent money laundering and terrorist financing ("Official Gazette of Montenegro", No. 53/14 dd 19.12.2014) and the Guidelines themselves. Thus, Art. 3 of the Rulebook defines, among others, that one of the risk factors is when the origin state of the client or its beneficial

owner is on the list of non-cooperative countries designated by FATF as countries that do not or insufficiently apply the FATF recommendations.

Furthermore, the Chapter 6.2.2 item 4 of the APLMTF's Guidelines on drafting risk analysis for the purpose of preventing ML and TF (published in March 2015) more precisely defines the countries designated by FATF as non-cooperative ones:

“ jurisdictions that, according to FATF, have no appropriate AML/CFT legislation in place; jurisdictions where there's no supervision of the state over the financial institutions, or if there is one, it is inappropriate; jurisdictions where opening or operating of financial institutions is allowed without approval or registration with the competent state authorities; countries that encourage opening of anonymous accounts or other anonymous financial instruments; jurisdictions with inadequate system of recognizing and reporting suspicious transactions; countries whose legislation does not require identification of beneficial owner, there's no international cooperation or it is inefficient.”

Article 37 of the LPMLTF explicitly limits the application of simplified CDD measures only to cases when the reporting entity has previously established that the clients, transactions, products belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the risk analysis developed in accordance with the Law.

Article 38 of the LPMLTF prescribes that the simplified customer due diligence from Art.37 of this Law includes obtaining data when *establishing a business relationship and executing transactions from Article 9 paragraph 1 item 2 of this Law.*

Recommended action

In the very limited circumstances set out in Article 11(3) of the LPMLTF, there should be a requirement for a reporting entity permitted to utilise a business relationship prior to verification to adopt risk management procedures concerning the conditions in which verification may be delayed. (5.14)

Recommended action

Guidelines published by the SEC and ISA should be revised to reflect the prohibition in Article 12 of the LPMLTF on establishing a relationship or executing an occasional transaction when evidence of the client's identity cannot be obtained. (5.15).

Measures adopted and implemented

The SEC adopted new Guidelines on 30th January 2015 that address above-mentioned deficiency (the point 1.6.2. of the Guidelines)

1.6.2. Establishing and verifying the identity of a customer

Before establishing a business relationship or execution of a transaction, a reporting entity must establish and verify the identity of a customer, as well as the identity of a beneficial owner of the customer on the basis of documents, data and information with which undoubtedly and reliably the identity of the customer can be verified.

The identity of the customer can be solely established on the basis of credible, independent and objective sources, like official identification document or other public documents that prove the veracity of customer's identity (personal documents, official documents, original or certified documents from appropriate public register, obtaining data directly from the customer, identifying and verifying the identity of the representative, procurator, proxy of a legal person, establishing and verifying the identity of a natural person by a qualified electronic certificate, based on the statement of the truthfulness of the data collected).

When a customer's identity cannot be established or verified, as well as when it is not possible to identify a beneficial owner of the customer and when it is not possible to obtain information on the purpose and intention of a business relationship or transaction and other data in accordance with the Law, a reporting entity must not establish a business relationship or execute a transaction, i.e. it must terminate any existing business relationship with the customer concerned.

Article 10 of the existing Law on AMLTF stipulates establishing and verifying the identity of the customer before establishing a business relationship, and paragraph 4 of this Article, especially

prescribes when establishing a business relationship with the customer must not be realized, or if the business relationship has already been established it must be terminated.

Customer identification and verification before establishing a business relationship Article 10

(1) A reporting entity shall apply the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law prior to establishing a business relationship with a customer.

(2) By way of exception from paragraph 1 of this Article, a reporting entity can apply customer verification measures from Article 8 paragraph 1 items 1 and 2 of this Law during the establishment of a business relationship with a customer when a reporting entity estimates it is necessary and when there is insignificant risk of money laundering or terrorist financing.

(3) When concluding a life insurance contract the reporting entity from Article 4 paragraph 2 item 9 and 10 of this Law can verify the identity of the insurance policy beneficiary even after concluding the insurance contract, but not later than the time when the beneficiary according to the policy can exercise his/her rights.

(4) If a reporting entity cannot conduct measures from paragraph 1 of this Article, the business relationship must not be established, and if the business relationship has already been established it must be terminated.

In addition, Guidelines for risk analysis of money laundering and financing of terrorism in insurance adopted by ISA on 07. 11. 2011 were repealed because ISA adopted new Guidelines for risk analysis of money laundering and financing of terrorism in insurance from 28. 05. 2015. The new Guidelines from 2015, do not give the opportunity to the reporting entity to establish or continue a business relationship with the customer that can not be identified or where there is suspicion regarding the accuracy of the data.

III CLASSIFICATION OF CUSTOMERS INTO RISK CATEGORIES

Risk categories

48. The reporting entity is obliged to ensure that all documentation prescribed by the Law are obtained as originals or certified copies, whereas part of data may also be gathered via proper forms that the customer is to fill in, as well as from other documents, records and sources of data that

Recommended action

It should be an offence under Article 12(2) of the LPMLTF to establish a relationship in a case where evidence of identity cannot be obtained (in the same way that an offence is committed where evidence of identity cannot be obtained for an occasional transaction). (5.15)

Measures adopted and implemented:

Article 99 paragraph 1 points 10 and 11 of the LPMLTF foresees fine if a reporting entity establishes and/or continues business relation, or executes transaction without previously undertaking the CDD measures. Article 99 paragraph 1 points 10 and 11 read:

“ A legal person shall be fined for misdemeanour in an amount from 3,000 EUR to 20,000 EUR when:

.....:

10) it establishes or does not terminate a business relationship when it cannot execute measures from Article 10 paragraph 1 of this Law (Article 10 paragraph 4);

11) it executes the transaction without previously undertaking the prescribed measures from Article 8 paragraph 1 items 1,2 and 3 of this Law (Article 11 paragraph 1)”;

Recommended action

Where a reporting entity has already established a business relationship but delayed verification of the identity of a beneficiary (under an insurance contract) under Article 11(3) of the LPMLTF, there should be a requirement to subsequently terminate that relationship when it is not possible to apply CDD measures. (5.16)

Measures adopted and implemented

Article 10 of the existing Law on PMLTF stipulates establishing and verifying the identity of the customer before establishing a business relationship, and paragraph 4 of this Article, especially

prescribes when establishing a business relationship with the customer must not be executed, or if the business relationship has already been established it must be terminated.

In addition, the Guidelines for Risk Analysis of Money Laundering and Financing of Terrorism in Insurance Sector adopted by ISA, on 7th November 2011, were replaced because ISA adopted the New Guidelines for Risk Analysis of Money Laundering and Financing of Terrorism in Insurance Sector on 28th May 2015. The new Guidelines from 2015, do not give the opportunity to the reporting entity to establish or continue a business relationship with the customer that can not be identified or where there is suspiciousness about the accuracy of the data.

Recommended action

There should be a requirement to terminate an existing business relationship where a reporting entity has doubts about the veracity or adequacy of previously obtained customer identification information, or during the remediation of CDD for existing customers, or where the reporting entity is unable to apply CDD measures. (5.16)

Measures adopted and implemented

According to the Art.10 of the LPMLTF a reporting entity is obliged to apply the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law (*to identify and verify a customer's identity based on documents, data and information from reliable, independent and objective sources; to identify a beneficial owner of customer and verify his identity in the cases defined in this Law; to obtain data on the purpose and nature of a business relationship or purpose of transaction and other data in accordance with this Law*) **prior to establishing a business relationship with a customer**. Furthermore, Art.10 par 4 of the LPMLTF defines that in case a reporting entity cannot do so, the business relationship **must not** be established, and if the business relationship **has already been established it must be terminated**. The sanction for violation of this requirement is prescribed in Art. 99 par.1 items 10 and 12, as follows:

A legal person shall be fined for misdemeanour in an amount from 3,000 EUR to 20,000 EUR when:

10) *it establishes or does not terminate a business relationship when it cannot execute measures from Article 10 paragraph 1 of this Law (Article 10 paragraph 4);*

12) *it cannot conduct measures from Article 8 paragraph 1 items 1,2 and 3 of this Law but does not reject the establishment of business relationship and the execution of transactions, or does not act in accordance with Article 10, paragraph 4 and Article 11 paragraph 2 of this Law, and on the basis of previously collected information and data on the customer and/or transaction can prepare a report on a suspicious customer or transaction, which it delivers to the Administration in accordance with Article 41 of this Law (Article 12).*

Additionally, in Article 9 paragraph 1 item 3 the obligation of **conducting CDD measures is emphasised when there is 3) when there is a suspicion about the accuracy or veracity of the obtained customer identification data;**

Recommendation 6

(Please see comments under the title 4. R.6 - Politically exposed persons– rated PC)

Recommendation 8

Recommended action

Authorities should require financial institutions to have policies and procedures aimed at addressing risks associated with non-face to face customer relationships.

Measures adopted and implemented

Article 36 of the LPMLTF regulates new technologies, and reads:

(1) Banks and other financial institutions shall take measures and actions to eliminate money laundering and terrorist financing risks that may arise from new developing technologies that might allow anonymity (internet banking, using ATMs, etc.).

(2) Banks and other financial institutions shall adopt internal procedures in accordance with Article 7 paragraph 3 of this Law with a view to preventing the new technologies use for the purpose of money laundering or terrorist financing.

Recommended action

Authorities should provide more guidance to insurance and securities market participants regarding policies and procedures necessary to address potential risks of misuse of technological developments in ML/TF.

Measures adopted and implemented

ISA is in accordance with the AMLTF in the Guidelines for risk analysis of money laundering and financing of terrorism in insurance adopted on 28. 05. 2015, point 67 and 68 prescribed the application of new technologies.

67. In the event that the reporting entity has decided to introduce into its operations the new technologies that enable anonymity (internet, use of automatic devices, and similar), procedures that ensure reduction of risk against misuse of the new operational manner for the purpose of money laundering and terrorism financing shall be previously ensured and processes particularly exposed to such risk shall be identified.

68. The reporting entity shall also apply enhanced due diligence on unusual transactions and businesses that are being executed with application of new technologies. By such measures the reporting entity shall establish manner for verification of gathered documentation, identity of beneficial owner, information required regarding the aim and nature of a transaction/ business relationship and monitoring and frequency in control of such transactions.

Recommended action

The non-face-to-face requirements should also apply when conducting ongoing due diligence.

Recommended action

Authorities should ensure clarifying the applicability of Article 28 of LPMLTF to ensure that the same CDD measures and procedures are applicable for opening of accounts through distance means e.g. representative offices.

Measures adopted and implemented

Article 28 of the previous Law on PMLTF is deleted, in accordance to that this requirement does not exist any more.

Also, the reliance on third parties is defined in the following articles:

Establishing and verifying customer's identity through third party Article 22

- (1) Under the conditions provided for by this Law, when establishing business relationship with a customer, a reporting entity may entrust the implementation of the measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law to a third party that meets the requirements defined by this Law.
- (2) A third party may be a reporting entity from Article 4 paragraph 2 items 1, 5, 6, 7 and 10 of this Law.
- (3) A reporting entity must not accept measures from Article 8 paragraph 1 items 1, 2 and 3 of this Law, conducted by a third party if the third party did not establish and verify customer's identity in his/her presence.
- (4) A reporting entity is responsible for the proper establishing and verifying identity of a customer through third party.

Prohibition of establishing and verifying customer's identity through third party Article 23

- (1) A reporting entity must not entrust the application of measures of establishing and verifying customer's identity to a third party when a customer is a shell bank or anonymous company.
- (2) A reporting entity must not entrust the application of measures of establishing and verifying customer's identity to a third party from a country that is on the list of countries that do not apply the standards in the area of money laundering and terrorist financing.
- (3) The list of countries that do not apply the standards from paragraph 2 of this Article is published by the Administration on its website based on the data of international organizations.

Obtaining data and documents from a third party Article 24

- (1) The third person that carries out customer identification and verification in accordance with Article 22 of this Law shall deliver to the reporting entity the obtained data and documents on the customer.
- (2) If the reporting entity doubts the validity of the conducted application of the measures of establishing and verifying customer's identity or the veracity of obtained data on the customer, it shall

demand a written statement from the third party on the credibility of the establishing and verifying customer's identity measures or of the obtained data on a customer.

Third party obligations Article 25

(1) The third party from Article 22 of this Law shall:

- 1) Upon a request of a reporting entity, it shall without delay provide copies of identification documents and other documents upon which it has established and verified customer's identity and obtained data and documents;
- 2) when there is a suspicion of money laundering or terrorist financing in relation to a transaction (regardless to the amount or type) or customer it shall provide data from Article 79 of this Law to the Administration;
- 3) it shall keep the obtained copies of identification documents and documentation in accordance with this Law.

4. R.6 - Politically exposed persons– rated PC

Deficiencies

- Requirement to adopt appropriate risk management systems does not include determination of whether a potential customer or a beneficial owner represent a PEP;
- No requirement to obtain senior management approval once a customer becomes a PEP to continue business relationship;
- No clear requirement to establish the source of wealth of a PEP. No formal requirement to establish the source of wealth and source of funds of a beneficial owner who is a PEP.

Effectiveness

- Excessive reliance on information submitted by the customer to determine whether the customer is a PEP;

Measures adopted and implemented:

According to Art.33 par.2 a reporting entity is obliged to, in accordance with the guidelines of a competent authority from Article 94 of LPMLTF, make an internal act containing the procedures that are based on risk analysis and apply them when identifying the customer or beneficial owner of a customer who is a politically exposed person. The sanction for breaching this provision is prescribed in Art.99 par.1 item 56, stating that in case a legal person does not make an internal act in accordance with the guidelines of the competent authority from the Article 94 of this Law, containing the procedures that are based on risk analysis, which it applies when identifying the customer or the beneficial owner of a customer who is politically exposed person, it shall be fined for misdemeanour in an amount from 3,000 EUR to 20,000 EUR.

A reporting entity obtains the information on whether a certain person is a PEP from a signed written statement completed by the client prior to establishing a business relationship or executing a transaction (Questionnaire for identifying a politically exposed person). The Questionnaire is given in the Guidelines for developing risk analysis in order to prevent money laundering and terrorist financing.

Pursuant to the provisions laid down in Section 3.3.1.1 b) of the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing, adopted by the Central Bank, when determining politically exposed persons and members of immediate family and close associates with the meaning of the Law, the bank can act in one (or the combination) of the following ways:

- “the client fills out the form (enclosed to these guidelines and representing its integral part, the form PEP);
- gathering information from public sources;
- gathering information based on accessing database including lists of politically exposed persons ([World Check PEP List, inquiry through internet, etc.](#))”.

The SEC adopted new Guidelines on 30th of January 2015 that address above-mentioned deficiency (the point 2.3.2. of the Guidelines).

“Politically exposed person

A definition of a politically exposed person is set forth under Article 32 of the Law, while Article 33 of the Law prescribes measures of enhanced due diligence and monitoring of business operations of politically exposed persons.

Before establishing a business relationship with a customer who is a politically exposed person or a customer whose beneficial owner is a politically exposed person, a reporting entity's employees are required to obtain the written consent of a senior management, and if the business relationship has already been established, it is necessary to obtain the written consent of a senior management for continuance of business relations.

In order to identify politically exposed person, reporting entities are required to:

- demand from clients to fill in the form for politically exposed persons;
- collect information from public sources;
- collect information on the basis of a review of the database containing a list of politically exposed persons (e.g. the list of politically exposed persons on the website of the Administration, World Check PEP List, etc.);
- collect information on the basis of a review of the database held by the Commission for the prevention of conflict of interest.

In the event that, when completing the form for politically exposed persons, the customer does not declare himself as a politically exposed person, a reporting entity shall, based on the above methods, verify whether the customer is a politically exposed person, and if it turns out that he is, a reporting entity shall take measures of enhanced due diligence and monitoring of business operations.

After establishing a business relationship with a politically exposed person, a reporting entity is also obliged to keep separate records of these persons and transactions concluded on behalf and for the account of such persons, in electronic form.

After obtaining approval from a senior manager for establishment or continuation of a business relationship with a politically exposed person, employed with a reporting entity are not required to obtain approval from a senior manager for undertaking each individual executed for politically exposed persons. However, reporting entity's employees are required to pay special attention to transactions and other business activities carried out by a politically exposed person, and, if necessary, notify the authorized person on these transactions in the shortest possible time.”

Additionally, the ISA is in accordance with the AMLTF in the Guidelines for risk analysis of money laundering and financing of terrorism in insurance adopted on 28. 05. 2015, point 38 - 45 prescribed the politically exposed persons.

38. The reporting entity shall establish adequate procedures in order to determine whether the potential customer or the customer's beneficial owner is politically exposed person (PEP) within the meaning under the Law.

39. The record on PEP customers shall be kept by the reporting entity in a manner that ensures more simplified, effective and efficient implementation of monitoring and control procedures. When keeping and updating the record, the data from documentation, publically available registers on PEP persons and all the other kinds of available information shall be used.

40. Changes in customer's PEP status influence the assessed risk-degree for the entire business relationship with such a customer, impacting the obligation of regular supervision and control of such persons. Therefore, the reporting entity shall ensure through its internal procedures the regular verification of customer's PEP status.

41. Customer's PEP status is established from the following sources:

- a) form filled out by the customer;
- b) information collected from public sources;
- c) information obtained by access to databases that include lists of politically exposed persons (World Check PEP List, Internet, etc).

The form used by the reporting entity for identification of PEP persons is enclosed hereto and comprises its integral part.

42. For transactions with politically exposed persons that individually or jointly equal to or exceed 15,000€, the reporting entity shall establish source of such funds and property that are subject to the contract or transaction, from personal and other identification documents submitted by a customer. If it is not possible to obtain the prescribed data from the submitted documents, the data shall be obtained directly from the customer's written statement.

43. Before establishing a business relationship with a customer from the previous item, the employee contacting the customer shall obtain a written consent from a senior manager (executive director or a person substituting him/her when absent). The consent may, in addition to signing the form, be obtained in electronic form, but in such a case the documents should contain evidence thereof.

44. The reporting entity's officer is obliged to monitor with special attention the activities that the PEP customer performs at the reporting entity and in case of changes to the usual customer's business activities, to inform the authorized person thereof within the shortest possible period.

45. The reporting entity may delete from the list of politically exposed persons only persons for which the period of 18 months has expired since the date of cessation of their status on the basis of which they were incorporated into this list.

- Insufficient information obtained on the source of wealth and funds of PEPs;
Measures adopted and implemented:
According to the Art. 33 par 1 it.1, when conducting enhanced customer due diligence measures for the customer that is a politically exposed person, in addition to the measures from Article 8 of this Law, a reporting entity is obliged to obtain data on the sources of funds and property that are the subject of a business relationship or transaction, from the documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement.

- Senior management approval not obtained when establishing business relationships or conducting transactions with PEPs;

Measures adopted and implemented:

-The existing LPMLTF provides for that a reporting entity is obliged to obtain a written consent from a senior management before establishing business relationship with a customer, and if the business relationship has already been established, obtain a written consent from a senior management for continuing the business relationship (Article 33 par. 1 item 2).

Also, please see answer below recommended action regarding the deficiency: There should be requirement to obtain approval from senior management to continue a business relationship when an existing customer becomes a PEP.

- Insurance companies interviewed showed limited. understanding of PEP requirements

Recommended action

Recommendation 6

Recommended action

Authorities should further broaden the scope of Article 27(4) to encompass requirement of identifying whether a potential customer and a beneficial owner is a PEP or not.

Measures adopted and implemented

Pursuant to Article 33 of the LPMLTF, in addition to measures from Article 8 of the Law, a reporting entity has to conduct enhanced customer due diligence measures for the customer that is a politically exposed person. Article 33 paragraph 3 lays down that: "A reporting entity shall, in accordance with the guidelines of a competent authority from Article 94 of this Law make an internal act containing the

procedures that are based on risk analysis and apply them when identifying the customer or beneficial owner of a customer who is a politically exposed person”.

Recommended action

There should be requirement to obtain approval from senior management to continue a business relationship when an existing customer becomes a PEP.

Measures adopted and implemented

Pursuant to Article 33 of the existing Law on PMLTF, in addition to measures from Article 8 of the Law, a reporting entity has to conduct enhanced customer due diligence measures for the customer that is a politically exposed person. Article 33 paragraph 1 point 2 lays down the provision to: “obtain a written consent from a senior management before establishing business relationship with a customer, and if the business relationship has already been established, obtain a written consent from a senior management for continuing the business relationship”;

The SEC adopted new Guidelines on 30th of January 2015 that address above-mentioned deficiency (the point 2.3.2. of the Guidelines).

“Politically exposed person

A definition of a politically exposed person is set forth under Article 32 of the Law, while Article 33 of the Law prescribes measures of enhanced due diligence and monitoring of business operations of politically exposed persons.

Before establishing a business relationship with a customer who is a politically exposed person or a customer whose beneficial owner is a politically exposed person, a reporting entity's employees are required to obtain the written consent of a senior management, and if the business relationship has already been established, it is necessary to obtain the written consent of a senior management for continuance of business relations.

In order to identify politically exposed person, reporting entities are required to:

- demand from clients to fill in the form for politically exposed persons;
- collect information from public sources;
- collect information on the basis of a review of the database containing a list of politically exposed persons (e.g. the list of politically exposed persons on the website of the Administration, World Check PEP List, etc.);
- collect information on the basis of a review of the database held by the Commission for the prevention of conflict of interest.

In the event that, when completing the form for politically exposed persons, the customer does not declare himself as a politically exposed person, a reporting entity shall, based on the above methods, verify whether the customer is a politically exposed person, and if it turns out that he is, a reporting entity shall take measures of enhanced due diligence and monitoring of business operations.

After establishing a business relationship with a politically exposed person, a reporting entity is also obliged to keep separate records of these persons and transactions concluded on behalf and for the account of such persons, in electronic form.

After obtaining approval from a senior manager for establishment or continuation of a business relationship with a politically exposed person, employed with a reporting entity are not required to obtain approval from a senior manager for undertaking each individual executed for politically exposed persons. However, reporting entity's employees are required to pay special attention to transactions and other business activities carried out by a politically exposed person, and, if necessary, notify the authorized person on these transactions in the shortest possible time.”

Recommended action

A clear requirement to establish the source of wealth of PEP should be introduced in the LPMLTF.

Recommended action

Requirement to establish the source of wealth and source of funds in case a beneficial owner is a PEP should be introduced in LPMLTF.

Measures adopted and implemented:

According to legislation in Montenegro banks are not authorized to perform duties outside their scope of work, therefore are not authorized to investigate the source of wealth of PEPs. This activity is the responsibility of the Agency for Combating Corruption which compiles every information concerning the ownership of PEPs in Montenegro, it means also their account details. So, the Agency has the authority to call upon banks and investigate the originally delivered information and accordingly to undertake actions if the information delivered by a PEP do not correspond to actual situation. In such a case PEP would bear the legal consequence and bank would be having the correct information.

Pursuant to Article 33 of the LPMLTF, in addition to measures from Article 8 of the Law, a reporting entity has to conduct enhanced customer due diligence measures for the customer that is a politically exposed person. Article 33 paragraph 1 point 1 lays down the provision, which reads: "obtain data on the sources of funds and property that are the subject of a business relationship or transaction, from the documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement";

Pursuant to the provisions laid down in Section 3.3.1.1 b) of the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing, adopted by the Central Bank, when determining politically exposed persons and members of immediate family and close associates with the meaning of the Law, the bank can act in one (or the combination) of the following ways:

- "the client fills out the form (enclosed to these guidelines and representing its integral part, the form PEP);
- gathering information from public sources;
- gathering information based on accessing database including lists of politically exposed persons (World Check PEP List, inquiry through internet, etc.)".

Recommended action

The definition of a PEP should apply to those persons who cease to hold a prominent public function beyond the one year period.

Measures adopted and implemented

Pursuant to existing Law on PMLTF Article 32 paragraph 6 extends this period to 18 months, as follows:

Article 32 Politically exposed persons

.....

.....

(6) A person from paragraphs 1 and 2 of this Article shall be considered as a politically exposed person for the period of time not less than 18 months since the date of ceasing to hold the office.

5. R.11 - Unusual transactions– rated PC

Deficiencies:

- Complex and unusual patterns of transactions are not covered;
- No obligation for financial institutions to examine as far as possible the background and purpose of complex and unusual transactions;
- Record-keeping obligations do not extend to findings on unusual transactions.

Effectiveness

- Limited and confusing guidance regarding the definition of unusual transactions and obligations related to such transactions has a direct impact on effectiveness of implementation of requirements established under recommendation 11;
Measures adopted and implemented

Provisions of Article 35 of the new LPMLTF clearly define the obligations referring to unusual transactions (unusually large transactions and unusual transactions that have no apparent economic or legal purpose) that the reporting units are obliged to perform.

- FI's do not seem to differentiate obligations deriving from unusual transactions and suspicious transactions.

Measures adopted and implemented

During on-site inspections in banks, the CBM determined that banks' internal acts adopted the criteria referring to unusual transactions and unusual business relations separately from indicators for recognising suspicious clients or transactions.

Moreover, the CBM organised seminar for representatives of banks in 2015 titled: "Revealing of suspicious transactions and clients and recognising unusual transactions".

Recommended action

Include reference to all complex and unusual patterns of transactions in Article 33a:

Measures adopted and implemented

Article 35 paragraph 1 of the existing LPMLTF lays down the provision that reads: "A reporting entity shall analyse all unusually large transactions, as well as unusual transactions that have no apparent economic or legal purpose".

Moreover, Article 35 paragraph 3 of the New LPMLTF lays down the provision that reads: "A reporting entity shall, by an internal act, in accordance with the Article 7 of this Law, determine the criteria for recognizing unusual transactions".

Moreover, Article 91 paragraph 1 of the existing LPMLTF lays down the provision that reads: "Reporting entity shall keep records obtained in accordance with this Law and related documentation and reports ten years after the termination of business relationship, executed transaction, entrance of the customer into room where special games on chance are organized or access to the safe deposit box".

Recommended action

Amend the provision regarding unusual transactions to ensure that FI's are required to examine as far as possible the background and purpose of such transactions.

Measures adopted and implemented

Article 35 paragraph 2 of the existing LPMLTF lays down the provision that reads: "A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this Article and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law".

Recommended action

Amend record-keeping provision in the Law to clearly refer to the obligation of FI's to keep the records on such transactions.

Measures adopted and implemented

Article 35 paragraph 2 of the existing LPMLTF lays down the provision that reads: "A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this Article and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law".

Article 91 paragraph 1 of the existing LPMLTF lays down the provision that reads: "Reporting entity shall keep records obtained in accordance with this Law and related documentation and reports ten years after the termination of business relationship, executed transaction, entrance of the customer into room where special games on chance are organized or access to the safe deposit box".

Recommended action

Provide further guidance to financial sector regarding the determination, analyses and examination of such transactions.

Measures adopted and implemented:

According to the Art.35 of the LPMLTF a reporting entity shall analyse all unusually large transactions, as well as unusual **patterns** of transactions that have no apparent economic or legal purpose. **A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this**

Article and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law

Art. 91 apr.1 of the LPMLTF defines that a reporting entity is obliged to keep records obtained in accordance with this Law and related documentation and reports ten years after the termination of business relationship, executed transaction, entrance of the customer into room where special games on chance are organized or access to the safe deposit box.

Art. 35 it.3 provides for that a reporting entity is obliged to, by an internal act, in accordance with the Article 7 of this Law, determine the criteria for recognizing unusual transactions.

6. R.12 - DNFBP (R.5, 6, 8-11) – rated NC

Deficiencies

- The legal framework does not cover trust and company service providers;
- Deficiencies outlined in R5 also apply to DNFBPs;

Applying Recommendation 5

- CDD requirements do not apply to online casinos;
- CDD obligations for lawyers and notaries are limited in scope and do not cover the whole range of CDD obligations;
- No obligation for DNFBPs to determine the beneficial owners of legal arrangements;
- Weak implementation of CDD measures of the 2 000 Euro threshold by casinos;
- Weak implementation of CDD measures in situations where the transaction is carried out in a single operation or in several operations that appear to be linked by casinos;
- Weak implementation of obligations related to beneficial ownership by DNFBP sector representatives;
- The obligations on beneficial ownership applicable to lawyers and notaries do not include the requirement to satisfy themselves that they know who the beneficial owner is.

Applying Recommendation 6

- Lack of guidance on determining whether a customer is a PEP and undertaking the necessary additional measures;
- Lawyers and notaries are not required to establish whether a customer is a PEP;
- Weak implementation of CDD measures with respect to PEPs.

Applying Recommendation 8

- No guidance on the use of new technologies in DNFBP sector;
- Limited scope of CDD obligations for casinos undertaking online activities undermine obligation of casinos to eliminate money laundering risks that arise from new technologies;
- Lawyers and notaries are not required to pay special attention to risks associated with new technologies in their activities;

Applying Recommendation 10

- Record-keeping obligations do not apply to online activities of casinos;
- Record-keeping obligations for lawyers and notaries do not include all the necessary information subject to record-keeping under Recommendation 10.

Applying Recommendation 11

- Obligation to analyse all unusual and complex transactions is not in line with FATF requirements;
- Lawyers and notaries are not required to undertake obligations with respect to unusual transactions and to analyse all complex transactions or unusual patterns of transactions;
- Lack of guidance on unusual transactions and obligations associated with such transactions;
- Weak implementation of analyses of such transactions by DNFBP sector.

Recommended action

Applying Recommendation 5

Recommended action

Include Trust and company service providers as reporting entities under the LPMLTF

Measures adopted and implemented

The list of reporting entities has been expanded in the existing LPMLTF. The reporting entities under Art.4 par.2 it. 17 indent 4 engaged in - *providing services of founding legal persons and other business organizations, as well as business and fiduciary services*, are obliged to undertake all the measures and actions provided for by the Law as the other reporting entities.

Business Organization Law provides for that the business activity is performed by business organizations and entrepreneurs, i.e. legal and natural persons. Also, according to this Law forms of organization pursuing economic activities are business organizations and other forms such as general partnership, limited partnership, joint stock company, limited liability company, foreign company branch. Montenegrin legislation does not recognize trust as a form of legal person.

Recommended action

Amend LPMLTF provisions governing activities of casinos to ensure that CDD obligations are extended to cover activities of online casinos

Measures adopted and implemented

The Article 9 of the current Law PMLTF ("Official. Gazette of Montenegro", no. 33/14), stipulates that the measures of establishing and verifying the identity of a client is particularly conducted when establishing a business relationship with the client, and establishing a business relationship is, according to this Law, also a client registration for participation in the system of games of chance at the organizer of games via the Internet or other means of distance communication.

Also, it is useful to mention that games of chance via the Internet or other means of telecommunication, is only a manner of organizing games that are classified in Section 3 of the Law on games of chance, and as games of chance via the Internet or other means of telecommunication are only allowed for legal persons having a concession for organizing one or more games under the Article 3 of the Law, it follows that the concessionaires - organizers of games of chance, as obligated parties by LPMLTF are obliged to act under the provisions of this Law in case of organizing gaming via the internet.

Recommended action

Amend Chapter III of the LPMLTF to bring the CDD requirements for lawyers and notaries in line with Recommendation 5

Recommended action

Clarify obligations of lawyers and notaries with respect to conducting enhanced due diligence

Measures adopted and implemented

Tasks and obligations of lawyers and notaries
Article 49

A lawyer or a notary shall, in accordance with this Law, implement the measures of detecting and preventing money laundering and terrorist financing, when:

- 1) he/she assists in planning and executing transactions for a customer related to:
 - purchase or sale of real estates or a business organization;
 - managing money, securities or other property of a customer;
 - opening and managing a banking account, savings deposit or the account for dealing with securities;
 - collection of funds for founding, dealing with or managing a business organization;
 - founding, dealing with or managing an institution, fund, business organization or other similar form of organization
- 2) he/she executes a financial transaction or transaction concerning real estate on behalf and for a customer.

Customer verification

Article 50

- (1) Within customer verification in the process of establishing his/her identity from Article 8 paragraph 1 items 1 and 2 of this Law, a lawyer or notary shall obtain data from Article 81 paragraph 1 items 1 - 6 and 11 of this Law.
- (2) Within customer verification from Article 9 paragraph 2 of this Law, a lawyer or notary shall obtain data from Article 81 paragraph 1 items 1 - 4 and items 7 - 11 of this Law.
- (3) In the process of applying enhanced customer due diligence measures from Article 9 paragraph 1 items 3 and 4 of this Law, a lawyer or notary shall obtain data from Article 81 paragraph 1 items 12, 13 and 14 of this Law.
- (4) A lawyer or notary shall establish and verify the identity of a customer or his/her representative, or authorized person and obtain data from Article 81 paragraph 1 items 1, 2 and 3 of this Law by checking the personal identification document of a customer in his/her presence, or the originals or certified copy of the documentation from the CBR or other appropriate public register, that must not be older than three months of the issue date.
- (5) A lawyer or notary shall establish the beneficial owner of a customer that is a legal person or other similar forms of organizing foreign legal persons, by obtaining data from Article 81 paragraph 1 item 4 of this Law, checking the originals or certified copy of the documentation from the CBR or other public register, that must not be older than a month of the issue date.
- (6) If the required data cannot be obtained in accordance with the paragraph 5 of this Article, the missing data shall be obtained by checking the originals or certified copies of documents and other business documentation submitted by the representative of a legal person or other organizational form or its authorized person.
- (7) If the required data cannot be obtained in the manner from paragraphs 1 - 6 of this Article, the missing data, except for the data from Article 81 paragraph 1 items 12, 13 and 14 of this Law, shall be obtained directly from the customer's written statement.

Reporting on customers and transactions for which there are reasons for suspicion of money laundering and terrorist financing
Article 51

- (1) If a lawyer or notary, when performing affairs from Article 49 paragraph 1 item 2 of this Law, establishes that there is a suspicion of money laundering or terrorist financing related to a transaction or a customer, he shall inform the Administration before the execution of a transaction and in the report they shall state the deadline within which the transaction is to be executed.
- (2) The information from the paragraph 1 of this Article, a lawyer or notary can provide to the Administration via telephone, but he shall deliver it in written form not later than the following working day after the day of reporting.
- (3) The provisions of paragraphs 1 and 2 of this Article shall refer to planned transactions as well, regardless of whether the transaction has been executed later or not.
- (4) If a lawyer or notary in cases from paragraphs 1, 2 or 3 of this Article, cannot provide information to the Administration due to the nature of transaction, or the fact that it has not been executed or due to other justified reasons, he shall provide data to the Administration as soon as possible, or as soon as he finds out that there is a suspicion of money laundering or terrorist financing and substantiate the reasons for not acting in the prescribed manner from paragraphs 1, 2 and 3 of this Article.
- (5) When a customer asks for advice on money laundering or terrorist financing, a lawyer or notary shall inform the Administration without delay.
- (6) A notary shall, once a week, provide certified copies of the sales contracts referring to real estate trade, with the value exceeding €15,000 to the Administration.

Recommended action

Introduce obligation for DNFBPs to establish beneficial ownership of legal arrangements.

Measures adopted and implemented

The existing Law on PMLTF in Article 8 paragraph 1 item 2 defines the obligation of establishing beneficial owner of a client and verification of its identity what is further developed in Article 20 which gives definition of beneficial owner and Article 21 that clearly defines the obligation and manner of establishing a beneficial owner of a legal person or foreign legal person.

The prescribed obligations refer to all reporting entities equally without separating DNFBPs as a special category of reporting entities. Also, it is important to note that in Montenegrin legislation the term legal person refers to legal arrangement as well.

Recommended action

Issue more guidance on identification and verification process of beneficial ownership of foreign entities

Measures adopted and implemented

Art. 21 par. 1 of the LPMLTF prescribes that, a reporting entity is obliged to establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 79 item 14 of this Law (*name, address of permanent or temporary residence, date and place of birth of the beneficial owner of the legal person or in case from the Article 20 paragraph 3 of this Law, data on the category of the person, in whose interest is the establishing and operating of the legal person or similar foreign legal person*).

Recommended action

Clarify issues related with the Data Protection Act and make clear provisions ensuring supremacy of LPMLTF identification and verification requirements over data protection requirements that would not undermine effective implementation of fulfilment of CDD obligations

Measures adopted and implemented

The Personal Data Protection Law (Official Gazette of Montenegro 79/08 and 70/09) does not interfere with the LPMLTF and does not undermine effective implementation of fulfilment of CDD obligations since it does not prevent the use of personal data for the legally defined obligations. Therefore, legal requirements from LPMLTF do not conflict with Personal Data Protection Law since the Article 2 of this law explicitly says (allows):

Article 2

The processing of data relating to individuals (hereinafter referred to as “personal data”) must be processed in a fair and legal manner.

Personal data may be processed only to the extent necessary to achieve the purpose of processing and in a way compatible with the aims for which they were collected.

Recommended action

Ensure that CDD obligations are effectively implemented by representatives of DNFBP sector

Measures adopted and implemented

The tendency of the APMLTF is to maintain close cooperation with all included in the system of PMLTF. Numerous meetings on a daily basis are held showing that APMLTF is open for cooperation and also to ensure the Law is properly implemented. With the adoption of the new Law we organized a whole set of seminars and trainings that are still ongoing for counterparts and reporting entities. APMLTF also published, with the assistance of an EU Project, brochures on new FATF Recommendations and another one on 4th EU PMLTF Directive being delivered during these trainings, seminar and meetings. Please also see in Chapter 6 Statistics tables 7. AML/CFT Training.

Recommendation 6

Recommended action

Amend relevant provision in the LPMLTF with respect to the senior management approval for establishing business relationships with a PEP.

Measures adopted and implemented

The existing LPMLTF provides for that a reporting entity is obliged to obtain a written consent from a senior management before establishing business relationship with a customer, and if the business relationship has already been established, obtain a written consent from a senior management for continuing the business relationship (Article 33 par. 1 item 2).

Recommended action

Authorities should provide further guidance on responsibilities of the DNFBP sector regarding customers that are PEPs.

Measures adopted and implemented

The APMLTF has issued the specific Guidelines for money laundering and terrorist financing risk assessment at business organizations, legal persons, entrepreneurs and natural persons conducting activities of auditing, independent auditor, accounting and providing tax advice services

Recommended action

DNFBP sector representatives should be required to obtain information on source of funds and assets sources in the event of conducting due diligence on customers representing PEPs

Measures adopted and implemented

According to the Article 33 par 1 item 1, when conducting enhanced customer due diligence measures for the customer that is a politically exposed person, in addition to the measures from Article 8 of this Law, a reporting entity is obliged to obtain data on the sources of funds and property that are the subject of a business relationship or transaction, from the documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement.

Recommended action

Introduce requirements for lawyers and notaries to undertake on-going due diligence with respect to PEPs

Measures adopted and implemented

Obligations defined in the Article 33 of the Law apply to all categories without excluding this obligation from any category, in this case lawyers and notaries. By not having specified this requirement in Article 50 does not mean that they are not obliged to act in accordance with the articles of this Law.

Recommendation 8

Recommended action

Introduce requirement for lawyers and notaries to take actions to eliminate money laundering risks that may arise from new technologies

Measures adopted and implemented

Please see comment below.

Recommended action

Introduce requirement for casinos to implement obligations under Article 28a for online activities

Measures adopted and implemented

In relation to the above stated both recommended actions:

Since these changes need to have the form of requirement it means legal binding provisions therefore, as mentioned previously, the new Law on PMLTF is planned for 2017.

Recommended action

Provide guidance to DNFBPs with respect to risks associated with new technologies.

Measures adopted and implemented

Changes of the Law on PMLTF are planned for 2017 and in relation to that necessary changes of the provisions regulating the new technologies will be made and relevant guidance for DNFBPs provided.

Recommendation 10

Recommended action

Extend record-keeping obligations to activities of online casinos

Measures adopted and implemented

As for the obligation of keeping records, casinos, i.e. organizers of games of chance are reporting entities under the LPMLTF which stipulates the obligation of keeping records in accordance with Articles 78 and 79, in connection with Articles 9 and 41 of the same Law.

Recommended action

Lawyers and notaries record-keeping obligations shall be clarified and extended to cover all information and documents required under FATF recommendations

Measures adopted and implemented

Record keeping obligations for lawyers and notaries are now clarified and extended in a manner that with the Article 80 of the LPMLTF the obligation is defined for layers and notaries to keep records, while in Article 81 it is defined what would be the content of it. Also, in the Article 81 with difference to previous legal solution it is called upon Article 9 Cases in which CDD shall be conduct.

Records kept by lawyer or notary
Article 80

Lawyer or notary shall keep the following:

- 1) records on clients, business relationships and transactions from Article 9 of this Law, and
- 2) records on data from Article 51 paragraph 1 of this Law.

Content of lawyer's or notary's records
Article 81

- (1) In the records from Article 80 of this Law the following data shall be kept and processed:
 - 1) name, address of permanent residence, date and place of birth of the entrepreneur and natural person carrying out the business activity, or a company name, registered office and address and identification number of legal person or entrepreneur to whom lawyer or notary provides services;
 - 2) name, address of permanent residence, date and place of birth of the representative who establishes business relationship or executes transaction for the person from item 1 of this Article;
 - 3) name, address of permanent residence, date and place of birth of the authorized person who executes transaction for the person from item 1 of this Article,
 - 4) data from Article 9 of this Law in relation to the legal person to whom lawyer or notary provides legal services;
 - 5) purpose and presumed nature of the business relationship, including information on client's business activity;
 - 6) date of concluding the business relationship;
 - 7) date of transaction execution;
 - 8) the amount and currency of transaction;
 - 9) purpose of transaction and personal name and permanent residence or company name and registered office of the person whom the transaction is intended to;
 - 10) method of executing the transaction;
 - 11) data on the sources of property and funds that are the subject of a transaction or a business relationship;
 - 12) name, date and place of birth, address of permanent residence or company name and address and registered office of the person for whom there is a suspicion of money laundering and terrorist financing;
 - 13) data on transaction for which there is a suspicion of money laundering or terrorist financing (amount, currency, date or time period of transactions execution);
 - 14) reasons for a suspicion of money laundering or terrorist financing.
- (2) The manner of the submission of data from the paragraph 1 of this Article delivered to the Administration by a lawyer or notary are prescribed by the Ministry.

Recommended action

Ensure that DNFBPs comply with record-keeping obligations prescribed by Law.

Measures adopted and implemented

Article 78 of the LPMLTF defines the reporting entity's record keeping and Article 79 defines the Content of the reporting entities' records this obligation defined by law applies equally to every reporting entity without excluding or differentiating this obligation on any specific industry.

Reporting entity's record keeping
Article 78

- (1) Reporting entities shall keep:

- 1) data records on customers, business relationships and transactions (carried out in the country and abroad) from article 9 of this Law;
 - 2) data records from Article 41 of this Law.
- (2) The reporting entity shall keep records referred to in paragraph 1 of this Article in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that could be used as evidence in the process of detecting customer's criminal activities.

Content of the reporting entities' records
Article 79

In the records from the Article 78 of this Law the following data are kept and processed:

- 1) name, address, registered office and personal identification number of a legal person that establishes business relationship or executes a transaction, or legal person for whom a business relationship is established or transaction is executed;
- 2) name, address of permanent or temporary residence, date and place of birth and tax ID number of a representative or an authorized person who concludes the business relationship or executes transaction for the legal person or other person i.e. entities equal to them from the Article 18 of this Law, and number, type and name of the authority that issued the personal identification document;
- 3) name, address of permanent or temporary residence, date and place of birth and tax ID number of an authorized person, which requires or executes transaction for a customer, and number, type and name of the competent authority that issued the personal identification document;
- 4) name, address of permanent or temporary residence, date and place of birth and tax ID number of natural person or, tax ID number of his/her representative, entrepreneur or natural person carrying out the activity, that establishes business relationship or executes a transaction, or a natural person, for whom business relationship is established or transaction executed, and number, type and name of the competent authority that issued the personal document;
- 5) name, address of permanent or temporary residence, date and place of birth of a natural person entering the gaming facility or accessing the safe deposit box;
- 6) purpose and presumed nature of a business relationship, including information on customer's businesses activity;
- 7) date of establishing a business relationship or date and time of entering the gaming facility or accessing safe deposit box;
- 8) date and time of the transaction execution;
- 9) the amount of the transaction and currency of the executed transaction;
- 10) the purpose of the transaction and personal name and address of permanent or temporary residence, or the name and registered office of the person whom the transaction is intended to;
- 11) method of executing the transaction;
- 12) data on the sources of property and funds that are or will be the subject of the business relationship or transaction;
- 13) reasons for suspicion of money laundering or terrorist financing;
- 14) name, address of permanent or temporary residence, date and place of birth of the beneficial owner of the legal person or in case from the Article 20 paragraph 3 of this Law, data on the category of the person, in whose interest is the establishing and operating of the legal person or similar foreign legal person;
- 15) name of the company or name of another person i.e. entities equal to them, address of permanent or temporary residence, date and place of birth and tax ID number.

Recommended action

Introduce requirement for lawyers and notaries to keep record of examinations of unusual and complex transactions.

Recommendation 11

Recommended action

Obligation to pay special attention to unusual transactions should also include special attention to all complex transactions or unusual patterns of transactions

Measures adopted and implemented

Article 35 of the LPMLTF defines that a reporting entity is obliged to analyse all unusually large transactions, as well as unusual patterns transactions that have no apparent economic or legal purpose. A reporting entity shall record in writing the findings of such analysis and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law.

Recommended action

Amend provisions in the LPMLTF regarding obligations on unusual transactions to include analyses of the background and purpose of such transactions.

Measures adopted and implemented

In Article 8 paragraph 1 item 3 defines that a reporting entity shall conduct the customer due diligence measures and particularly , to obtain data on the purpose and nature of a business relationship or purpose of transaction and other data in accordance with this Law in relation to that in Article 79 Content of the reporting entities' records paragraph 1 item 12 defines the obligation of record keeping and processing data on the sources of property and funds that are or will be the subject of the business relationship or transaction;

Recommended action

Introduce obligation for lawyers and notaries to analyse all unusual and complex transactions

Measures adopted and implemented

Article 35 of the current Law on PMLTF defines obligation for reporting entities to analyse all unusually large transactions, as well as unusual transactions that have no apparent economic or legal purpose. This does not exclude lawyers and notaries from the above stated obligation.

7. R.13 - Suspicious transaction reporting– rated PC

Deficiencies

- Not all activities or operations covered by the FATF's definition of financial institution would be subject to preventive measures under the LPMLTF and AML/CFT supervision if lawfully conducted in Montenegro;

Measures adopted and implemented

The definition of financial institutions was not introduced in the previous Law on PMLTF (but in the existing Law on PMLTF (OGM 33/14 of 4th August 2014) the definition of financial institution is introduced in Article 5 paragraph 1 item 8 and it reads:

Article 5

The terms used in this Law have the following meaning:

.....

8) financial institution means a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro;

Additionally, the new Payment system Law (OGM 62/13 of 31 December 2013, 6/14 of 4 February 2014), that came into force on 8 January 2014 and it shall apply as of 9 January 2015, in Article 1 defines the following:

“(1) The payment system operations shall be performed in the manner and under the conditions specified under this law.

(2) The payment system shall include the provision of payment services, electronic money Issue, the functioning of payment systems and other activities of the payment system.”

Article 4 of the Payment System Law reads:

“(1) Payment services in Montenegro may be provided by:

- 1) banks and other credit institutions having their head offices in Montenegro;
- 2) a payment institution having its head office in Montenegro;
- 3) an electronic money institutions having its head offices in Montenegro;
- 4) a branch of a third-country credit institution having its head office in Montenegro;
- 5) the Central Bank of Montenegro (hereinafter: the Central Bank);
- 6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above”.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

- The reporting requirement only refers to “transactions” rather than funds;
- The reporting requirement only refers to “suspicion of money laundering or terrorist financing” rather than “suspicions of funds that are the proceeds of a criminal activity”;
- TF reporting obligation does not cover funds related or linked to terrorist organisations and those who finance terrorism; and funds used by those who finance terrorism.

Effectiveness

Recommended action

The low number of STRs filed apart from banks, (2) the disproportionate reporting of STRs throughout the banking sector, (3) the inadequate understanding of the reporting requirement throughout all financial sectors, (4) the number of CTRs identified as STRs by the APMLTF that should have been reported as STRs, (5) quality of STRs called into question;

Measures adopted and implemented

1) As it is presented in the statistics the number of STRs reported by non- banking sector has increased in the previous period (please see Chapter 6 Statistics- tables under item 5)

2) Statistics for 2015 shows that the number of STRs received from all banks has increased. The analysis of the mentioned STRs implies on more proportionate reporting of STRs from banking sector compared to the previous period and that means there is a relatively good proportion between the size of a bank and number of reported STRs

3)The APMLTF, within its competences, took all activities in the aim of rising the AML/CFT awareness of the reporting entities through continuous meetings organized with reporting entities and open door policy that enables reporting entities to ask for any kind of assistance regarding implementation of the Law on PMLTF.

4)The number of STRs is increased and number of CTRs identified as STRs is decreased.

5) please see the previous comments.

Recommended action

Attempted transactions are not reported in all circumstances, although technically covered.

Measures adopted and implemented

Through the regular APMLTF practice with reporting entities, especially banks, there is established a mechanism of oral announcement of STRs by a reporting entity and consultations with APMLTF in relation to it , which is followed with delivery of a reporting entity’s written report. The Law on PMLTF allows delivery of suspicious transaction report after the execution of transaction.

Recommended action

Amend current Article 33 LPMLTF to refer to “funds” rather than “transactions”

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Amend current Article 33 LPMLTF to refer to “criminal activity” rather than only to “suspicions for money laundering or terrorist financing”

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Amend TF reporting obligation to refer to funds related or linked to terrorist organisations and those who finance terrorism; and funds used by those who finance terrorism as required by 13.2 and IV.1;

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Analogously amend the FIU-Guideline as well as the list of indicators to reflect these amendments in due manner.

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Further stipulate in Article 33 LPMLTF how attempted transactions are covered.

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Introduce a mechanism of regular awareness raising and training regarding the reporting requirement provided to reporting entities (dealing also with the clear distinction between unusual and suspicious transactions, as well as CTRs and STRs), especially with the non-banking sectors.

Measures adopted and implemented:

The Rulebook on Manner of Work of the Compliance Officer, the Manner of Conducting the Internal Control, Data Keeping and Protection, Manner of Record Keeping and Employees Professional Training, defines in Article 4 obligation of the compliance officer that refers to awareness raising, as follows:

Article 4

- (1) The compliance officer shall, occasionally, at least quarterly, by random sampling method, perform checking and testing of the implementation of the anti-money laundering and terrorist financing program and adopted procedures.
- (2) The compliance officer shall make a report on results of the checking and verification with the proposal of measures and deliver it to the competent body of the reporting entity .
- (3) The compliance officer shall, also, submit the report from paragraph 2 of this Article to the Administration.

Additionally, the LPMLTF in Articles 43 and 47 define compliance officer's obligations including the obligations referring to regular professional training and improvement of employees performing affairs of detecting and preventing money laundering and terrorist financing and also prepare the program of professional training and improvement of persons from paragraph 1 of this Article not later than the end of the first quarter of a business year.

Recommended action

Explore why some larger banks file a relatively small amount of STRs in comparison to others

Measures adopted and implemented:

In the end of 2014 the APMLTF organized a meeting with the commercial banks' compliance officers, where the main subject was a small number of STRs. All the compliance officers were demonstrated the statistics of their STRs and we discussed the reasons for non-reporting, i.e. the small number of STRs. According to the analysis and explanation provided by the compliance officers it has been determined that greater banks are focused on the monitoring of clients business operations, for in that way they have a better insight into the economic justification of transactions and turnover onto the clients' accounts. This results in a smaller number of STRs. The banks emphasize that, regarding the pretty great number of banks in comparison to the number of residents, as well as a low number of clients executing transactions in significant amounts, the small number of STRs is expected. However, the Administration has intensified its work in that context, and through trainings and continuous communication with the compliance officers, has reached an increased number of STRs in 2015 by 50% .

Recommended action

Expand the list of indicators to include indicators related to terrorist financing.

Measures adopted and implemented:

In November 2014, the Ministry of Finance adopted the new Rulebook on Indicators for recognizing suspicious clients and transactions ("Official Gazette of Montenegro", No. 50/14 dd 28.11.2014) which includes, inter alia, the list of indicators related to terrorist financing.

Recommended action

Consider deleting Article 45 LPMLTF in order to ascertain that reporting entities do not only rely on the list of indicators (which could then only be considered as guidance rather than "law")

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Introduce a clear provision which covers sanctions in cases of non-reporting

Measures adopted and implemented

The LPMLTF defines Article 41 of Reporting obligation on transaction executed in cash in the amount of at least € 15,000 and all suspicious transactions for which the penalty provisions are defined in Article 99, items 66-65 and also the Article 99 paragraph, 1 item 66 defines penalty in case of non reporting i.e. failure to submit data upon request of the Administration which is as obligation prescribed in Article 58

8. R.16 - DNFBP (R.13-15 & 21) – rated PC

Deficiencies

Applying Recommendation 13

- Regarding casinos and real estate agents the same deficiencies described in R.13 apply;
- Reporting obligation for lawyers and notaries unduly restricted.

Effectiveness

- Inadequate understanding of the reporting requirement by the gambling sector;
- Very low number of reporting raises concerns regarding effectiveness of the system, especially with regard to the high-risk real estate sector.

Applying Recommendation 21

- Poor implementation of compliance with requirements paying special attention to transactions with countries which do not or insufficiently apply FATF recommendations;
- Poor guidance on effective measures for ensuring that DNFBP sector is aware about weaknesses in the AML/CFT systems of other countries

Recommended action

Applying Recommendation 13

Recommended action

Amend current Article 33 LPMLTF to refer to "funds" rather than "transactions".

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Amend current Article 33 LPMLTF to refer to "proceeds from criminal activity" rather than only to "suspicions for money laundering or terrorist financing".

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Analogously amend the FIU-Guideline as well as the list of indicators to reflect these amendments in due manner

Measures adopted and implemented

This issue will be raised in the new Law planned for 2017

Recommended action

Further stipulate in Article 33 LPMLTF how attempted transactions are covered and at the same time amend Article 43 Para 1 in a way that would cover reporting prior and after the execution of a transaction.

Measures adopted and implemented

The mentioned deficiency is addressed in Article 51 that reads:

Reporting on customers and transactions for which there are reasons for suspicion of money laundering and terrorist financing

Article 51

(1) If a lawyer or notary, when performing affairs from Article 49 paragraph 1 item 2 of this Law, establishes that there is a suspicion of money laundering or terrorist financing related to a transaction or a customer, he shall inform the Administration before the execution of a transaction and in the report they shall state the deadline within which the transaction is to be executed.

(2) The information from the paragraph 1 of this Article, a lawyer or notary can provide to the Administration via telephone, but he shall deliver it in written form not later than the following working day after the day of reporting.

(3) The provisions of paragraphs 1 and 2 of this Article shall refer to planned transactions as well, regardless of whether the transaction has been executed later or not.

(4) If a lawyer or notary in cases from paragraphs 1, 2 or 3 of this Article, cannot provide information to the Administration due to the nature of transaction, or the fact that it has not been executed or due to other justified reasons, he shall provide data to the Administration as soon as possible, or as soon as he finds out that there is a suspicion of money laundering or terrorist financing and substantiate the reasons for not acting in the prescribed manner from paragraphs 1, 2 and 3 of this Article.

(5) When a customer asks for advice on money laundering or terrorist financing, a lawyer or notary shall inform the Administration without delay.

(6) A notary shall, once a week, provide certified copies of the sales contracts referring to real estate trade, with the value exceeding €15,000 to the Administration.

Recommended action

Assess whether lawyers should as well be obliged to report CTRs when dealing in real estate business, in order to get a better understanding of the high-risk real estate sector

Measures adopted and implemented

This issue will be considered.

Recommended action

Introduce a mechanism of regular awareness raising and training regarding the reporting requirement provided to reporting entities (dealing also with the clear distinction between unusual and suspicious transactions, as well as CTRs and STRs), especially with the gambling and real estate sector (including lawyers and notaries).

Measures adopted and implemented

The APMLTF, from different aspects, conducts awareness rising with the reporting entities in relation to prevention of money laundering and terrorist financing through: regular updates of the indicators list for the high risk reporting entities, annual publication of AML/CFT typologies, organising trainings for different reporting entities and particularly for higher risk reporting entities. Additionally, APMLTF inspectors, through regular on-site inspections, besides verifying implementation of the Law, impact on raising the awareness and knowledge of the reporting entities regarding the prevention of ML/TF.

Applying Recommendation 21

Recommended action

Provide guidance to DNFBP sector regarding risks associated with activities related to countries which do not or insufficiently apply the FATF recommendations

Measures adopted and implemented

The APMLTF regularly publishes FATF Public Statements and Improving Global AML/CFT Compliance: on-going process on its website. Moreover, based on the data given in these documents, the APMLTF publishes the list of countries that do not or insufficiently apply the FATF recommendations (<http://www.aspn.gov.me/vijesti/154785/Lista-drzava-koje-ne-primenjuju-standard-e-u-oblasti-sprecavanja-pranja-novca-i-finansiranja-terorizma.html>). The list is regularly updated upon the FATF publications. In accordance with the Rulebook on Guidelines for developing risk analysis and risk factors in order to prevent ML/TF ("Official Gazette of Montenegro", No. 53/14 dd 19.12.2014) the guidelines have to define the high risk factors, which, among others, include the states designated by FATF as countries that do not or insufficiently apply the FATF recommendations.

Furthermore, the Chapter 6.2.2 item 4 of the APMLTF's Guidelines on drafting risk analysis for the purpose of preventing ML and TF (published in March 2015) more precisely defines the countries designated by FATF as non-cooperative ones:

"jurisdictions that, according to FATF, have no appropriate AML/CFT legislation in place; jurisdictions where there's no supervision of the state over the financial institutions, or if there is one, it is inappropriate; jurisdictions where opening or operating of financial institutions is allowed without approval or registration with the competent state authorities; countries that encourage opening of anonymous accounts or other anonymous financial instruments; jurisdictions with inadequate system of recognizing and reporting suspicious transactions; countries whose legislation does not require identification of beneficial owner, there's no international cooperation or it is inefficient."

Recommended action

Ensure compliance of activities of the DNFBP sector with requirements of the LPMLTF regarding paying special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations.

Measures adopted and implemented

APMLTF inspectors during controls with the DNFBP sector verify compliance with and implementation of the requirements defined in the Law. Additionally, inspectors check whether the reporting entities have drafted and adopted the Internal Risk Analysis, as an obligatory document in accordance with the Law, which must include provisions regarding paying special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations.

Recommended action

Very low number of reporting raises concerns regarding effectiveness of the system, especially with regard to the high-risk real estate sector.

As stated in the table 5.1 AML/CFT Supervisory on-site visits, the greatest number of the Reporting Entities' Department inspections carried out with the real estate sector, which is estimated as a high-risk sector regarding ML.

9. R.17 - Sanctions– rated PC

Deficiencies

- Effective, proportionate and dissuasive sanctions are not available since:
 - The Law on Misdemeanours provides that proceedings cannot be initiated or conducted in the event that one year has passed from the date that the misdemeanour is committed;

Measures adopted and implemented

According to Art. 59 of the Law on Misdemeanours, the period of limitations set for the prosecution of a misdemeanour expires whenever twice the time set forth in the statute of limitations for misdemeanour prosecution has elapsed.

This means that during the inspection supervision with the supervised subject (reporting entity) inspectors can issue a misdemeanour order or initiate misdemeanour procedure before the Competent Misdemeanour Body for the misdemeanour that is committed, within period of one year since the time when the inspection has started.

Namely, the absolute limitation is applied in any case if two years have passed since the time when the APMLTF inspectors initiate misdemeanour procedure before the Competent Misdemeanour Body or the time when the reporting entity used the legal remedy to submit request to the Competent Misdemeanour Body for deciding in relation to the misdemeanour order.

- The maximum fine that may be applied directly by the APMLTF to a legal person, entrepreneur or individual is low;

Measures adopted and implemented

All the misdemeanour fines in Montenegro are determined in the Law on Misdemeanours, so in whatever industry or whatever specific law finds may not exceed the level given by this Law. Those fines are calculated based on GDP and average national income level in Montenegro. In the existing LPMLTF, the amounts of imposed fines have been increased, in accordance with the Law on Misdemeanours.

- Administrative sanctions may not be applied to a branch of a foreign bank, branch of a foreign investment management company, or branch of a foreign company that manages pension funds;

Measures adopted and implemented

Statistical data on measures imposed to banks by the CBM pursuant to the Banking Law (OGM 17/08, 44/10 and 40/11) and sanctions for misdemeanours imposed pursuant to the LPMLTF are presented in Chapter 4 of the Report – Statistics

The Law on PMLTF Article 4 paragraph 1 items 1, 5 and 6 defines as reporting entities

- 1) banks and other credit institutions, and foreign banks' branches;
- 5) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 6) companies for managing pension funds and branches of foreign companies for managing pension funds;

In accordance to the above stated, listed reporting entities, together with other reporting entities defined in the Law, are subject to penalties provisions of the Law on PMLTF.

- The SEC may apply sanctions only where a reporting entity fails to remediate a misdemeanour. (17.1)

Measures adopted and implemented

For this deficiency please see comment under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

- The range of sanctions available to the APMLTF is not broad and proportionate since they are limited to the elimination of irregularities and fines. (17.4)

Effectiveness

- A person may be prohibited from performing business activities for up to 2 years under the LPMLTF, which is in excess of the six-month period that is prescribed in Article 42 of the Law on Misdemeanours. This appears to be ultra vires; (17.1)
- Whereas examinations of banks identify AML/CFT infringements, the number of administrative sanctions applied by the Central Bank in recent years has been very low (one in 2011, none in 2012 and none in 2013); (17.1)

Measures adopted and implemented

The APMLTF conducts indirect supervision over banks through the analysis of the reports on direct targeted supervision carried out by the Central Bank. In that context, in 2012 the APMLTF filed 4, in 2013 – 3 and in 2014 - 4 requests for initiating a misdemeanour procedure

against banks. The number of reporting entities from the financial sector is much lower compared to the number of reporting entities from DNFBPs sector. Accordingly, the number of initiated procedures is lower for financial sector reporting entities.

Statistical data on measures imposed to banks by the CBM pursuant to the Banking Law (OGM 17/08, 44/10 and 40/11) and sanctions for misdemeanours imposed pursuant to the LPMLTF are presented in Chapter 6 of the Report – Statistics.

- Whereas action is regularly taken by the APMLTF under the Law on Misdemeanours in respect of the non-financial sector, just seven petitions (for 2012 and 2013) have been initiated by the APMLTF under Article 143 in respect of the financial sector; (17.1)

Measures adopted and implemented

According to the new LPMLTF (Official Gazette of Montenegro, No. 33/14 dd 04.08.2014) determining, as well as initiating a misdemeanour procedure, falls within the competencies of the supervisory authorities defined in the Art.94 of the LPMLTF. The supervision of the compliance of financial sector with the AML/CFT legislation is carried out by the Central Bank of Montenegro.

- Whereas the APMLTF has submitted in excess of 100 requests to initiate misdemeanour proceedings, just 18 have led to decisions to fine. (17.2)

Measures adopted and implemented

Regarding aforementioned we point out that by looking into the Registry of fines that holds the data by persons, on 27 of January 2016 it is determined that in the period from 2011 to 2013 a total of 82 fines were imposed for misdemeanours in cases upon Law on Prevention of Money Laundry and Terrorism Financing, from which 52 are with the status "paid". 22- "debt in Registry" and 4- "warrant issued-decision delivered"

According to the new Law on Courts (Official Gazette of Montenegro 11/15 of 12 march 2015) which entered into the force in 2015 new courts have been established. This means that misdemeanour proceedings are in competence of courts established in accordance to Art 6 of ECHR. Previously misdemeanour proceedings were in competence of Misdemeanour Authorities where the judges were appointed by the Government and those Authorities did not meet request upon the Art 6 of the Convention.

The courts shall be the following: Misdemeanour Court; High Misdemeanour Court of Montenegro; Basic Court; High Court; Commercial Court of Montenegro; Administrative Court of Montenegro; Appellate Court of Montenegro; Supreme Court of Montenegro.

According to provisions of Art. 9 of the same Law on Courts, Misdemeanour Courts shall be the following:

1) Misdemeanour Court in Bijelo Polje, for the territory of the municipalities of: Bijelo Polje, Andrijevića, Berane, Gusinje, Žabljak, Kolašin, Mojkovac, Petnjica, Plav, Pljevlja and Rožaje, with divisions in: Berane – for the territory of the municipalities of Berane, Andrijevića and Petnjica; Žabljak – for the territory of the municipality of Žabljak; Plav – for the territory of the municipalities of Plav and Gusinje; Pljevlja – for the territory of the municipality of Pljevlja; Rožaje – for the territory of the municipality of Rožaje; Kolašin – for the territory of the municipality of Kolašin; Mojkovac – for the territory of the municipality of Mojkovac.

2) Misdemeanour Court in Budva, for the territory of the municipalities of: Budva, Bar, Kotor, Tivat, Herceg Novi and Ulcinj, with divisions in: Bar – for the territory of the municipality of Bar; Kotor – for the territory of the municipalities of Kotor and Tivat; Herceg Novi – for the territory of the municipality of Herceg Novi; Ulcinj – for the territory of the municipality of Ulcinj.

3) Misdemeanour Court in Podgorica, for the territory of the Capital City of Podgorica, Old Royal Capital Cetinje and the municipalities of Danilovgrad, Nikšić, Plužine and Šavnik, with divisions in: Old Royal Capital Cetinje – for the territory of the municipality of the Old Royal Capital of Cetinje; Danilovgrad – for the territory of the municipality of Danilovgrad; Nikšić – for the territory of the municipalities of Nikšić, Plužine and Šavnik.

Misdemeanour Courts shall have jurisdiction to adjudicate on the requests for misdemeanour proceedings and the requests for judicial determination.

High Misdemeanour Court has been established for the territory of Montenegro, with a seat in Podgorica.

High Misdemeanour Court shall decide on appeals lodged against decisions of Misdemeanour Courts, shall decide on the conflict of jurisdiction between Misdemeanour Courts and shall perform other duties prescribed by law.

- Whereas the Law on Misdemeanours allows the court to make a public announcement of a decision, it is not clear that such a power could be used to publicise a fine or prohibition made under the LPMLTF (on the basis that it may be difficult to show how this would be beneficial to the public). (17.4)

Measures adopted and implemented:

This is the case of protective measure of publication of decision, where in the Law on Misdemeanour article 47 Public Announcement of Decision Para. 4 of clearly stand that by the Law which prescribes misdemeanour (in particular case Law on PMLTF) it can be prescribed obligatory protective measure of publication of decision. On the other hand, there are no obstacles for the court to impose above mentioned measure if it finds useful for the public to be familiar with the decision.

Recommended action

The application of the Law on Misdemeanours to the APMLTF should be reviewed and consideration given in particular to: extending the period for which proceedings can be initiated beyond one-year; the level of the maximum fines that may be applied, including levels that may be applied directly by the APMLTF by Misdemeanour Orders, including in the most severe cases; and publicising a fine or prohibition made under the LPMLTF.

Measures adopted and implemented

According to Art. 59 of the Law on Misdemeanours, the period of limitations set for the prosecution of a misdemeanour expires whenever twice the time set forth in the statute of limitations for misdemeanour prosecution has elapsed.

This means that during the inspection supervision with the supervised subject (reporting entity) inspectors can issue a misdemeanour order or initiate misdemeanour procedure before the Competent Misdemeanour Body for the misdemeanour that is committed, within period of one year since the time when the inspection has started.

Namely, the absolute limitation is applied in any case if two years have passed since the time when the APMLTF inspectors initiate misdemeanour procedure before the Competent Misdemeanour Body or the time when the reporting entity used the legal remedy to submit request to the Competent Misdemeanour Body for deciding in relation to the misdemeanour order.

Recommended action

Legislation should be amended to allow administrative sanctions to be applied to a branch of a foreign bank, branch of a foreign investment management company, and branch of a foreign company that manages pension funds.

Measures adopted and implemented

Statistical data on measures imposed to banks by the CBM pursuant to the Banking Law (OGM 17/08, 44/10 and 40/11) and sanctions for misdemeanours imposed pursuant to the LPMLTF are presented in Chapter 4 of the Report – Statistics

The Law on PMLTF Article 4 paragraph 1 items 1, 5 and 6 defines as reporting entities

- 1) banks and other credit institutions, and foreign banks' branches;
-
- 5) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 6) companies for managing pension funds and branches of foreign companies for managing pension funds;

In accordance to the above stated, listed reporting entities, together with other reporting entities defined in the Law, are subject to penalties provisions of the Law on PMLTF.

Recommended action

The basis for revocation of a licence under the Insurance Law should explicitly include failure to comply with the LPMLTF.

Measures adopted and implemented

The existing Law on PMLTF defines for every misdemeanour act a misdemeanour fine together with the possibility of revocation of licence.

Article 99 paragraph 4

(4) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

Article 100 paragraph 4

(4) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

101 paragraph 4

(4) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

102 paragraph 3

(3) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

103 paragraph 2

(2) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

Recommended action

The SEC should be able to apply sanctions under the Law on Investment Funds, Law on Voluntary Pension Funds and Rules on Supervision of Securities Operations in any case where there is a misdemeanour (rather than just where there is a failure to rectify a misdemeanour).

Measures adopted and implemented

- For this recommended action please see comment under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

Recommended action

The APMLTF should have a power to suspend or withdraw the licence or registration of a reporting entity that is a financial institution covered by Article 4 items 14 and 15 of the LPMLTF. Consideration should be given to allowing the APMLTF to bar individuals that work for such reporting entities from employment.

Measures adopted and implemented

The existing Law on PMLTF defines for every misdemeanour act a misdemeanour fine together with the possibility of revocation of licence.

Article 99 paragraph 4

(4) A prohibition on carrying out business activities may be imposed to a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed to the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

Article 100 paragraph 4

(4) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

101 paragraph 4

(4) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

102 paragraph 3

(3) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

103 paragraph 2

(2) A prohibition of carrying out business activities may be imposed on a legal person and entrepreneur for up to six months, and a prohibition of performing business activities may be imposed on the responsible person in the legal person or natural person for up to six months for the misdemeanour from the paragraph 1 of this Article.

According to Montenegrin legislation the once in charge for issuing licences are the only ones that would be able to withdraw the licence therefore the APMLTF does not have this authority.

10. R.21 - Special attention for higher risk countries– rated NC

Deficiencies

- There are no directly enforceable requirements for reporting entities to give special attention to business relationships and transactions with persons from, or in, countries which do not apply, or insufficiently apply, the FATF Recommendations;

Measures adopted and implemented

The LPMLTF in Article 30 Enhanced CDD measures paragraph1 item 1 defines following:
Article 30

(1) A reporting entity shall conduct enhanced customer due diligence in the following cases:

- 1) on entering into correspondent relationship with a bank or other credit institution, with registered office outside the European Union or in a country that is not on the list of countries applying international standards in the area of money laundering and terrorist financing that are on the level of EU standards or higher;

(3)A reporting entity shall apply enhanced customer due diligence measures in cases when, based on high risk factors, it conducts, and in all other cases, when in accordance with the Article 7 of this Law, it estimates that regarding the nature of a business relationship, the form and manner of executing a transaction, business profile of the customer or other circumstances related to the customer, there is or there could be a high risk of money laundering or terrorist financing.

Please note that, Article 30 Paragraph 3 together with obligation prescribed in Article 7 defines obligation of drafting Risk analysis, based on Rulebook on Guidelines for Developing Risk Analysis and Risk Factors with a view to Preventing Money Laundering and Terrorist Financing. The Rulebook closely defines factors for determining the level of risk of countries which do not, or insufficiently, apply the FATF Recommendations.

Article 5, paragraph 1, item 1, indent c) high risk factors for a client:, while point 3 indent a) stipulates that high risk factors relate to a particular country or geographic area 3) high risk factors related to a certain country or geographic area: a) countries which are, according to the FATF reports, mutual evaluation reports and published reports identified as countries that have no effective AML/CFT system in place.

The previously mentioned provisions together imposes the obligation for reporting entities to, through enhanced CDD measures, give special attention on transactions and business relationships with persons from, or in, countries which do not, or insufficiently, apply the FATF Recommendations.

Recommended action

There are no enforceable requirements to examine as far as possible, the background and purpose of transactions with persons from, or in, countries which do not, or insufficiently, apply the FATF Recommendations which have no apparent economic or visible lawful purpose, to set forth in writing the findings of such examinations and to keep such findings available for competent authorities and auditors;

Measures adopted and implemented

The existing LPMLTF in Article 35 reads:

Unusual transactions
Article 35

- (1) A reporting entity shall analyse all unusually large transactions, as well as unusual transactions that have no apparent economic or legal purpose.
- (2) A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this Article and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law.
- (3) A reporting entity shall, by an internal act, in accordance with the Article 7 of this Law, determine the criteria for recognizing unusual transactions.

Article 35 paragraph 3 defines obligation for reporting entities to, by internal act, in accordance with Article 7 that defines drafting risk analysis by reporting entity, determine the criteria for recognizing unusual transactions. Rulebook defined by Article 7 comprises indicators for determining risk factors that include countries which do not, or insufficiently, apply the FATF Recommendations.

Recommended action

With the exception of banks, no information has been provided on what counter-measures could be applied to a country that continues not to apply, or insufficiently apply, the FATF Recommendations.

Recommended action

There should be directly enforceable requirements for reporting entities to give special attention to business relationships and transactions with persons from, or in, countries which do not apply, or insufficiently apply, the FATF Recommendations.

Measures adopted and implemented

The LPMLTF in Article 30 Enhanced CDD measures paragraph 1 item 1 defines following:
Article 30

- (1) A reporting entity shall conduct enhanced customer due diligence in the following cases:
 - 1) on entering into correspondent relationship with a bank or other credit institution, with registered office outside the European Union or in a country that is not on the list of countries applying international standards in the area of money laundering and terrorist financing that are on the level of EU standards or higher;

(3) A reporting entity shall apply enhanced customer due diligence measures in cases when, based on high risk factors, it conducts, and in all other cases, when in accordance with the Article 7 of this Law, it estimates that regarding the nature of a business relationship, the form and manner of executing a transaction, business profile of the customer or other circumstances related to the customer, there is or there could be a high risk of money laundering or terrorist financing.
Please note that, Article 30 Paragraph 3 together with obligation prescribed in Article 7 defines obligation of drafting Risk analysis, based on Rulebook on Guidelines. The Rulebook closely defines

factors for determining the level of risk of countries which do not, or insufficiently, apply the FATF Recommendations.

Article 5, paragraph 1, item 1, indent c) of the Rulebook on the preparation of the analysis and the factors of risk for AMLT, it was determined that the high risk factor applies to customers who live in the countries referred to in paragraph 3 of this Rulebook, while point 3 indent a) stipulates that high risk factors relate to a particular country or geographic area of the country which are based on reports from FATF, joint evaluation and published reports, identified as countries that do not have an efficient system of dealing with money laundering and terrorist financing.

The previously mentioned provisions together imposes the obligation for reporting entities to, through enhanced CDD measures, give special attention on transactions and business relationships with persons from, or in, countries which do not, or insufficiently, apply the FATF Recommendations.

Recommended action

There should be enforceable requirements to examine as far as possible, the background and purpose of transactions with persons from, or in, countries which do not, or insufficiently, apply the FATF Recommendations which have no apparent economic or visible lawful purpose, to set forth in writing the findings of such examinations and to keep such findings available for competent authorities and auditors for at least five years.

Measures adopted and implemented

The existing LPMLTF in Article 35 reads:

Unusual transactions
Article 35

- (1) A reporting entity shall analyse all unusually large transactions, as well as unusual transactions that have no apparent economic or legal purpose.
- (2) A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this Article and deliver them, upon the request of the Administration or the competent authority from Article 94 of this Law.
- (3) A reporting entity shall, by an internal act, in accordance with the Article 7 of this Law, determine the criteria for recognizing unusual transactions.

Article 35 paragraph 3 defines obligation for reporting entities to, by internal act, in accordance with Article 7 that defines drafting risk analysis by reporting entity, determine the criteria for recognizing unusual transactions. Rulebook defined by Article 7 comprises indicators for determining risk factors that include countries which do not, or insufficiently, apply the FATF Recommendations.

Recommended action

Counter-measures should be available for application by all reporting entities to a country that continues not to apply, or insufficiently apply, the FATF Recommendations.

Measures adopted and implemented

The counter-measures exists as mentioned before there is a white and black list of countries that sufficiently and insufficiently apply relevant AML/CFT standards. If the countries are on black list there are Instructions Manuals on what to do in such circumstances. The mentioned instructions are posted on APMLTF website.

http://www.aspn.gov.me/en/sections/black_and_white_list/158236/Instruction-for-the-reporting-entities-on-the-use-of-the-List-of-countries-that-do-not-apply-or-insufficiently-apply-the-AML-CFT.html

<http://www.aspn.gov.me/en/news/151748/Instruction-for-the-reporting-entities-on-the-use-of-lists-of-persons-and-entities-subject-to-restrictive-measures.html>

11. R.23 - Regulation, supervision and monitoring– rated PC

Deficiencies

- Not all activities or operations covered by the FATF's definition of financial institution would be subject to preventive measures under the LPMLTF and AML/CFT supervision if lawfully conducted in Montenegro; (23.1)

Measures adopted and implemented:

The definition of financial institutions was not introduced in the previous Law on PMLTF (OGM 14/12 of 7th March 2012) but in the new Law on PMLTF (OGM 33/14 od 4th August 2014) the definition of financial institution is introduced in Article 5 paragraph 1 item 8 and it reads:

Article 5

The terms used in this Law have the following meaning:

.....

8) *financial institution means a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro;*

Additionally, the new Payment system Law (OGM 62/13 of 31 December 2013, 6/14 of 4 February 2014), that came *into force on 8 January 2014 and it shall apply as of 9 January 2015, in Article 1 defines the following:*

“(1) The payment system operations shall be performed in the manner and under the conditions specified under this law.

(2) The payment system shall include the provision of payment services, electronic money Issue, the functioning of payment systems and other activities of the payment system.”

Article 4 of the Payment System Law reads:

“(1) Payment services in Montenegro may be provided by:

1) banks and other credit institutions having their head offices in Montenegro;

2) a payment institution having its head office in Montenegro;

3) an electronic money institutions having its head offices in Montenegro;

4) a branch of a third-country credit institution having its head office in Montenegro;

5) the Central Bank of Montenegro (hereinafter: the Central Bank);

6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above”.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

- The SEC, under the Securities Law and the Law on Voluntary Pension Funds, and the APMLTF, in relation to those financial institutions under its supervision, cannot take the necessary legal or regulatory measures to prevent criminals of their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in reporting entities for which they have supervisory responsibility; (23.3)

For this recommended action please see comment 11. R.23 - Regulation, supervision and monitoring– rated PC under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

- Not all persons that are recognised in legislation as being able to provide a money or value transfer service, or money or currency changing service must be licenced or registered or subject to effective monitoring systems. (23.5 and 23.6)
The application new Payment System Law (OGM 62/13 and 06/14) started in 2015, as explained in details in answer to SR.VI – Money or value transfer services.

Measures adopted and implemented:

The Article 4 of the Payment System Law defines the payment service providers, and reads:

- “(1) Payment services in Montenegro may be provided by:
- 1) banks and other credit institutions having their head offices in Montenegro;
 - 2) a payment institution having its head office in Montenegro;
 - 3) an electronic money institutions having its head offices in Montenegro;
 - 4) a branch of a third-country credit institution having its head office in Montenegro;
 - 5) the Central Bank of Montenegro (hereinafter: the Central Bank);
 - 6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.
- (2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above.
- (3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.
- (4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.
- (5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

Effectiveness

- The Central Bank does not supervise microcredit financial institutions directly for AML/CFT purposes; (23.1)

Measures adopted and implemented:

Central Bank of Montenegro performed on-site inspections of 3 microcredit financial institutions (presented in the title 6. Statistics)

- Notwithstanding the ISA had the responsibility to oversee agents and brokers from 2012, it did not include such reporting entities in the scope of on-site examinations until 2014; (23.1)

Measures adopted and implemented:

Article 4, Paragraph 2, Item 10 of the new Law on AMLTF stipulates that the reporting entities of the LAMLTF consider insurance intermediation companies and insurance representation companies in the part related to life insurance.

ISA, in point 2 of the first section of the new Guidelines for risk analysis of money laundering and financing of terrorism in insurance, which was adopted 28. 05. 2015, stipulated that the taxpayers of the Law on AMLTF among others are considering insurance intermediation companies and insurance representation companies in the part related to life insurance.

Additionally, in 2014, the ISA made one on site control of insurance intermediation companies, while in 2015 made three on site controls of intermediation companies and insurance intermediation companies, one of which is ex post on site control and two new on site controls.

- The Agency for Telecommunication and Postal Services has not sought to exercise any supervision of post offices that are sub-agents in Montenegro of Western Union; (23.1)

Measures adopted and implemented:

The Agency for Electronic Communications and Postal Services, as an independent regulator in the field of electronic communications, was founded in 2001, and in 2005 the Agency was assigned for the regulatory affairs in the field of postal services in line with the Law on Postal Services (Official Gazette, 46/05).

Responsibilities of the Agency under the Law on Postal Services (Official Gazette, 57/11), among other things include the following:

- 1) To grant and revoke licenses for the provision of postal services;
- 2) To track prices of postal services for the sake of equality and affordability;
- 3) To give consent to terms and conditions, and prices for the access to the universal postal operator network;
- 4) To give consent to special terms and conditions for the postal services provision;
- 5) To monitor the development of postal services;

- 6) To keep Registry of Postal Operators;
- 7) To supervise the work of postal operators;
- 8) To monitor the status and development of the postal services market and the like.

When it comes to the regulation of the postal market, the Agency is financed from the fees paid by the postal operators after obtaining a permit and payment of a one-time fee, and after paying the annual fee, and these funds are used for the following: to finance activities of the regulatory body (including financing of the activities related to the fight against money laundering and financing of terrorism), and cover potential losses coming from the provision of universal postal services by the universal service provider.

Bodies of the Agency are the Agency Council and Executive Director of the Agency. The Agency has more than 60 staff, and the Department of Postal Services has two employees who are, among other things, responsible for the supervision of postal operators in the area of the prevention of money laundering and financing of terrorism. The Agency for Electronic Communications and Postal Services has a regulatory and supervisory function in relation to the postal operators which provide their services and which are registered in Montenegro.

In line with responsibilities under Article 65 of the Law on Postal Services (Official Gazette of Montenegro, 57/11), the Agency for Electronic Communications and Postal Services, in addition to other tasks in accordance with Paragraph 17 of the previously mentioned Article, performs expert supervision of the work of postal operators.

According to Article 109 of the abovementioned Law, it was found that expert supervision means supervision in terms of the implementation of the Law on Postal Services, regulations based on the Law and general conditions of the postal services providers, the quality of universal postal services, network access, prices, the accounting of the postal services providers, actions undertaken in line with authorizations and supervision in terms of the implementation of individual legal documents enacted within their own competence. The Agency may perform supervision of legal and natural persons registered in the Registry of Postal Operators.

This Law is *lex specialis* when it comes to the competence of the Agency.

The Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette, 14/07 and 04/08), in Article 4, Paragraph 1, provides that measures for detection and prevention of money laundering and financing of terrorism are undertaken before, during and after any activity of receiving, investing, exchanging, keeping or any other manner of handling money and other assets, or transactions for which there are reasonable grounds for suspicion of money laundering and financing of terrorism.

These measures are undertaken by the reporting entities, including, in accordance with Paragraph 2, Item 4 of the aforementioned Article, the postal operators providing services in the postal services market in Montenegro.

In accordance with Article 86 of the abovementioned Law, and now with Article 94 of the Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette, 33/14), supervision of the implementation of this Law and regulations adopted based on this Law, with respect to the postal operators, is performed by the Agency for Electronic Communications and Postal Services.

Montenegro Post conducts pay-in/pay-out of the Western Union remittances under a contract concluded between: MONTENEGRO TRANSFERS Ltd. Podgorica, which is a Western Union agent for Montenegro and Montenegrin Post.

MONTENEGRO TRANSFERS Ltd. Podgorica is a payment institution, which, through its agents, commercial banks and Montenegro Post, provides services to send and receive Western Union money remittances.

Services of pay-in/pay-out of the Western Union remittances belong to the financial postal services, which are defined in Article 10 of the Law on Postal Services as commercial postal service.

According to Article 65, Paragraph 1, Item 17 of the Law on Postal Services, expert supervision of the work of postal operators is conducted by the Agency.

According to Articles 109, 110 and 111 of the Law on Postal Services, expert supervision of postal operators is conducted by the Agency.

Also, based on Article 86, Paragraph 1, Item 2 of the Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette, 14/07 and 04/08) the Agency is entitled to conduct supervision of reporting entities in the postal services market.

Therefore, based on the previously mentioned, the Agency supervises the implementation of the Law on the Prevention of Money Laundering and Financing of Terrorism and services of receiving and sending Western Union money transfers, which are carried out at the counters of the Montenegro Post, because that kind of service, in accordance with the Law on Postal Services, is one of the financial postal services, which are part of the commercial postal service, supervised by the Agency.

Montenegro Post offers the service of the transfer of funds via Western Union at over 70 locations (post offices).

Until 2013, Montenegro Post carried out only payment of WESTERN UNION remittances (from other countries to Montenegro), and from the beginning of 2013 it started receiving money pay-in (from Montenegro to other countries).

From 2008 until today, for the purpose of implementation of the Law on the Prevention of Money Laundering and Financing of Terrorism and regulations adopted based on the Law thereof, the Agency has conducted monthly supervision of the implementation of regulations governing the field of money laundering and financing of terrorism by Montenegro Post JSC Podgorica, which includes checking all cash transactions over EUR 15,000, all transactions of money through Western Union conducted in post offices, exceeding EUR 10,000 (and as of middle 2015 the amounts exceeding EUR 15,000).

It was stated that in the reporting period no deficiencies were found at Montenegro Post in terms of implementation of regulations which regulate the field of the prevention of money laundering and financing of terrorism. Thus, it was stated that in the abovementioned period no suspicious or suspended transactions were found for the inspection of which a list of indicators for suspicious transactions was used.

Montenegro Post submits to the Agency semi-annual and when necessary quarterly reports on the activities of the prevention of money laundering and financing of terrorism within which it submits data on all cash transactions exceeding the amount of EUR 15,000, on all suspicious and suspended transactions, as well as on all transactions of money via Western Union conducted at the post offices exceeding the amount of EUR 10,000 (as of mid 2015, exceeding the amount of EUR 15,000).

In the reporting period no suspicious or suspended transactions were detected, for which the list of indicators for the recognition of suspicious transactions was used.

We would like to point out here that Post of Montenegro has appointed a responsible person to undertake measures for the detection and prevention of money laundering and financing of terrorism, and his/her Deputy.

The Agency, Montenegro Post and MONTENEGRO TRANSFERS Ltd. Podgorica submit data on transactions to the Directorate for the Prevention of Money Laundering. The Agency also submits this data to the Directorate for Anti-Corruption Initiative and the Bureau for Operational Coordination of the National Security Council of Montenegro.

Recommended action

The low number of AML/CFT infringements that have been identified (just one in 2012 and 2013) by the SEC, suggests that on-site examinations may have been insufficiently focussed on AML/CFT matters: (23.1)

Measures adopted and implemented

The Securities and Exchange Commission of Montenegro adopts every year a General control plan for the following year, which contains on-site examinations regarding AML/CFT matters. Most of the time, during on-site examinations, the SEC combine AML/CFT supervision with general supervision, because of the efficiency of the supervision. This can be verified through records from every on-site examination. Number of on-site examinations that combine AML/CFT supervision with general supervision for each year can be checked in statistical part of the report.

In accordance with the above stated, the SEC doesn't agree with evaluator's claim that on-site examinations may have been insufficiently focussed on AML/CFT matters.

Recommended action

Whereas the Central Bank and ISA administer legislation that requires both to give their prior approval to persons who are to hold a controlling interest in a reporting entity, sit on its management board, this is not so for the SEC.

Measures planned to address the identified deficiencies:

On 11th of December 2015, The SEC submitted to the Ministry of Finance draft versions of:

- the Law on Amendments of the Law on Investment Funds; and
 - the Law on Amendments of the Law on Voluntary Pension Funds;
- that address afore-mentioned deficiencies.

Above-mentioned laws are at the stage of public hearing.

Also, the Law on the Capital Market is in the adoption procedure and this law should address afore-mentioned deficiency regarding stock-broker (or branch of an overseas company).

Recommended action

The scope of Article 4 of the LPMLTF should be extended to cover all activities or operations covered by the FATF's definition of financial institution. Gaps are explained at paragraph 476.

Measures adopted and implemented

The definition of financial institutions was not introduced in the previous Law on PMLTF (OGM 14/12 of 7th March 2012) but in the new Law on PMLTF (OGM 33/14 od 4th August 2014) the definition of financial institution is introduced in Article 5 paragraph 1 item 8 and it reads:

Article 5

The terms used in this Law have the following meaning:

.....

8) *financial institution means* a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro;

Additionally, the new Payment system Law (OGM 62/13 of 31 December 2013, 6/14 of 4 February 2014), that came *into force on 8 January 2014 and it shall apply as of 9 January 2015, in Article 1 defines the following:*

“(1) The payment system operations shall be performed in the manner and under the conditions specified under this law.

(2) The payment system shall include the provision of payment services, electronic money Issue, the functioning of payment systems and other activities of the payment system.”

Article 4 of the Payment System Law reads:

“(1) Payment services in Montenegro may be provided by:

1) banks and other credit institutions having their head offices in Montenegro;

2) a payment institution having its head office in Montenegro;

3) an electronic money institutions having its head offices in Montenegro;

4) a branch of a third-country credit institution having its head office in Montenegro;

5) the Central Bank of Montenegro (hereinafter: the Central Bank);

6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above”.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

The Article 4, Paragraph 2, Item 10 of the New Law on PMLTF stipulates that the insurance intermediation companies and insurance representation companies in the part related to life insurance are defined as the reporting entities under the Law.

The ISA, in point 2 of the first section of the new Guidelines for Risk Analysis of Money Laundering and Financing of Terrorism in Insurance Sector, which was adopted 28. 05. 2015, stipulated that the insurance intermediation companies and insurance representation companies in the part related to life insurance are, among others, defined as the reporting entities under the Law on PMLTF.

Additionally, in 2014, the ISA has carried out one on site control of insurance intermediation companies, while in 2015 there were three on site controls of intermediation companies and insurance intermediation companies, one of which is ex post on site control and two new on site controls.

Recommended action

Guidelines covering risk analysis should be published by the Agency for Telecommunication and Postal Services.

Measures adopted and implemented

In 2014 the new Law on the Prevention of Money Laundering and Financing of Terrorism was passed (Official Gazette of Montenegro, 33/14).

Based on this Law, the Rulebook on Guidelines for Developing Risk Analysis and Risk Factors with a view to Preventing Money Laundering and Terrorist Financing (Official Gazette of Montenegro, 53/14) and it entered into force in December 2014. Then, the Agency for Electronic Communications and Postal Services developed the Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism for the participants in the postal services market pursuant to Article 7, Paragraph 3 of the new Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of Montenegro, 33/14) and Article 2, Paragraph 1 of the Rulebook on Risk Analysis Guidelines relevant for the prevention of money laundering and financing of terrorism (Official Gazette of Montenegro, 53/14). The Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism were adopted by the Agency at the session of the Council on the 12th March 2015 in line with the obligations laid down in the abovementioned Rulebook and the document was published on the Agency's website.

All postal operators in Montenegro undertake measures and actions for the prevention of money laundering and financing of terrorism in accordance with the Law and the Agency's Guidelines.

Also, when it comes to the comment that the Agency did not pass the Risk Analysis Guidelines for the prevention of money laundering and financing of terrorism, we are hereby providing the following clarification:

Based on the Law on the National Payment System, the Executive Institutions in charge of conducting transfer of funds are the following:

1. The Central Bank of Montenegro,
2. Commercial banks,
3. Branch of a foreign commercial bank
4. Another legal entity granted a license or permit by the Central Bank of Montenegro allowing transfers.

According Article 5 of the abovementioned Law, the Executive Institution, based on the contract, can entrust certain transfer activities to an AGENT. The Agent conducts the entrusted activities on behalf of and for the account of the Executive Institution.

AGENT which is not an Executive Institution cannot be participant in the payment system.

The abovementioned tasks, terms and conditions and the manner of performing specific operations are prescribed by the Central Bank of Montenegro.

In accordance with the Decision on terms and conditions and the manner of performing specific operations concerning transfer of assets by the Agent (Official Gazette of Montenegro, 24/09), the Executive Institution (bank) may entrust the Agent to conduct the operations of receiving transfer order and sending the orders thereof on its behalf and for its account to the Executive Institution as well as the operations of receiving and execution of cash pay-in/pay-out orders.

In accordance with Article 5 of the Law on National Payment System and Article 7 of the Decision on terms and conditions and the manner of performing specific operations concerning the transfer of

assets by the Agent, the Executive Institution is responsible for all operations of the Agent and failures in performing tasks.

Montenegro Post conducts all services of operations involving funds in the capacity of the bank's Agent.

In performing these tasks, Montenegro Post applies Risk Analysis Guidelines for banks to prevent money laundering and financing of terrorism. The abovementioned document was published by the Central Bank of Montenegro.

Therefore, Montenegro Post acts as the bank's Agent when performing tasks which include provision of postal services. Thus, when it implements measures for the prevention of money laundering and financing of terrorism, it applies the Guidelines developed by the Central Bank of Montenegro.

According to the Law on the Central Bank of Montenegro only direct participation is allowed in the interbank payment system, where Agent in the payment system is not a participant in the interbank payment system.

The operations performed by the Agent on behalf of the bank, as well as mutual rights, and obligations of the Agent are established by the CONTRACT ENTERED IN BY THE BANK AND THE AGENT. Bank, i.e. the Executive Institution, is responsible for all activities performed by the Agent and for any failure the Agent can make while performing payment operations activities.

Recommended action

Legislation should be amended or introduced to allow the competent supervisory authorities identified in Article 86 of the LPMLTF to exercise statutory functions where this is currently not possible (including those responsible for money or value transfer). See paragraph 475.

Measures adopted and implemented

The application new Payment System Law (OGM 62/13 and 06/14) started in 2015, as explained in details in answer to SR.VI – Money or value transfer services.

The Article 4 of the Payment System Law defines the payment service providers, and reads:

“(1) Payment services in Montenegro may be provided by:

- 1) banks and other credit institutions having their head offices in Montenegro;
- 2) a payment institution having its head office in Montenegro;
- 3) an electronic money institutions having its head offices in Montenegro;
- 4) a branch of a third-country credit institution having its head office in Montenegro;
- 5) the Central Bank of Montenegro (hereinafter: the Central Bank);
- 6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

Recommended action:

A clear legal basis should be introduced to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, or holding a senior management function (including sitting on the board) in an investment management company (or branch of an overseas company), pension fund management company (or branch of an overseas company), or stock-broker (or branch of an overseas company).

Measures adopted and implemented

For this recommended action please see comment 11. R.23 - Regulation, supervision and monitoring– rated PC under the title 3. Measures planned to address the identified deficiencies in

relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

Recommended action:

Registration of a financial institution covered by Article 4 items 14 and 15 of the LPMLTF is considered to have taken place through the submission of information on the compliance officer under Article 38 of the LPMLTF. While the evaluation team accepts this indirectly achieves the requirement under criterion 23.7, it is recommended that a direct requirement is included in the LPMLTF for the reporting entity to register with the APMLTF.

Measures adopted and implemented

Law on PMLTF in Article 43 Performing the affairs of detecting and preventing money laundering and terrorist financing, in paragraph 3 defines:

(3) Reporting entities shall, within 60 days from the date of their establishment, designate a compliance officer and his/her deputy for the affairs of detecting and preventing money laundering and terrorist financing and in accordance with Article 46 paragraph 3 notify the Administration

Recommended action:

The Central Bank should supervise microcredit financial institutions directly for AML/CFT purposes.

Measures adopted and implemented

Central Bank of Montenegro performed on-site inspections of 3 microcredit financial institutions (presented in Chapter 6 of this report- Statistics)

Recommended action:

The SEC should consider the legal basis on which it supervises compliance with the LPMLTF by banks carrying on custody operations.

Recommended action:

The CBM and SEC should standardise the collection of information on those wishing to hold a significant or controlling interest or senior management function in a reporting entity. This should include information about regulatory sanctions (other than removal of an individual from his position) that may have been applied to an applicant.

12. R.24 - DNFBP (regulation, supervision and monitoring) – rated PC

Deficiencies:

- There are no mechanisms in place to prevent criminals and their associates to own or control a casino because fit and proper requirement under the law is limited to offenses towards payment system and does not cover beneficial owners of casinos;

Measures adopted and implemented

We appreciate your comment and are aware of this deficiency, we will take it into consideration for the future.

- Casinos are not subject to effective, proportionate, and dissuasive sanctions for AML/CFT breaches;

Measures adopted and implemented

The reporting entities from Article 4 paragraph 2 item 11 (organizers of lottery and special games of chance) are, just like all the other reporting entities, obliged to implement all the measures and activities defined by the LPMLTF.

- There is no sanctioning regime for lawyers, notaries, auditors and accountants;

Measures adopted and implemented

The reporting entities from Article 4 paragraph 2 item 17 indent 3 (auditing, independent auditor, accounting and providing tax advice services) are, just like all the other reporting entities, obliged to implement all the measures and activities defined by the LPMLTF. These reporting entities are supervised by the APMLTF.

All reporting entities defined in the Law on PMLTF are subject to penalty provisions prescribed in this Law. Additionally, obligations of the lawyers and notaries, as reporting entities under the Law, are defined in Articles 49, 50, 51 and 52. Also, there are prescribed penalty provision if the lawyers or notaries fail to act in accordance to the Law.

- There are no supervisory powers specifically defined for lawyers, notaries, auditors and accountants to conduct AML/CFT supervision.

Measures adopted and implemented

Law on PMLTF defines in Article 94 paragraph 1 items 7, 8 and 9 defines the following:

(1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

.....

....

7) Bar Association of Montenegro in relation to lawyers and law offices;

8) Notary Chamber in relation to notaries;

9) The Administration through authorized official, in accordance with the Law that regulates inspection in relation to reporting entities from Article 4 paragraph 2 items 15, 16 and 17 of this Law.

Effectiveness

- No specific regulation setting out the areas to be inspected during on-site inspections of DNFBPs.

Measures adopted and implemented

Law on PMLTF defines in Article 94 paragraph 1 defines the that the supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by the competent supervisory authorities listed in this Article.

Recommended action

Authorities are recommended to undertake AML/CFT effective supervision on activities of DNFBP sector.

Measures adopted and implemented

The APMLTF (Reporting Entities Control Department), that is defined as supervisory authority for DNFBPs in accordance with Article 94, regularly and in a planned manner, on the basis of risk analysis , conducts supervision over the DNFBPS and verifies the level of implementation of the obligations defined in accordance with the Law. Please also see in Chapter 6 Statistics tables under point 5.

Recommended action

Authorities are recommended to raise awareness of AML/CFT compliance in the sector.

Measures adopted and implemented

The APMLTF, from different aspects, conducts awareness rising with the reporting entities in relation to prevention of money laundering and terrorist financing through: regular updates of the indicators list for the high risk reporting entities, annual publication of AML/CFT typologies, organising trainings for different reporting entities and particularly for higher risk reporting entities. Additionally, APMLTF inspectors, through regular on-site inspections, besides verifying implementation of the Law, impact on raising the awareness and knowledge of the reporting entities regarding the prevention of ML/TF.

Recommended action

Define specific powers of the Administration for Games of Chance to impose sanctions on casinos for violations of AML/CFT.

Measures adopted and implemented

Pursuant to the Decree on organization and functioning of public administration, inspection supervision over the implementation of the Law on games of chance is the responsibility of the Administration for inspection affairs, Games of chance department. Accordingly, Article 94 paragraph1 item 5, defines that the Administration for Inspection Affairs through authorized inspector in accordance with the law regulating the inspection, is supervisory authority in relation to reporting entities from Article 4 paragraph 2 item 11 of this Law (organizers of lottery and special games of chance).

Recommended action

The Authorities should consider introducing registration or similar procedure to ensure that all DNFBP sector representatives subject to AML/CFT supervision are registered with the relevant supervisory authority and the authority has precise information with respect to the total number of reporting entities subject to its supervision.

Measures adopted and implemented

Law on PMLTF in Article 43 Performing the affairs of detecting and preventing money laundering and terrorist financing, in paragraph 3 defines:

- (3) Reporting entities shall, within 60 days from the date of their establishment, designate a compliance officer and his/her deputy for the affairs of detecting and preventing money laundering and terrorist financing and in accordance with Article 46 paragraph 3 notify the Administration.

Recommended action

Define powers and authority of the Notaries Chamber and the Bar Association of Lawyers to undertake supervisory authority with respect to AML/CFT.

Measures adopted and implemented

Law on PMLTF defines in Article 94 paragraph 1 items 7 and 8 defines the following:

- (1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

.....

.....

- 7) Bar Association of Montenegro in relation to lawyers and law offices;
- 8) Notary Chamber in relation to notaries;

Recommended action

Define specific authority of the Administration for Games of Chance for the inspection of casinos for AML/CFT purposes.

Measures adopted and implemented

Pursuant to the Decree on organization and functioning of public administration, inspection supervision over the implementation of the Law on games of chance is the responsibility of the Administration for inspection affairs, Games of chance department. Accordingly, Article 94 paragraph 1 item 5, defines that The Administration for Inspection Affairs through authorized inspector in accordance with the law regulating the inspection, is supervisory authority in relation to reporting entities from Article 4 paragraph 2 item 11 of this Law (organizers of lottery and special games of chance).

Recommended action

The authorities should undertake supervisory measures with respect to audit and accounting services.

Measures adopted and implemented

The existing Law on PMLTF in Article 4 paragraph 2 item 17 indent 3 defines auditing, independent auditor, accounting and providing tax advice services as the reporting entities that are in accordance with Article 94 supervised by APMLTF. In relation to that that APMLTF performs controls with this type of reporting entities.

Article 4

- (2) Measures from paragraph 1 of this Article shall be undertaken by business organizations, legal persons, entrepreneurs and natural persons conducting activities (hereinafter referred to as: reporting entities), as follows:

.....

- 17) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
auditing, independent auditor, accounting and providing tax advice services;

Article 94

- (1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

.....

9)The Administration through authorized official, in accordance with the Law that regulates inspection in relation to reporting entities from Article 4 paragraph 2 items 15, 16 and 17 of this Law.

Recommended action

The authorities should issue on-site inspection manuals to ensure that all areas of AML/CFT compliance are covered during on-site inspection activities.

Measures adopted and implemented

The APMLTF's Reporting Entities Control Department prepared the internal procedures for on-site control. The mentioned procedures clearly define the areas that are to be covered during on-site inspection as well as the manner of conducting the on-site inspection.

Recommended action

The authorities should ensure that effective, proportionate, and dissuasive sanctions are available for violations of AML/CFT requirements by notaries, lawyers, accountants and audit service providers.

Measures adopted and implemented

The reporting entities from Art.4 par 2 item 17 indent 3 (*auditing, independent auditor, accounting and providing tax advice services*) are, just like all the other reporting entities, obliged to implement all the measures and activities defined by the LPMLTF. These reporting entities are supervised by the APMLTF.

The supervisory authority for lawyers and law offices is the Bar Association of Montenegro, as for notaries supervisory authority for notaries is the Notary Chamber.

13. R.26 – The FIU– rated PC

Deficiencies:

- The APMLTF does not publicly release reports on trends and typologies.

Measures adopted and implemented:

Typologies were published within the annual Reports on the APMLTF's work for 2014 and 2015.

Effectiveness

- Low number of requests for administrative, financial and law enforcement information undermines the analytical and dissemination process;

Measures adopted and implemented:

During its everyday work, the APMLTF uses numerous sources of data for the needs of analysing and processing, both on request and publicly available ones. The APMLTF has adopted the internal check list that have to be made when processing any case, which ensured that each employee carries out all the necessary checks.

The front cover of the file contains the names of the reporting entities most frequently addressed by the APMLTF, the request delivery date, as well as the date of receiving their reply (including the statement whether they possess data on the requested persons or not). Moreover, there are blank fields for entering all the other reporting entities, as well as dates, to which data delivery requests are sent. Please note that the Central Business Registry allows for a public search on its web-site, just like the Real Estate Administration and Tax Administration (on annual financial reports). Thus, in case we possess the ID data on the subject persons, we carry out the checks by searching the sites of these institutions. In case we do not possess such data (which rarely happens) we address them directly for obtaining the needed information. Also, due to the changes in the organization of their web-sites, these institutions officially were asked for a direct access to the data bases, in order to avoid the unnecessary administrative burdening of certain institutions. In the previous period the APMLTF has increased its activities related to notifying the Central Bank on the noticed failures, requesting a targeted supervision upon which a sanction would be imposed. In the same time, in difference to the previous practice, we have taken a position that a request for further checks is prepared for the Police Directorate for each STR leading to opening a case.

- The dissemination process does not ensure that effective action is taken by the most appropriate law enforcement authority in all cases;

Measures adopted and implemented:

The APMLTF has adopted the Procedures for notifying the competent state authorities, which, in accordance with the new Law on the Special State Prosecutor's Office, defines the Special State Prosecutor's Office as the authority competent for the criminal act of money laundering and terrorism. The notifications are sent to the Supreme State Prosecutors Office who then forwards information to the Special State Prosecutors Office.

- No review by the FIU to determine whether the analytical output is adequate.

Measures adopted and implemented:

The procedure of keeping records has been simplified and more precise since the introduction of the Procedures for notifying the competent state authorities. Consequently, situations of overlapping of statistics sent to several different competent state authorities are rare. The low number of delivered notifications is primarily the result of an increased number of requests involving a great number of persons received from the competent state authorities. These requests are set as priority, for the competent state authorities obtain the necessary financial data via the APMLTF. Also, after conducted analysis of the disseminated notifications the APMLTF decided to increase their quality in order to provide the Prosecutor with strong basis for acting within its competences, as it was suggested by the evaluators. Thus, notifications are no longer disseminated after receiving STRs, but the APMLTF first tries to collect as much useful and quality data as possible, that would be afterwards disseminated as a whole (including the replies of the foreign FIUs).

Recommended action

Amend Articles 48, 49 and 50 of the LPMLTF to ensure that the APMLTF is permitted to request information from domestic authorities and reporting entities when it estimates that there are grounds (not reasonable grounds) of an ML/TF suspicion for the purpose of performing its duties under the LPMLTF.

Measures adopted and implemented

The translation of the text of the Law on PMLTF was not correct. The previous Law as well as the existing one refer to suspicion in ML/TF and not to "*reasonable grounds for suspicion*".

Recommended action

Determine the reasons for the low number of requests for financial, administrative and law enforcement information and ensure that full use of all accessible data and information is made in the performance of the analysis function.

Measures adopted and implemented

During its everyday work, the APMLTF uses numerous sources of data for the needs of analysing and processing, both on request and publicly available ones. The APMLTF has adopted the internal check list that have to be made when processing any case, which ensured that each employee carries out all the necessary checks.

The front cover of the file contains the names of the reporting entities most frequently addressed by the APMLTF, the request delivery date, as well as the date of receiving their reply (including the statement whether they possess data on the requested persons or not). Moreover, there are blank fields for entering all the other reporting entities, as well as dates, to which data delivery requests are sent. Please note that the Central Business Registry allows for a public search on its web-site, just like the Real Estate Administration and Tax Administration (on annual financial reports). Thus, in case we possess the ID data on the subject persons, we carry out the checks by searching the sites of these institutions. In case we do not possess such data (which rarely happens) we address them directly for obtaining the needed information. Also, due to the changes in the organization of their web-sites, these institutions officially were asked for a direct access to the data bases, in order to avoid the unnecessary administrative burdening of certain institutions. In the previous period the APMLTF has increased its activities related to notifying the Central Bank on the noticed failures, requesting a targeted supervision upon which a sanction would be imposed. In the same time, in difference to the previous practice, we have taken a position that a request for further checks is prepared for the Police Directorate for each STR leading to opening a case.

Recommended action

Review the practice to automatically send requests for additional information to a large number of reporting entities upon opening an analytical case and consider introducing a more targeted and selective approach when querying reporting entities.

Measures adopted and implemented

The APMLTF remains to its firm view that it is appropriate and necessary to conduct checks with all the banks. We believe that the potential tipping off to the subject persons is possible even when a request is sent to only one bank. Since disclosure of official secret is defined as criminal act, the person who discloses information that certain person is the subject of the APMLTF's request, would, according to the Law, be sanctioned.

Recommended action

With a view to enhancing the analysis and dissemination processes, ensure that the APMLTF's internal methodology sets out the procedure to be followed from the moment an STR/CTR/other information is received until the dissemination of an analytical report. The authorities should consider including the following within the methodology: the criteria on the basis of which a case is to be opened following the receipt of an STR/CTR, the manner in which cases are to be prioritised, circumstances in which financial, administrative and law enforcement information is to be sought and additional information from reporting entities is to be requested, the manner in which CTRs are to be utilised for analytical purposes, a detailed methodology for the analysis of STRs/CTRs, the length of time within which the analysis of an STR/CTR is to be conducted, the manner in which a decision to disseminate a case is to be taken and dissemination criteria to determine the most appropriate law enforcement authority in each case.

Measures adopted and implemented

Each Department within the APMLTF has detailed procedures of acting that regulate the manner of work in details, covering, among others, the procedure of writing notifications. It has already been stated that processing of STRs also includes obtaining data which are defined in the list that contains all the information sources relevant for the notifications sent to the competent state authorities.

Recommended action

Introduce, as soon as possible, a suitable IT system to ensure that:

- sophisticated analytical and visualisation tools are available for the analytical department (STRs & CTRs) to further enhance the extent of the APMLTF's analytical output; and
- all relevant statistics for the upcoming national risk assessment as well as future evaluations and (domestic) assessments of effectiveness of the APMLTF's work are available and easily accessible.

Measures adopted and implemented

Beginning from September 2015, the FIU initiated the procedure of developing a full software solution for both operational and administrative work. The finalisation of the project is anticipated in June 2016, and bearing in mind trainings, adjustments and migration of data, full operational capacity of software is anticipated by the end of current year. Also, it needs to be noted that the operational work of the FIU was supported by the existing Analyst Notebook Tool.

Recommended action

Assess whether the analytical function of the APMLTF is effective in practice and establish to the widest extent possible the causes for the lack of effective action being taken by the authorities concerned on the basis of the analytical reports disseminated by the APMLTF.

Measures adopted and implemented

To better understand the use of delivered information, last year the FIU introduced the manner of comparing the information delivered to the competent state authorities who also, from their sides, provide statistics of used/received information from the FIU. In such a manner FIU can track and follow the use and quality of delivered information.

The Procedures for notifying the competent state authorities clearly point out that the notifications are sent to the Supreme State Prosecutor's office (Special State Prosecutor's Office)

The APMLTF has adopted the Procedures for notifying the competent state authorities, which, in accordance with the new Law on the Special State Prosecutor's Office, defines the Special State Prosecutor's Office as the authority competent for the criminal act of money laundering and terrorism. The notifications are sent to the Supreme State Prosecutors Office who then forwards information to the Special State Prosecutors Office.

The APMLTF has carried out the analysis of the notifications which resulted in decreasing the number of notifications, in order to deliver only complete information containing enough suspicion in money laundering and terrorist financing.

Recommended action

Establish a clear feedback mechanism between the APMLTF and law enforcement authorities (including the Prosecutor's Office, the Police, the National Security Agency and the Tax Administration) on the outcome and quality of FIU notifications.

Measures adopted and implemented

The LPMLTF clearly prescribes in Art. 76 that, for the purpose of keeping unique records on money laundering and terrorist financing, the competent courts, State prosecutor and other state authorities are obliged to provide data to the Administration on misdemeanours and criminal offences related to money laundering and terrorist financing. Also, please see the previous comment.

Recommended action

Consider conducting strategic analysis and publicly release reports on trends and typologies as required under c.26.8.

Measures adopted and implemented

The APMLTF publishes reports on trends and typologies within the annual Report on its work.

14. R.27 - Law enforcement authorities– rated PC

Effectiveness

- No effective law enforcement policy for the investigation of ML/FT offences;

Measures adopted and implemented:

With reference to Police Administration and the analysis they had undertaken, the result was SOCTA (Serious and Organized Crime Threat Assessment). At the same time, parallelly with SOCTA development, Police Administration Prepared a new Systematisation Act driven by the approach change towards organized crime issue.

In accordance with Article 37 paragraphs 2 and 3 of the Law on State Administration (Official Gazette of Montenegro No.42/11) upon the proposal of the Minister of Internal Affairs, the Government of Montenegro, on its session held on 19 March 2015 adopted the Rulebook on internal organization and systematization of working positions at the Ministry of Internal Affairs. In accordance with the Rulebook, the Ministry of Internal Affairs - Police Directorate consists of several different departments and one of these departments is the Criminal police Department, which is made of different divisions, and this list of the divisions include the Division for fight against the organized crime and corruption and the Division for preventing economic crime.

Also, the Rulebook prescribes establishment of six(6) different groups within Division for fight against the organized crime and corruption and it includes the Group for leading financial investigations, suppression of criminal offences of money laundering and financial crime, which is a successor of a former group for combating against Organized financial crime.

Main tasks of this group are:

- to lead financial investigations,
- suppression of criminal acts of money laundering,
- and other criminal acts of financial crime and organized crime, organized criminal groups etc..
- criminal acts of corruption on the municipal and state level,
- criminal acts committed by public officials, and other criminal offenses.

It is planned that the Group for leading financial investigations, suppression of criminal offences of money laundering and financial crime include 7 working positions. Employment of police officials in this Group started on 01.08.2015.

Along with the aforementioned Group that is a part of a Division for fight against the organized crime and corruption, the Rulebook defines, the existence of the Division for preventing economic crime which is a part of the Criminal police department. The officers who work at this Division (Division for preventing economic crime) deal with different criminal acts relating to the economy and financial system.

Another part of the Rulebook defines the establishment of the Special police investigation team consisting of police officers from the Criminal Investigation Department will be combating against all types of criminal acts as well as with money laundering and to conduct financial investigations.

- Very low number of ML/FT investigations;

Measures adopted and implemented:

Since the adoption of the 4th Mutual Evaluation Report, Montenegro has taken several steps in order to increase the number of ML/FT investigations. First of all, new Laws were passed, institutional reforms were introduced as well as continuous training have been provided for the law enforcement authorities. All of those changes we are sure will result in the better fight against money laundering and financing of terrorism.

New Specialized Police Unit formed for the criminal offense from the competences of Special Prosecutor's Office, new departments in the Special prosecutor's Office as well as introduction of the investigators in the Law will for sure contribute to the higher number of the ML/FT investigations.

- Limited understanding by law enforcement authorities of purpose of FIU disseminations.

Measures adopted and implemented:

In order to overcome this deficiencies several trainings were organized for representatives from the law enforcement agencies as well as from the FIU. The aim of those trainings is, among the others, to better understand the purpose of the FIU dissemination. Beside the trainings, the institutional reforms that were explained in this report make a good base to overcome this obstacle. Since the money laundering offence is now only in the competences of the Special Prosecutor (during the 4th round Mutual Evaluation, money laundering was in the competences both of the Special and Higher State Prosecutor Office) and there are possibilities to have investigators from the FIU also, it is a good start for the better understanding of the FIU dissemination.

Recommended action

Set out and implement a concrete law enforcement policy for the proactive (financial) investigation of ML/FT.

Measures adopted and implemented

Police officers, during the processing of criminal offences that are defined by the article 2 of the Law on Seizure and Confiscation of Material Benefit Derived from Criminal Activities, had assessed the need to lead financial investigations related to offenders who have committed this crime. Police begins to gather evidence of financial gains made by committing these offences in the early stage of the investigation and this is defined by the (article 478, paragraph 1 of the Criminal Procedure Law), and this law covers the authority that was given to the police (article 257 paragraphs 1 and 2 of the Criminal Procedure Code).

More or less every case that deals with commercial crime, organized crime or corruption is consisted of pre - investigative stage that deals with gathering intelligence data or information that can be used in a leading of the financial investigation later on.

Alongside with the aforementioned procedures, proactive investigations are also taken. They include many different measures of collecting information. This way the proactive investigation offers a possibility to find and stop the criminal offender. It is possible to gather evidences of prior (history) committed criminal offences.

Police also takes self-initiative activities or activities that are ordered by a district attorney to take measures and acts to detect and identify criminal offences that resulted in illicit gains. Governmental offices, municipal offices, private individuals who deal with executing public orders and other individuals have the obligation to deliver information that are needed to discover and identify gains

that are made by engaging in the criminal activity (article 14 of the Law on Seizure and Confiscation of Material Benefit Derived from Criminal Activities, ("Official Gazette of Montenegro" no. 58/15).

Recommended action

Enhance to the highest degree intra-agency cooperation with regard to financial investigations.

Measures adopted and implemented

The new Law on Special Prosecutor's Office enhances cooperation between different state authorities and police and prosecutor's office. Also, the Agreement on cooperation between Police and Prosecutor's office during the pre-trial phase and criminal proceeding enhance better cooperation between this two important institutions in fight against money laundering and financing of terrorism.

Recommended action

Conduct a comprehensive in-depth review of the current financial investigation procedure and establish a feedback mechanism to ensure that all involved authorities are aware of the needs and capabilities of their domestic counterparts, especially with regards to the low number of investigation initiated as a result of FIU notifications.

Measures adopted and implemented

Recommended action

Ensure that the joint investigation team established in 2010 also adequately targets ML/FT offences.

Measures adopted and implemented

During the on-site visit as well as during the 4th Round Mutual Evaluation, money laundering offence was under the competences of the Higher State Prosecutor's Office and only when the ML was committed as a part of organized crime, this criminal office was under the competences of the Special Prosecutor. Since the joint investigation team was formed for the Special Prosecutor it was not possible that all ML cases are targeted by this team. However, Law on Special Prosecutor's Office was passed in March 2015 and according to this Law, all cases of money laundering are now under the competences of the Special Prosecutor's Office. Since the Law on Special Prosecutor defines the establishment of the special investigative team, it is ensured that all cases of ML/FT are now targeted by this team. Also, a special investigation team is formed of police inspectors to serve to Special Prosecutors team which would improve the quality and efficiency of prosecution of ML/FT offences.

15. R.30 - Resources, integrity and training PC

Deficiencies:

APMLTF

- Inadequate allocation of staff at the in relation to tasks and activities performed (analytics department in relation to other departments);

Measures adopted and implemented

In the aim of overcoming the mentioned deficiency, a new official is employed at the Analytics Department. After the mandate of the Special Investigative Team expired, the permanent representative of APMLTF(analyst) has returned to the Suspicious Transaction Department.

- Insufficient IT and human resources have a negative impact on the analysis of STRs, CTRs and other financial information;

Measures adopted and implemented

Beginning from September 2015, the FIU initiated the procedure of developing a full software solution for both operational and administrative work. The finalisation of the project is anticipated in June 2016, and bearing in mind trainings, adjustments and migration of data, full operational capacity of software is anticipated by the end of current year. Also, it needs to be noted that the operational work of the FIU was supported by the existing Analyst Notebook Tool.

Please, also see comment above.

Police

- Number of staff in Criminal Police Department is insufficient;
- Training of police officers in Criminal Police Department is inadequate;

Customs

- Lack of adequate training of Customs Officers;
- Number of staff is too low in order to fully support all obligations under SR. IX;

Policy Makers

- Adequacy of resources and training level of Members of National Commission and intra-institutional working group could not be assessed;

Measures adopted and implemented

The implementation of the Strategy and Action Plan was previously ensured by the National Commission for implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2010-2014.

The Conclusion of the Government, dated 04.06.2015, and the Decision of the Bureau for Operational Coordination of the Work of Security Services, adopted at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The future activities of this team are actually a continuity of the work of the Commission.

At its session held on 28.05.2015, the Government considered the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, submitted by the Ministry of Defence.

The Government adopted the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, and charged the Bureau for Operational Coordination of the Work of Security Services with monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016.

In order to fulfil its obligation, the Bureau, at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The work of this Team involves numerous and significant ministries, state authorities, institutions and state administration bodies, focused on the execution of the Action Plan.

There is a certain number of ministries and state authorities which are not included in the work of the Team, but since they are responsible for realization of certain objectives and measures from the Action Plan, the communication with them will be continuous.

The competent state authorities are obliged to report National Inter-Institutional Operational Team on accomplishment of measures from the Action plan, within their competences. The reporting is conducted every three months and every six months. Also, the National Inter-Institutional Operational Team performs other activities regarding coordination and focusing activities with a view of accomplishment of the Strategy and Action plan.

The National Inter-Institutional Operational Team has 15 members, as follows:

- Head of the Operational Team, who is also the Secretary of the National Security Council and a member of the Bureau for Operational Coordination of the Work of Security Services ;
- Secretary of the Operational Team, representative of the Police Directorate;
- Member of the Operational Team, Chief Special Prosecutor;
- Member of the Operational Team, President of High Court in Podgorica;
- Member of the Operational Team, representative of the Ministry of Justice;
- Member of the Operational Team, representative of the Ministry of Interior;
- Member of the Operational Team, representative of the Ministry of Defence;
- Member of the Operational Team, representative of the General Staff of the Military of Montenegro;
- Member of the Operational Team, representative of the National security Agency;
- Member of the Operational Team, representative of the Administration for the Prevention of Money Laundering and Terrorist Financing;

- Member of the Operational Team, representative of the National Security Authority;
- Member of the Operational Team, representative of the Tax Administration;
- Member of the Operational Team, representative of the Customs Administration;
- Member of the Operational Team, representative of the Police Directorate;
- Member of the Operational Team, commander of the Special Anti-Terrorist Unit.

The regular meeting of the National Inter-Institutional Operational Team are held at least once in three months.

On 23 September 2015, the National Inter-Institutional Operational Team established an inter-institutional working group on expert-operational level for the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016. The group consists of four members, as follows:

- representative of the National Security Authority - head;
- representative of the Ministry of Defence - member;
- representative of the Police Directorate - member;
- representative of the Administration for the Prevention of Money Laundering and Terrorist Financing - member.

- Meetings of the group are organized in accordance with the operational needs and tasks that are assigned by the National Inter-Institutional Operational Team.

Supervisors

- The APMLTF is responsible for overseeing a significant number of reporting entities and has only five staff available to do so;
- Within the CBM criminal record checks are not routinely performed at the time of employment of staff;

Measures adopted and implemented:

Pursuant to Law on Preventing of Corruption (OGM 53/14), the CBM established the Working group that started the work on activities on drafting the Central Bank of Montenegro Integrity Plan, which will include the following two aspects:

- Integrity of employees meaning individual honesty, required knowledge and skills, the behaviour according to the law, ethics and ethical rules, and that employees is not subject to unethical or immoral (corruption) pressures;
 - Integrity of institution meaning work of institution by performing public authorities in quality, timely and impartial manner, in line with the purpose for their establishing.
- Details of training provided suggest that AML/CFT training is not offered widely within the competent supervisory bodies;
Measures adopted and implemented:
Also please see tables under Chapter 7- trainings
 - Details of training provided to employees suggest that AML/CFT training tends to be focussed on the APMLTF's activities as a financial intelligence unit, rather than supervisor;
Measures adopted and implemented:
Also please see tables under Chapter 7- trainings
 - High turnover of staff in APMLTF has an adverse impact on effectiveness.

Recommended action

As a matter of priority, raise the salaries of FIU staff to a competitive level to avoid high fluctuation of staff.

Measures adopted and implemented:

On 24 February 2016, the new Law on Wages in Public Sector was adopted and accordingly the wages of employees in Public Sector are increased as well as the wages of employees of the APMLTF.

Following the adoption of the new Law the relevant bylaws will be adopted. The bylaws will define bonuses to the wages for performing activities on specific working positions as well as for performing specific activities in the cases of money laundering and terrorism. In relation to that, the APMLTF delivered, to the Ministry of Finance, a proposal to raise the bonus of 30% to the wages of APMLTF for all employees.

Recommended action

Increase number of staff of the APMLTF to occupy all planned job positions according to the adopted governmental decree and allocate staff more appropriately to better assist the analytical departments (STR & CTR) which perform the core tasks of the APMLTF.

Measures adopted and implemented

In the aim of overcoming the mentioned deficiency, a new official is employed at the Analytics Department. After the mandate of the Special Investigative Team expired, the permanent representative of APMLTF (analyst) has returned to the Suspicious Transaction Department.

Recommended action

Significantly increase staffing of the Criminal Police Directorate in both, the Economic Crime Suppression Section and the Section for Combatting Organized Crime and Corruption to the degree necessary to allow officers to dedicate their highest possible efforts to their tasks.

Measures adopted and implemented:

Police Directorate had formed a group for leading financial investigations since the last evaluation, combating crimes related to the money laundering and financial crimes and it is a part of a department that deals with the fight against the organized crime and corruption. The aforementioned group consists of seven police officers which are defined by the new Systematization of the Police Directorate which was adopted May 2015. The new Systematization prescribes the creation of a special police team and it will include eleven police officers and four of them will deal with the money laundering. The creation of aforementioned team is being created alongside with the Special office Prosecutors office.

Police directorate had formed a group for leading the fight against terrorism and arms smuggling and it is a part of a department that deals with the fight against the organized crime and corruption. The aforementioned group consists of four police officers and it was formed in May 2015 by an executive order of the Police directorate. The aforementioned unit will have four more police officers that will deal with a crime related to terrorism.

Please see comment under R27

Recommended action

Introduce a cohesive and broad training programme in the fields of money laundering and terrorist financing for police officers dedicated to investigate financial crime.

Measures adopted and implemented:

The police officers that are employed at the Group for leading financial investigations, suppression of money laundering and other financial crimes and the police officers that deal with terrorism have attended various training related to financial investigations, money laundering and the financing of terrorism. It is planned to organize more trainings that deal with financial investigation and money laundering further in time. Trainings were organized by the American embassy, ICITAP, TAIEX and others. The table (7.1.b) contains the exact number, name of a training and the number of police officers who attended the trainings.

Recommended action

Consider conducting periodic reviews on the influence of corruptive elements in law enforcement authorities and identify a targeted action plan to remedy its negative effects.

Measures adopted and implemented:

Corruption which was noticed in the recommendation number 30 is being checked carefully. The department for fight against the organized crime and corruption has a group which has a role to fight against the corruption. Interior Police Control and the Department for fight against the Commercial crime both deal with the mentioned issues and their role is fighting against the crimes related to corruption. Another significant thing that should be mentioned as an answer to the already noticed issue is that the Ministry of the Interior Affairs passed an Integrity Plan on 24.02.2014 according to the article 68 of a Law about the civil servants. Integrity plan is an internal anti-corruption based document which contains the group of measures that prevent and remove the possibility for the creation and the development of various ways of a behaviour that involves corruption of the employees of the Ministry of the Interior Affairs.

Recommended action

Provide all Customs Officers with adequate training programs related to money laundering and terrorist financing on a regular basis.

Measures adopted and implemented

In order to enforce the implementation of this recommendation, the Customs Administration has taken action to educate customs officers in this area. Customs officers have attended a number of trainings on combating money laundering and terrorism financing, investigations and money laundering, tax and VAT fraud, conduct of financial investigations in order to identify the proceeds of crime activity, the fight against corruption. (Statistics on certain training done in table 7.1 Training Received since on-site visit)

Customs administration has planned to draft the 2016-2018 Strategy of management of human resources by the end of 1st quarter 2016 as well as training plan for 2016 which, among other trainings, shall contain trainings of customs officers related to the prevention of money laundering and terrorism financing.

Recommended action

Consider raising the number of staff within the Customs Authority in general to fully support Montenegro's obligations under Special Recommendation IX.

Measures adopted and implemented

In order to enforce the implementation of this recommendation, the Customs Administration has taken action to educate customs officers in this area. Please also see in Chapter 6 Statistics tables 7. AML/CFT Training.

Customs officers have attended a number of trainings on combating money laundering and terrorism financing, investigations and money laundering, tax and VAT fraud, conduct of financial investigations in order to identify the proceeds of crime activity, the fight against corruption.

Recommended action

The Department of International Cooperation of the Ministry of Justice should be granted an appropriate number of staff with necessary expertise.

Measures adopted and implemented

Since 2014 till now the number of employees in the Department of International Cooperation of the Ministry of Justice is increased for 4 employees. Total number of employees in the Department of International Cooperation of the Ministry of Justice is 10 (general director + 9 employees).

Recommended action

Use the inter-institutional fora (National Commission and Working Group) for training related purposes and liaise with the private sector in that regard.

Recommended action

Perform criminal checks at the time of employment of staff of supervisory authorities and where staff change roles.

Measures adopted and implemented:

Pursuant to Law on Preventing of Corruption (OGM 53/14), the CBM established the Working group that started the work on activities on drafting the Central Bank of Montenegro Integrity Plan, which will include the following two aspects:

- **Integrity of employees** meaning individual honesty, required knowledge and skills, the behaviour according to the law, ethics and ethical rules, and that employees is not subject to unethical or immoral (corruption) pressures;
- **Integrity of institution** meaning work of institution by performing public authorities in quality, timely and impartial manner, in line with the purpose for their establishing.

Recommended action

Review the coverage and the nature of AML/CFT supervisor training and agree an action, in order to ensure that (at the very least) it is delivered to all relevant supervisory staff.

Measures adopted and implemented:

Please note that data and information on performed trainings of all supervisors' employees are explained in detail under Chapter 7- trainings

Recommended action

The current level of resourcing in the Reporting Entities Control Department of the APMLTF should be reviewed in order to determine whether it is consistent with its statutory responsibilities under the LPMLTF.

Measures adopted and implemented:

The number of inspectors is defined in accordance with the Rulebook on internal organization and systematization of the APMLTF and it is functional in relation to the number of employees of the APMLTF and the number of inhabitants of Montenegro i.e. the number of business entities performing their business activities on territory of Montenegro. In accordance with the Methodology on conducting on-site inspection, quality analysis are regularly conducted enabling the existing number of APMLTF inspectors (which seems low when compared to the high number of reporting entities) to carry out purposeful and efficient supervision.

Recommended action

Notwithstanding other provisions in Articles 171 and 280 of the Criminal Code, Article 189 of the Insurance Law should be amended to extend the period for which data on persons over which the Agency exercises supervision is kept confidential. Currently it is confidential only for a period that expires three years after a person terminates employment with the Agency.

Measures adopted and implemented:

Proposal on Amendments and Changes to the Law on Insurance is on the agenda of the Parliament of Montenegro, where the Parliament will, in accordance with their activities and work plan, decide on its adoption, which you will be informed about in due time.

The amended Article 189 of the Law on Insurance shall read:

Article 189

The President and ISA Council members, director and employees of the Agency, auditors and other professionals that the Agency engages to perform duties related to the supervision, shall, as confidential, keep the data of entities over which the Agency has a supervision and other data in accordance with law and the Statute of the Agency, except for the information on the basis of this law which are prone to publishing and available for inspection by interested parties.

Confidential information in this article, is particularly the data from process of supervisory control and data of control measures imposed under this law.

The obligation under paragraph 1 of this Article is also applicable after the termination of position or work contract at the ISA.

Recommended action

The electronic computerised database for MLA requests, as foreseen by the authorities, should be developed as a matter of urgency.

Measures adopted and implemented

The Ministry of Justice in January 2015 introduced an electronic system Luris, which allows electronic register of cases of mutual legal assistance. Through Luris system the Ministry of Justice will monitor received rogatory letters and other requirements in the area of giving and receiving mutual legal assistance, as well as statistical reports in the field of international legal assistance in civil and criminal matters. Reporting is made possible by the type of legal assistance, the crime, the requesting State, the competent authority to act, as well as other parameters that are required in order to precisely monitor the process and procedure of providing legal aid

16. R.31 - National co-operation- rated PC

Deficiencies:

- Lack of inter-institutional body in relation to operational cooperation and coordination before the end of 2013;

Measures adopted and implemented

The implementation of the Strategy and Action Plan was previously ensured by the National Commission for implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2010-2014.

The Conclusion of the Government, dated 04.06.2015, and the Decision of the Bureau for Operational Coordination of the Work of Security Services, adopted at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The future activities of this team are actually a continuity of the work of the Commission.

At its session held on 28.05.2015, the Government considered the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, submitted by the Ministry of Defence.

The Government adopted the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, and charged the Bureau for Operational Coordination of the Work of Security Services with monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016.

In order to fulfill its obligation, the Bureau, at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The work of this Team involves numerous and significant ministries, state authorities, institutions and state administration bodies, focused on the execution of the Action Plan.

There is a certain number of ministries and state authorities which are not included in the work of the Team, but since they are responsible for realization of certain objectives and measures from the Action Plan, the communication with them will be continuous.

The competent state authorities are obliged to report National Inter-Institutional Operational Team on accomplishment of measures from the Action plan, within their competences. The reporting is conducted every three months and every six months. Also, the National Inter-Institutional Operational Team performs other activities regarding coordination and focusing activities with a view of accomplishment of the Strategy and Action plan.

The National Inter-Institutional Operational Team has 15 members, as follows:

- Head of the Operational Team, who is also the Secretary of the National Security Council and a member of the Bureau for Operational Coordination of the Work of Security Services ;
- Secretary of the Operational Team, representative of the Police Directorate;
- Member of the Operational Team, Chief Special Prosecutor;
- Member of the Operational Team, President of High Court in Podgorica;
- Member of the Operational Team, representative of the Ministry of Justice;
- Member of the Operational Team, representative of the Ministry of Interior;
- Member of the Operational Team, representative of the Ministry of Defence;
- Member of the Operational Team, representative of the General Staff of the Military of Montenegro;
- Member of the Operational Team, representative of the National security Agency;
- Member of the Operational Team, representative of the Administration for the Prevention of Money Laundering and Terrorist Financing;
- Member of the Operational Team, representative of the National Security Authority;
- Member of the Operational Team, representative of the Tax Administration;
- Member of the Operational Team, representative of the Customs Administration;
- Member of the Operational Team, representative of the Police Directorate;
- Member of the Operational Team, commander of the Special Anti-Terrorist Unit.

The regular meeting of the National Inter-Institutional Operational Team are held at least one in three months.

On 23 September 2015, the National Inter-Institutional Operational Team established an inter-institutional working group on expert-operational level for the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016. The group consists of four members, as follows:

- representative of the National Security Authority - head;
- representative of the Ministry of Defence - member;
- representative of the Police Directorate - member;

- representative of the Administration for the Prevention of Money Laundering and Terrorist Financing - member.

- Meetings of the group are organized in accordance with the operational needs and tasks that are assigned by the National Inter-Institutional Operational Team.

The realization of measures and objectives defined in the Action Plan 2015-2016 is underway.

- Cooperation between APMLTF, Prosecutors (High State Prosecutor & Supreme Prosecutor's Office) and Police needs enhancement.

Measures adopted and implemented:

Since the adoption of new Law on Special Prosecutor's Office cooperation has been enhanced. The Law on Special Prosecutor's Office was passed in March 2015 and according to this Law, all cases of money laundering are now under the competences of the Special Prosecutor's Office. Since the Law on Special Prosecutor defines the establishment of the special investigative team, it is ensured that all cases of ML/FT are now targeted by this team. In such a manner this Law defines the structure and cooperation of all involved in the system PML/FT.

To better understand the use of delivered information, last year the FIU introduced the manner of comparing the information delivered to the competent state authorities who also, from their sides, provide statistics of used/received information from the FIU. In such a manner FIU can track and follow the use and quality of delivered information.

Effectiveness:

- Effectiveness of national cooperation on a strategic level could not be fully assessed since the evaluation team did not have the opportunity to meet with the members of the National Commission;

Measures adopted and implemented

The implementation of the Strategy and Action Plan was previously ensured by the National Commission for implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2010-2014.

The Conclusion of the Government, dated 04.06.2015, and the Decision of the Bureau for Operational Coordination of the Work of Security Services, adopted at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The future activities of this team are actually a continuity of the work of the Commission.

At its session held on 28.05.2015, the Government considered the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, submitted by the Ministry of Defence.

The Government adopted the Information on future manner of monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016, and charged the Bureau for Operational Coordination of the Work of Security Services with monitoring the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016.

In order to fulfill its obligation, the Bureau, at the session held on 09.07.2015, established the National Inter-Institutional Operational Team. The work of this Team involves numerous and significant ministries, state authorities, institutions and state administration bodies, focused on the execution of the Action Plan.

There is a certain number of ministries and state authorities which are not included in the work of the Team, but since they are responsible for realization of certain objectives and measures from the Action Plan, the communication with them will be continuous.

The competent state authorities are obliged to report National Inter-Institutional Operational Team on accomplishment of measures from the Action plan, within their competences. The reporting is conducted every three months and every six months. Also, the National Inter-

Institutional Operational Team performs other activities regarding coordination and focusing activities with a view of accomplishment of the Strategy and Action plan.

The National Inter-Institutional Operational Team has 15 members, as follows:

- o Head of the Operational Team, who is also the Secretary of the National Security Council and a member of the Bureau for Operational Coordination of the Work of Security Services ;
- o Secretary of the Operational Team, representative of the Police Directorate;
- o Member of the Operational Team, Chief Special Prosecutor;
- o Member of the Operational Team, President of High Court in Podgorica;
- o Member of the Operational Team, representative of the Ministry of Justice;
- o Member of the Operational Team, representative of the Ministry of Interior;
- o Member of the Operational Team, representative of the Ministry of Defence;
- o Member of the Operational Team, representative of the General Staff of the Military of Montenegro;
- o Member of the Operational Team, representative of the National security Agency;
- o Member of the Operational Team, representative of the Administration for the Prevention of Money Laundering and Terrorist Financing;
- o Member of the Operational Team, representative of the National Security Authority;
- o Member of the Operational Team, representative of the Tax Administration;
- o Member of the Operational Team, representative of the Customs Administration;
- o Member of the Operational Team, representative of the Police Directorate;
- o Member of the Operational Team, commander of the Special Anti-Terrorist Unit.

The regular meeting of the National Inter-Institutional Operational Team are held at least one in three months.

On 23 September 2015, the National Inter-Institutional Operational Team established an inter-institutional working group on expert-operational level for the implementation of the Strategy for the prevention and suppression of terrorism, money laundering and terrorism financing 2015-2018, and Action Plan 2015-2016. The group consists of four members, as follows:

- representative of the National Security Authority - head;
- representative of the Ministry of Defence - member;
- representative of the Police Directorate - member;
- representative of the Administration for the Prevention of Money Laundering and Terrorist Financing - member.
-

Meetings of the group are organized in accordance with the operational needs and tasks that are assigned by the National Inter-Institutional Operational Team.

The realization of measures and objectives defined in the Action Plan 2015-2016 is underway.

- Effectiveness of national cooperation on an operational level could not be assessed.

Recommended action

Recommended action

Establish a regular meeting timetable for the National Commission

Please see the comment above.

Recommended action

Consider using the knowledge and practical expertise of the private sector in discussions with regard to the national strategy and in determining key areas of focus

Measures adopted and implemented

The Bureau for Operational Coordination of the Work of Security Services (former National Commission) deals with the issues that are designated as classified and that are matters of national-security importance in which the private sector cannot be included. Whenever a certain strategy of national importance is being drafted knowledge experience and information are used and utilized from of private sector.

Recommended action

Use the inter-institutional working group to provide for a forum for in-depth discussions of issues on an operational level

Measures adopted and implemented

Apart of the Head of APMLTF who is the member of Bureau (former National Commission) one of the APMLTF employees is a member of inter-institutional working group for issues on operational level. Please see comment above. (Also, please see comment under first bullet for Deficiency referring to Recommendation R.31 - National co-operation)

Recommended action

Hold regular and ad-hoc meetings of the inter-institutional working group on operational issues, especially between the APMLTF, Prosecutors (High State Prosecutor & Supreme Prosecutor's Office) and Police

Measures adopted and implemented

Please see comment above.

Measures adopted and implemented

The APMLTF, in the annual reports on its work, regularly publishes the statistical data related to the AML/CFT area, in particular, data on the number of received STRs, number of investigated cases, number of prosecuted persons, number of persons convicted for the criminal act of money laundering or terrorist financing, data on the frozen or confiscated property, and in other appropriate manner informs the public on the phenomenon of money laundering and terrorist financing.

17. R.32 - Statistics- rated PC

Deficiencies:

- No review mechanism of the AML/CFT system on a regular basis;
Measures adopted and implemented
To better understand the use of delivered information, last year the FIU introduced the manner of comparing the information delivered to the competent state authorities who also, from their sides, provide statistics of used/received information from the FIU. In such a manner FIU can track and follow the use and quality of delivered information.
- Unclear whether statistics on confiscation and provisional measures for ML and predicate offences;
- Incomplete statistics on the dissemination process maintained by the FIU;
Measures adopted and implemented

Please statistics- in Chapter 6 table 4.3 Judicial Proceedings related to reports filed
Please see comment regarding deficiency in first built.

- No MLA statistics for the years 2009-2012 were provided;

Measures adopted and implemented

Until 2015 Ministry of justice does not have electronic computerized database of the cases handled by the Department of International Cooperation. Due the lack of a computerized system, the staff has to execute all the requests manually and on paper, which makes the process lengthier, as well as does not enable the authorities to maintain comprehensive statistics and evaluate these. As has been stated above with regard to resources, the Department of International Cooperation of the Ministry of Justice does not have a computerized database and as a result, we already informed you that comprehensive statistics are not maintained with regard to MLA. No statistics in relation to MLA have been provided for the years 2009-2012.

Regarding 2013, statistics were provided regarding MLA related to ML, TF and FATF designated predicate offences. 4 MLA requests were received and 7 requests were send by Montenegro for money laundering in that year and no requests were processed for TF. No information has been provided about the time of execution of the requests, nor about the countries to which the requests were related. Statistics also do not differentiate between the

requests on which the legal assistance was provided and those in which the assistance was declined.

Statistics were also provided about incoming and outgoing requests for extradition, which also covered ML, TF and the designated predicate offences. In 2013 one ML request was received, no requests were sent and there have been no requests related to TF. The extradition statistics included also the length of execution, which for the ML request was 73 days, whilst for the extradition requests for predicate offences the average time was 64 days.

Ministry of Justice introduced in January 2015 applicative system Luris, which enables keeping records of cases mutual legal assistance. System Luris allows Ministry of Justice to track received rogatory letter and other requests on mutual legal assistance, and making statistic report in field of mutual legal assistance. Reporting is possible on: different sorts of legal assistance, criminal acts, requesting State, the competent authority, as well as the other parameters that are required in order to precisely monitor the process and procedure of providing mutual legal assistance.

- Incomplete statistics on numbers of supervisory examinations have been presented by the authorities.

Measures adopted and implemented

Complete statistics is now provided. Please see statistics Chapter 6- Statistics -table under item 5.

Recommended action

Utilise the Justice Informative System to maintain more detailed statistics with regard to ML investigations, prosecutions and proceedings.

Measures adopted and implemented

The new Justice Informative System is now in the final stage where we are working final on the adaptation of the system to the needs of the Prosecutor's Office and in the next two months we will enter in the phase of testing of the system. When the system become operational Prosecutor's Office will be able to provide detailed statistics about the predicate offences as well as ML /TF cases. It is worth mentioning that Prosecutor's Office has all necessary data about all cases of ML.

Recommended action

Maintain a breakdown of statistics on individual cases disseminated to law enforcement authorities.

Measures adopted and implemented

Please see comment regarding deficiency in first built.

Recommended action

Consider maintaining statistics on requests for information sent to other domestic authorities and reporting entities and action taken by police, national security agency and tax administration on the basis of FIU disseminations.

Measures adopted and implemented

APMLTF maintains statistics on requests for information sent to other domestic authorities and reporting entities and on the actions taken by police, national security agency and tax administration. Please see statistics Chapter 6-Statistics – Table 4.3.

Recommended action

Consider introducing an intra-agency database that allows competent authorities to access directly or indirectly law enforcement information in a prompt manner, in order to ensure that all statistics are properly kept and can be double-checked if necessary, in the case that discrepancies occur.

Recommended action

Consider maintaining statistics on false declarations and non-declarations.

Measures adopted and implemented

Customs administration has statistics of false declarations and non-declarations. Statistical data are provided in the table 4.4 of the Report (Reports filed on cross border transportation of currency and bearer negotiable instrument).

Recommended action

Keep records on notifications to foreign competent authorities with regards to unusual cross-border movement of gold, precious metal or precious stones

Measures adopted and implemented

There were no notifications to the foreign competent authorities with regards to unusual cross-border movement of gold, precious metal or precious stones.

Recommended action

Establish a review mechanism of the AML/CFT regime in order to properly assess vulnerabilities and threats to the current system

Measures adopted and implemented

As presented in general part National Risk Assessment was developed and adopted in December 2015.

Recommended action

The basis for collecting and analysing statistics on supervisory examinations should be reviewed in order to ensure that they cover all competent supervisory bodies and that statistics are complete and accurate.

18. R.33 - Legal persons– rated PC

Deficiencies:

- Banks are not required to establish who the beneficial owner of a limited partnership is. (33.1)

Measures adopted and implemented

Please see comment below, under the first recommended action.

- No explanation has been provided as to the basis for monitoring and enforcing compliance with the requirement placed on business organisations to open a bank account in Montenegro. (33.1)
- A limited liability company does not commit an offence when it fails to keep a list of its shareholders. Nor is an entry in such a list stated in legislation as being conclusive proof of ownership. (33.3)

Measures adopted and implemented

In accordance with the Law on Business organisations (Official Gazette of Montenegro, 17/07, 80/08, 40/10, 36/11) in Article 70 prescribes that a limited liability company must submit to the Central Business Registry and publish at the first registration, in addition to other required data, a list of founders, members of the company, managers and members of the Board of Directors, if appointed, including— a) the first and last names and former names in case of change of the first/last name; provide to the Central Business Registry the list of founders, members of the society (company), managers and members of the board of directors (if they are appointed). b) the date and place of birth of members of the Board of Directors, their personal identification number, or passport number if a foreign national;...

Additionally, in accordance with the Article 83 of the Law on Business organisations, the the Central Business Registry data base may be inspected on each business day.

Also, Article 79 Law on Business organisations defines that the provisions of this Law relating to joint stock companies shall accordingly apply to limited liability companies. Relevant references to „shares' shall be construed as references to „parts' where appropriate. Where a contradiction exists between provisions relating to Limited Liability Company and the provisions relating to joint stock companies, the provisions relating to limited liability companies shall apply.

The process of drafting the New Law on Business organisations is in progress and its adoption is planned in the IV Quarter of 2016.

Effectiveness

- Banks consider that they meet the requirement in Article 20(4) of the LPMLTF to establish who is the beneficial owner of a joint stock company or limited liability company by: comparing information provided by the customer to information held at the Central Depository Agency or Central Business Registry on legal ownership of companies; and Internet checks.

Recommended action

The LPMLTF should be revised to include a requirement for the beneficial owners of general partnerships and legal partnerships to be identified and verified.

Measures adopted and implemented

Pursuant to the LPMLTF, banks are obliged to determine beneficial owner of each client, including the limited partnership (domestic or foreign), and if a bank cannot determine the beneficiary owner, the business relationship must not be established, and if the business relationship has already been established it must be terminated (Article 10 paragraph 4 of the LPMLTF).

Article 20 of the LPMLTF lays down the definition of beneficial owner, and reads:

“(1) Beneficial owner is the natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction is being conducted or a business relationship established, as well as the person that ultimately exercises control over a legal entity or legal arrangement.

- (2) A beneficial owner of a business organization, or legal person, in the context of this Law, shall be:
- 1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than 25% share of the capital or has a dominating influence in the management of the assets of the business organization or legal person;
 - 2) a natural person that indirectly has ensured or ensures funds to a business organization or legal entity and on that basis has the right to influence significantly the decision making process of the managing body of the business organization or legal entity when decisions concerning financing and business are made
- (3) As a beneficial owner of a foreign legal person or other form of legal organizing (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered a natural person that:
- 1) indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity;
 - 2) is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed”.

Moreover, Article 21 LPMLTF regulates establishment of a beneficial owner of a legal person or foreign legal person and reads:

- “(1) A reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 79 item 14 of this Law.
- (2) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register that must not be older than three months of their issue date or obtain them by checking CBR or other public register in accordance with Article 15 paragraph 4 of this Law.
- (3) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 2 of this Article, a reporting entity shall obtain the missing data by checking the original or certified copy of an identification document or other business documents submitted by the representative or authorized person of the legal person.

- (4) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 3 of this Article, a reporting entity shall obtain those data from the written statement of the representative or authorized person.
- (5) A reporting entity shall verify the data on beneficial owner of a legal person or foreign legal person to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer in accordance with risk-degree assessment.
- (6) When establishing the identity of the beneficial owner of a legal person or foreign legal person a reporting entity shall obtain photocopy of a personal identification document of that person in accordance with Article 14 paragraph 5 of this Law”.

Recommended action

Whereas the Law on Prevention of Illegal Business Operations is understood to require business organisations (companies and partnerships) to open a bank account in Montenegro, those banks may not hold information on beneficial ownership. Given the reliance that banks place on information held at the Central Business Registry or CDA, the information that they collect on the ownership of legal persons is likely to mirror information on legal ownership that is available through these registers. Banks should therefore consider additional ways of determining who are the natural persons that ultimately own or control a customer that is a legal person.

Measures adopted and implemented

Pursuant to the LPMLTF, banks are obliged to determine beneficial owner of each client, including the limited partnership (domestic or foreign), and if a bank cannot determine the beneficiary owner, the business relationship must not be established, and if the business relationship has already been established it must be terminated (Article 10 paragraph 4 of the LPMLTF).

Article 20 of the LPMLTF lays down the definition of beneficial owner, and reads:

“(1) Beneficial owner is the natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction is being conducted or a business relationship established, as well as the person that ultimately exercises control over a legal entity or legal arrangement.

(2) A beneficial owner of a business organization, or legal person, in the context of this Law, shall be:

1) a natural person who indirectly or directly owns at least 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than 25% share of the capital or has a dominating influence in the management of the assets of the business organization or legal person;

2) a natural person that indirectly has ensured or ensures funds to a business organization or legal entity and on that basis has the right to influence significantly the decision making process of the managing body of the business organization or legal entity when decisions concerning financing and business are made

(3) As a beneficial owner of a foreign legal person or other form of legal organizing (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered a natural person that:

1) indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity;

2) is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed”.

Moreover, Article 21 LPMLTF regulates establishment of a beneficial owner of a legal person or foreign legal person and reads:

“ (1) A reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 79 item 14 of this Law.

(2) A reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documents from the CBR or other appropriate public register that must not be older than three months of their issue date or obtain them by checking CBR or other public register in accordance with Article 15 paragraph 4 of this Law.

(3) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 2 of this Article, a reporting entity shall obtain the missing data by checking the original or certified copy of an identification document or other business documents submitted by the representative or authorized person of the legal person.

(4) If a reporting entity cannot obtain all the data on the beneficial owner of the legal person or of foreign legal person in accordance with paragraph 3 of this Article, a reporting entity shall obtain those data from the written statement of the representative or authorized person.

(5) A reporting entity shall verify the data on beneficial owner of a legal person or foreign legal person to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer in accordance with risk-degree assessment.

(6) When establishing the identity of the beneficial owner of a legal person or foreign legal person a reporting entity shall obtain photocopy of a personal identification document of that person in accordance with Article 14 paragraph 5 of this Law”.

Recommended action

A basis for monitoring and enforcing compliance with the requirement for each legal person to open a bank account in Montenegro should be put in place.

Measures adopted and implemented

The Law on Law on Prevention of Illegal Business Operations (Official Gazette of Montenegro, No. 29/2013) in Article 5 defines the obligation of opening bank account for all legal persons operating on the territory of Montenegro:

Legal person and entrepreneur shall open an account with the bank, in the manner defined by regulations, deposit funds on that account and make funds transfers through the accounts, including payment of taxes, surtaxes and contributions for calculated gross income and earnings allowances, as well the payment of net earnings and earnings allowances to employees.

Also, Article 16 of this Law defines that the supervision shall be conducted by the competent supervisory authorities and Article 17 defines the following:

Article 17

The competent inspector is obliged and authorized to, if during supervision establishes that provisions of this Law are violated, in addition to measures defined by the law that regulates supervision, order the following measures to be taken:

- 1) request delivering necessary documentation and information;
- 2) temporary seize documentation, final products, raw materials, semi products and /or secondary raw materials;
- 3) prohibit performance of activities, or certain activities until the identified irregularities are addressed
- 4) temporary seize pecuniary gain;
- 5) file charge to the competent authority for committed criminal offence or initiate misdemeanour procedure;
- 6) issues misdemeanour order.

Furthermore, Article 18 paragraph 1 item 1 of the same Law defines penalty provisions in the amount from €10, 0000.00 to €20, 0000.00 if legal person fails to act in accordance with Article 5.

Besides, the responsible person in a legal person shall be fined in an amount from 2,000 EUR to 3,000 EUR for the misdemeanour from paragraph 1 of this Article, and an entrepreneur shall be fined in an amount from 4,000 EUR to 4,000 EUR for the misdemeanour from paragraph 1 of this Article.

Recommended action

The Law on Business Organizations should expressly provide that a limited liability company must keep a register of members, and make it an offence for failing to do so. The basis for recording a change in ownership of a part of a limited liability company should also be addressed in legislation.

Measures adopted and implemented

In accordance with the Law on Business organisations (Official Gazette of Montenegro, 17/07, 80/08, 40/10, 36/11) in Article 70 prescribes that a limited liability company must submit to the Central Business Registry and publish at the first registration, in addition to other required data, a list of founders, members of the company, managers and members of the Board of Directors, if appointed, including— a) the first and last names and former names in case of change of the first/last name; provide to the Central Business Registry the list of founders, members of the society (company), managers and members of the board of directors (if they are appointed). b) the date and place of birth of members of the Board of Directors, their personal identification number, or passport number if a foreign national;...

Additionally, in accordance with the Article 83 of the Law on Business organisations, the the Central Business Registry data base may be inspected on each business day.

Also, Article 79 Law on Business organisations defines that the provisions of this Law relating to joint stock companies shall accordingly apply to limited liability companies. Relevant references to „shares' shall be construed as references to „parts' where appropriate. Where a contradiction exists between provisions relating to limited liability company and the provisions relating to joint stock companies, the provisions relating to limited liability companies shall apply.

The process of drafting the New Law on Business organisations is in progress and its adoption is planned in the IV Quarter of 2016.

19. R.40 - Other forms of co-operation – rated PC

Deficiencies:

- Clear and effective gateways are not in place to facilitate and allow for exchanges of information directly between counterparts:
 - The Central Bank is empowered to exchange information outside Montenegro only with “foreign institutions responsible for bank supervision”. (40.2)
 - The Agency for Telecommunication and Postal Services cannot cooperate or exchange information with foreign counterparts on AML/CFT issues. (40.2)
 - The APMLTF may not exchange information for supervisory purposes, except where there are reasonable grounds for suspecting money laundering or terrorist financing. (40.2)
- The SEC cannot share information spontaneously under the Securities Law or the Law on Voluntary Pension Funds; (40.3)
- The SEC does not have a general power to conduct an examination under the Securities Law on behalf of a foreign authority; (40.5)

- Insufficient details have been provided of controls and safeguards in place to ensure that information received by competent supervisory authorities is used only in an authorised manner; (40.9)

Measures adopted and implemented

Article 69 of the existing LPMLTF determines that the required information and data need to be kept and protected and may not be distributed and further used in any way without explicit prior consent of data and information originator.

Request to the competent authority of a foreign state for providing data and information Article 69

- (1) The Administration may request, within its competencies, from the competent authority of a foreign state data, information, and documentation necessary for detection and prevention of money laundering or terrorist financing.
- (2) The Administration may use the data, information and documentation obtained in accordance with paragraph 1 of this Article, only for the purposes provided for by this Law, and without previous approval of the competent authority of the foreign state from which the data are obtained, it must not provide or disclose them to another authority, legal or natural person, or use it for purposes that are not in accordance to the terms and limits defined by requested authority.

Furthermore, Article 70 determines that data and information that are to be delivered upon the request need to be protected and safeguarded in a following manner:

Providing data and information upon the request of the competent authority of a foreign state Article 70

- (1) The Administration can, upon a request of a foreign authority competent for detection and prevention of money laundering and terrorist financing, provide data, information and documentation about persons or transactions related to a suspicion of money laundering or terrorist financing, under the condition of reciprocity.
- (2) Prior to providing the personal data to the authority from the paragraph 1 of this Article, the Administration shall verify if the requesting authority owns a regulated system of protection of personal data and whether the data will be used solely for the requested purpose, unless otherwise defined by the international agreement.

(3) The Administration needs not to act in accordance with the request from the paragraph 1 of this Article if:

1) on the basis of the facts and circumstances, stated in the request, evaluates that there are not enough reasons for suspicion of money laundering or terrorist financing, and,
2) the providing of data would jeopardize or could jeopardize the course of criminal proceeding in Montenegro or in some other way affect interests of the proceeding.

(4) The Administration shall inform in writing the requesting authority on the rejection of the letter rogatory and shall state the reasons for the rejection.

(5) The Administration may determine the terms and limits of using the data from the paragraph 1 of this Article.

Also, every exchange information with foreign counterparts has the following clause:

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Effectiveness

- With the exception of the APMLTF, assistance is not requested from, or by, competent supervisory authorities.

Recommended action

The APMLTF should:

- Consider amending Article 60 LPMLTF in a way that allows the APMLTF to exchange information on both:
 - data, information and documentation related to money laundering
 - data, information and documentation related to underlying predicate offences

Measures adopted and implemented

This issue will be considered when drafting new law in 2017.

The Police should:

- Introduce a clear legal basis for conducting investigations on behalf of foreign counterparts

Recommended action

The authorities should ensure that:

The Central Bank is empowered under Article 107 of the Banking Law to exchange information with foreign institutions that supervise credit and guarantee operations, microcredit financial institutions, and more general lending that are not also responsible for bank supervision;

Measures adopted and implemented

In July 2015, the Governor of the CBM established the Working Group with the task of preparing the new Law on Credit Institutions by end-2016, which will remove this deficiency

Recommended action

The authorities should ensure that:

The Securities and Exchange Commission can share information spontaneously under Article 18a of the Securities Law and has a general power to conduct an examination under the Securities Law on behalf of a foreign authority;

Measures adopted and implemented

For this recommended action please see comment under the title 3. Measures planned to address the identified deficiencies in relation to R.40 - Other forms of cooperation – rated PC

Recommended action:

The authorities should ensure that:

The Agency for Telecommunication and Postal Services can cooperate and exchange information with foreign counterparts on AML/CFT issues; and

Measures adopted and implemented:

Article 65, Paragraph 1, Items 6 and 7 of the Law on Postal Services provides that the Agency cooperates with the bodies and organs of the Universal Postal Union and the European Union, as well as the regulatory authorities of the Member States of the European Union and other countries. The Agency is obliged to exchange information and regularly inform these bodies in accordance with the abovementioned Law and international obligations. In accordance with Article 66 of the Law thereof, the Agency is obliged to cooperate with postal operators and other bodies and organizations in terms of consumer protection and the postal services market.

According to Article 68, Paragraph 1, Item 4, the Agency is obliged to submit to the bodies of the Universal Postal Union, apart from the information relating to the universal postal service, the information on other matters in accordance with international obligations. The Agency for Electronic Communications and Postal Services has signed Memoranda of Understanding in the field of postal services with regulatory bodies from Slovenia and Serbia.

Provisions of the Law on the Prevention of Money Laundering and Financing of Terrorism provides that the exchange of information in the area of money laundering and financing of terrorism can only be conveyed by the administrative body which is the Directorate for the Prevention of Money Laundering and Financing of Terrorism, but not by the supervisory authority.

The supervisory authority obligations are defined in the abovementioned Law in Articles 86-90.

Recommended action:

The authorities should ensure that:

The APLTF has a general power to exchange information with foreign supervisors responsible for AML/CFT supervision, whether or not money laundering or terrorist financing are reasonably suspected.

Measures adopted and implemented:

The effectiveness, or the practice, shows that FIU Montenegro has never denied a request regardless of the type of suspicion.

*20. SR.I - Implementation of United Nations instruments – rated PC***Deficiencies:**

- Deficiencies remain in the implementation of certain provisions of the TF Convention;
- There are no laws and procedures for the application of S/RES/1267(1999) and S/RES/1373(2001).

Recommended action

The recommendations and comments provided under SR.III also apply for this section.

Measures adopted and implemented:

Montenegro implements targeted financial sanctions pursuant to UNSCRs 1267/1989 and 1988 through the Law on International Restrictive Measures, which came into force in January 2015.

The provisions of this Law apply to the implementation of the restrictive measures imposed on the basis of: Resolution of the UN Security Council adopted under Chapter VII of the Charter of the United Nations; Acts of the European Union; Acts of the Organization for Economic Cooperation and Development; Decisions of other international organizations of whom Montenegro is a member to whose political document Montenegro accepted in accordance with its foreign policy priorities; and on the other basis in accordance with international law. The international restrictive measures are introduced in internal legal system of Montenegro by government decision upon proposal of the Ministry of Foreign Affairs and European Integration (MFAEI). Once the decision is published in the Official Gazette, all relevant national authorities are obliged to freeze assets of designated persons and entities immediately. The Decision, as a basis for the introduction of restrictive measures, prescribe the type of restrictive measure, method of application, method of implementation of restrictive measures by law enforcement authorities and may determine the scope and time of application of restrictive measures. The Law prescribe that authorities and legal entities responsible for the application of restrictive measures, are required, within its competence and activities, to ensure the implementation of restrictive measures, and to inform the MFAEI on the undertaken activities.

The Law contains the definition of assets and funds.

According to this Law assets mean: “assets include tangible or intangible, movable or immovable property, where the right of ownership is proved by a document in any form, including electronic or digital form”

According to this Law funds mean: “financial assets and benefits of every kind, including, but not limited to: cash, checks, monetary claims, bills of exchange, remittances and other means of payment; funds invested in entities responsible for the application of restrictive measures; financial instruments prescribed by the Law governing securities, including shares, units of collective investment schemes, bonds, certificates of deposit, treasury bills and other financial instruments, documents proving the right of financial assets or other financial sources; interest, dividends and other income from the assets and loans and letters of credit”.

Restrictive measure on frozen funds is implemented on funds that are in the ownership, possession or used in any other way by natural or legal person to whom the measure applies.

Frozen funds also refer to inflow of accounts funds which are blocked by applying restrictive measures on the basis of interest and income to these accounts on other basis respectively, as well as to inflows of funds paid by third parties and transferred to these accounts for use by natural and legal persons. The Law prescribes that the funds being frozen by applying this restrictive measure shall not be available to these natural or legal persons.

Restrictive measure on frozen assets, which implies restriction of part or all property powers of owners, is implemented on property of natural or legal person to whom the measure applies.

The Law also contains penalty provisions prescribing punitive measures in cases if legal person doesn't implement the restrictive measures or on the request of MFA, the legal person doesn't provide the important data for the implementation of the enacted restrictive measure or if the legal person makes available the funds which have been frozen by the implementation of the restrictive measure.

The Ministry of Foreign Affairs manages the DATABASE on restrictive measures applied to natural and legal persons. The Law specifies the content of this DATABASE, as well as, processing, use and storage of data from DATABASE.

Concerning the UNSCRs, relevant information about all UNSCRs are delivered through the Permanent Mission of Montenegro to the UN in New York and shared with competent national authorities by MFAEI. The Ministry of Foreign Affairs and European Integration also regularly collects and updates information published on its official website. The MFAI informs the Central Bank and other authorities of new designations. Adoption of government decision in order to introduce the restrictive measures is a way to formalize the application of the freezing of assets and funds according to the UNSCRs. Montenegro, as a member of UN, applies directly all UNSCRs. In the case of EU designations, a similar process is followed.

Recommended action

The definitions of the FT offence in the CC and the LPMLTF should be harmonized with each other and with international standards.

Measures adopted and implemented

Regarding S. Recommendation I, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the criminal offence of terrorism financing from article 449 of the Criminal Code of the Republic of Montenegro (Official Gazette of the Republic of Montenegro no. 70/03, 13/04 and 47/06 and “no. 40/08, 25/10, 32/11, 40/13, 56/13, 14/15 and 42/15) was not amended in its legal description.

Following the above-stated, Ministry of Justice is in process of drafting of the Amendments to the CC in regard to implement all MONEYVAL recommendations regarding evaluation of measures for terrorism financing.

21. SR.II – Criminalise terrorist financing – rated PC

Deficiencies:

- The FT offence is limited in scope, as it does not cover all the acts listed in the Annex Conventions;

- The financing of the offences under the Annex Conventions, which are partially covered under Art. 447 (Terrorism), are subject to an additional purposive element;
- The scope of the definition of “individual terrorist” and “terrorist organisation” is not in line with the FATF Standards;
- The scope of the application of criminal liability of legal entities is limited due to the grounds provided by the Law on Criminal Liability of Legal Entities for Criminal Acts.

Recommended action

Given the fact that there were no cases of TF in Montenegro, the authorities claimed that the risk of TF is very low. However, the authorities are invited to assess the risk of TF in Montenegro not only based on the legislation in place, but also in relation to the conducts, which should be designated as terrorist acts pursuant to international requirements.

Measures adopted and implemented

As mentioned in the general part, Montenegro has undergone the National Risk Assessment, as presented. Also, please see general part of the document regarding Strategy for Prevention and Suppression of Terrorism, Money Laundering and Terrorist Financing.

Recommended action

The authorities should amend the legislation in order to criminalise all the offences listed in the treaties from the Annex to the TF Convention, to bring them in line with the Conventions, and to include these offences as terrorist acts for the purposes of Art. 449 of the CC.

Recommended action

The financing of the offences under the Annex Conventions, which are partially covered under Art. 447 (Terrorism), should be criminalised without being subject to be committed with the intention to intimidate the citizens or to coerce Montenegro, a foreign state or an international organisation to act or refrain from acting, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, a foreign state or of an international organisation”.

Recommended action

The scope of the terms “individual terrorist” and “terrorist organisation” should clearly cover the scope of these terms envisaged by the FATF standards, including contribution to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made with the knowledge of the intention of the group to commit a terrorist act.

Measures adopted and implemented

Regarding SR II, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the criminal offence of terrorism from Article 477 and terrorism financing from article 449 of the Criminal Code of the Republic of Montenegro (Official Gazette of the REPUBLIC of Montenegro no. 70/03, 13/04 and 47/06 and OGM no. 40/08, 25/10, 32/11, 40/13, 56/13, 14/15 and 42/15) was not amended in its legal description.

Following the above-stated, Ministry of Justice is in process of drafting of the Amendments to the CC in regard to implement all MONEYVAL recommendations regarding evaluation of measures for prevention of terrorism and terrorism financing.

Recommended action

The grounds of criminal liability of legal entities should be broadened so as to include cases when the legal entity doesn't commit the TF offence with the intention to obtain any gain for legal entity.

Measures adopted and implemented:

Regarding to his part of the SR. II, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the Grounds for Liability of a Legal Entity from Article 5 of the Law on Criminal Liability of Legal Entities (official gazette of the Republic of Montenegro no. 2/07, 13/07 and 30/12) was not amended in its legal description.

Ministry of Justice is already prepared the Proposal law on Amendments to the Law on Criminal Liability of Legal Entities. Government of Montenegro shall adopt the Amendments during the I Q 2016.

By these amendments criminal liability of legal entities will no more be restricted and depend on the additional element for the liability (proof that legal entity obtains some profit).

Recommended action

Criminal liability for the co-principal should be provided for the cases when the co-principal commits the TF offence with the prior arrangement without any limitation of making significant contribution to the commission on the crime.

Measures adopted and implemented:

Regarding S. Recommendation II, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the criminal liability for the co-principal from Article 23 of the Criminal Code of the Republic of Montenegro (official gazette of the Republic of Montenegro no. 70/03, 13/04 and 47/06 and no. 40/08, 25/10, 32/11, 40/13, 56/13, 14/15 and 42/15) was not amended in its legal description.

Recommended action

A more pro-active approach should be adopted by all the involved authorities in the detection of TF risks and their assessment and mitigation. The cooperation between national authorities should be enhanced in this matter, specifically between the prevention, intelligence and law enforcement authorities.

Measures adopted and implemented

For additional information regarding the above mentioned recommended actions please see comment under the title 3.Measures planned to address the identified deficiencies in relation SR.II – Criminalise terrorist financing – rated PC.

22. SR.III - Freezing and confiscating terrorist assets – rated NC

Deficiencies:

- There are no specific laws and procedures in place for the freezing of terrorist funds or other assets of designated persons in accordance with S/RES/1267 and 1373 or under procedures initiated by third countries;
- No mechanism is in place to draw up a domestic list of terrorists;
- No procedures are established to examine and give effect to actions initiated under freezing mechanisms of other jurisdictions;
- No publicly-known procedures for de-listing, unfreezing of funds and other assets, as well as for authorising access to funds or other assets (as required by c.III.7-9);

Measures adopted and implemented:

The Law on international restrictive measures provides the possibility of partial release of frozen assets and fund and lists the conditions under which this is possible. The natural person whose assets were frozen can reach of certain funds if these are necessary to: satisfy the basic living expenses, rent, i.e. lease or mortgage of the living space, medicines and medical treatments, taxes and insurance or public utility charges; cover exclusively the payment of routine maintenance of the property, the use of which has been limited as a result of the implementation of the restrictive measures; cover the extraordinary expenses, such as the birth of a child, death or other situations alike. The natural person whose assets were frozen can be authorized to use some of its property (house, apartment), the use of which has been limited as a result of the implementation of the restrictive measures, if this is necessary to provide accommodation for the immediate family members. As Montenegro applies restrictive measures imposed by UN, EU, OSCE, decision on de-listing and/or unfreezing of funds and other assets could be made by Montenegro authorities upon the decision of mentioned organisation to delist person or unfreeze the assets or funds.

- No provisions ensuring the protection of the rights of bona fide third parties;
- The guidance provided to financial institutions does not appropriately reflect the requirements of the UNSCRs.

Effectiveness

- Inadequate understanding of the purpose and the requirements of the UNSCRs by reporting entities.

Recommended action

It is recommended to the authorities to review the draft law in the light of the UNSCRs and the FATF standards and ensure that the following measures are implemented in line with the international requirements:

- Measures ensuring the automatic freezing of funds as required under S/RES/1267 and 1373 or under procedures initiated by third countries should be put in place;
- Definition of funds and other assets used for these purposes should be compliant with the requirements under SR.III;
- A mechanism should be established to draw up domestic lists;
- Procedures should be put in place for the examination and giving effect to freezing mechanisms of other jurisdictions;
- Effective publicly-known procedures should be established for examining requests for de-listing by the persons concerned, for unfreezing of funds and other assets of de-listed persons and bodies, for unblocking in a timely manner funds and other assets of persons or bodies inadvertently affected by freezing arrangements, after verification that the person or body concerned is not a designated person, and for authorising access to funds and other assets that were frozen and have been determined to be necessary for basic expenses, etc.;
- Ensure that the rights of bona fide third parties are protected within the new regime;
- Introduce a specific and effective system for monitoring compliance with the new regime

Measures adopted and implemented:

Freezing assets or funds of designated persons is made through the Law on international restrictive measures on the basis of Government Decision (see more under SR I).

Recommended action

The definition of funds and other assets under criminal legislation, to which applies the general framework for confiscation and provisional measures, should be brought in line with the requirements under SR.III.

Measures adopted and implemented

Regarding SR. III, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the criminal offence of terrorism financing from article 449 of the Criminal Code of the Republic of Montenegro (official gazette of the Republic of Montenegro no. 70/03, 13/04 and 47/06 and no. 40/08, 25/10, 32/11, 40/13, 56/13, 14/15 and 42/15) was not amended in its legal description.

Following the above-stated, Ministry of Justice is in process of drafting of the Amendments to the Criminal Code of Montenegro in regard to implement all MONEYVAL recommendations regarding evaluation of measures for prevention of terrorism and terrorism financing.

Recommended action

Guidance to the financial sector issued by authorities should contain requirements compatible with the measures taken under the UNSCRs, as well as the authorities should ensure that the reporting entities fully understand the nature and purpose of such measures.

Measures adopted and implemented

The Concerning the UNSCRs, relevant information about all UNSCRs are delivered through the Permanent Mission of Montenegro to the UN in New York and shared with competent national authorities by MFAEI. The Ministry of Foreign Affairs and European Integration also regularly collects and updates information published on its official website. The MFAEI informs the Central Bank, Administration for the prevention of Money Laundering and Terrorist Financing and other authorities on all changes made in the relevant lists.

In addition to the links of the official websites which enable direct access to the updated lists, the APMLTF regularly publishes the information on all changes made in UN lists. With a view to clarifying actions undertaken in accordance with the published lists the APMLTF drafted an Instruction for the reporting entities on the use of lists of persons and entities subject to restrictive-measures.

<http://www.aspn.gov.me/en/news/151748/Instruction-for-the-reporting-entities-on-the-use-of-lists-of-persons-and-entities-subject-to-restrictive-measures.html>

23. SR.IV- Suspicious transaction reporting – rated PC

Deficiencies:

- Not all activities or operations covered by the FATF's definition of financial institution would be subject to preventive measures under the LPMLTF and AML/CFT supervision if lawfully conducted in Montenegro;

Measures adopted and implemented

The definition of financial institutions was not introduced in the previous Law on PMLTF (OGM 14/12 of 7th March 2012) but in the new Law on PMLTF (OGM 33/14 of 4th August 2014) the definition of financial institution is introduced in Article 5 paragraph 1 item 8 and it reads:

Article 5

The terms used in this Law have the following meaning:

.....

8) financial institution means a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro;

Additionally, the new Payment system Law (OGM 62/13 of 31 December 2013, 6/14 of 4 February 2014), that came into force on 8 January 2014 and it shall apply as of 9 January 2015, in Article 1 defines the following:

“(1) The payment system operations shall be performed in the manner and under the conditions specified under this law.

(2) The payment system shall include the provision of payment services, electronic money issue, the functioning of payment systems and other activities of the payment system.”

Article 4 of the Payment System Law reads:

“(1) Payment services in Montenegro may be provided by:

- 1) banks and other credit institutions having their head offices in Montenegro;
- 2) a payment institution having its head office in Montenegro;
- 3) an electronic money institutions having its head offices in Montenegro;
- 4) a branch of a third-country credit institution having its head office in Montenegro;
- 5) the Central Bank of Montenegro (hereinafter: the Central Bank);
- 6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.

(2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above”.

(3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.

(4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.

(5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations”.

- Deficiencies in SR. II apply (in relation to predicate offences);
- The reporting requirement only refers to “transactions” rather than funds;
- TF reporting obligation does not cover funds related or linked to terrorist organisations and those who finance terrorism; and funds used by those who finance terrorism.

Effectiveness

- Heavy reliance on indicators and non-existence of TF indicators adds to non-reporting on TF;

Measures adopted and implemented

APMLT through adoption of numerous indicators for all categories of reporting entities provides good guidelines for recognising suspicion in money laundering and terrorist financing. In the aim of avoiding limitations for reporting suspicion in money laundering and terrorist financing, the

APMLTF adopted several general indicators in accordance to which reporting entities can report any suspicion in money laundering and terrorist financing.

Additionally, the Law in Article 6 paragraph 1 item 6 prescribes obligation for reporting entities to develop and regularly update the list of indicators for the identification of suspicious customers and transactions; This means that the reporting entities are not limited only on indicators published and adopted by APMLTF.

In November 2014, the Ministry of Finance adopted the new Rulebook on Indicators for recognizing suspicious clients and transactions ("Official Gazette of Montenegro", No. 50/14 dd 28.11.2014) which includes, inter alia, the list of indicators related to terrorist financing.

- Attempted transactions would not be reported in all circumstances, although technically covered.

Measures adopted and implemented

Legal obligation is determined in the Law (Article 41 paragraph 7) and their subjective feeling is now very much improved by numerous trainings and education.

Recommended action

Amend TF reporting obligation to refer to funds related or linked to terrorist organisations and those who finance terrorism; and funds used by those who finance terrorism as required by 13.2 and IV.1;

Measures adopted and implemented

AML/TF legislation introduces TF reporting obligation regardless of any kind of structuring this terrorism forms. Therefore anything that could be pointing to anything close to any form of terrorism that is terrorism financing has an equal obligation to it to be reported.

Recommended action

Analogously amend the FIU-Guideline as well as the list of indicators to reflect these amendments in due manner.

Measures adopted and implemented

Please see previous comment.

Recommended action

Expand the list of indicators to include indicators related to terrorist financing

Measures adopted and implemented

In November 2014, the Ministry of Finance adopted the new Rulebook on Indicators for recognizing suspicious clients and transactions ("Official Gazette of Montenegro", No. 50/14 dd 28.11.2014) which includes, inter alia, the list of indicators related to terrorist financing.

24. SR.V - International co-operation – rated PC

Deficiencies:

- MLA is restricted only to "property obtained by criminal activity";
- Clear and effective gateways are not in place to facilitate and allow for exchanges of information directly between counterparts:
 - The Central Bank is empowered to exchange information outside Montenegro only with "foreign institutions responsible for bank supervision". (40.2)

For this recommended action please see comment under the title 3. Measures planned to address the identified deficiencies in relation to SR.V - International co-operation – rated PC .

- The Agency for Telecommunication and Postal Services cannot cooperate or exchange information with foreign counterparts on AML/CFT issues. (40.2)

Measures adopted and implemented: Article 65, Paragraph 1, Items 6 and 7 of the Law on Postal Services provides that the Agency is obliged to cooperate with bodies and organs of the Universal Postal Union and the European Union, as well as the regulatory authorities of the Member States of the European Union and other countries. The Agency

is obliged to exchange information and regularly inform these bodies, in accordance with the abovementioned Law and international obligations. In accordance with Article 66 of the abovementioned Law, the Agency is obliged to cooperate with postal operators and other bodies and organizations in terms of consumer protection and the postal services market.

According to Article 68, Paragraph 1, Item 4, the Agency is obliged, in addition to information relating to the universal postal service, to submit to the bodies of the Universal Postal Union information on other matters in accordance with international obligations. The Agency for Electronic Communications and Postal Services has signed Memoranda of Understanding in the field of postal services with regulatory bodies from Slovenia and Serbia.

Provisions of the Law on the Prevention of Money Laundering and Financing of Terrorism provides that the exchange of information in the area of money laundering and financing of terrorism can only be carried out by the administrative body which is the Directorate for the Prevention of Money Laundering and Financing of Terrorism, but not by the supervisory body.

The supervisory body obligations are defined in Articles 86-90 of the abovementioned Law.

- The APMLTF may not exchange information for supervisory purposes, except where there are reasonable grounds for suspecting money laundering or terrorist financing. (40.2)
- The SEC cannot share information spontaneously under the Securities Law or the Law on Voluntary Pension Funds; (40.3)
- The SEC does not have a general power to conduct an examination under the Securities Law on behalf of a foreign authority; (40.5)
- Insufficient details have been provided of controls and safeguards in place to ensure that information received by competent supervisory authorities is used only in an authorised manner; (40.9)

Measures adopted and implemented

Article 69 of the existing LPMLTF determines that the required information and data need to be kept and protected and may not be distributed and further used in any way without explicit prior consent of data and information originator.

Request to the competent authority of a foreign state for providing data and information Article 69

(1) The Administration may request, within its competencies, from the competent authority of a foreign state data, information, and documentation necessary for detection and prevention of money laundering or terrorist financing.

(2) The Administration may use the data, information and documentation obtained in accordance with paragraph 1 of this Article, only for the purposes provided for by this Law, and without previous approval of the competent authority of the foreign state from which the data are obtained, it must not provide or disclose them to another authority, legal or natural person, or use it for purposes that are not in accordance to the terms and limits defined by requested authority.

Furthermore, Article 70 determines that data and information that are to be delivered upon the request need to be protected and safeguarded in a following manner:

Providing data and information upon the request of the competent authority of a foreign state Article 70

(1) The Administration can, upon a request of a foreign authority competent for detection and prevention of money laundering and terrorist financing, provide data, information and documentation about persons or transactions related to a suspicion of money laundering or terrorist financing, under the condition of reciprocity.

(2) Prior to providing the personal data to the authority from the paragraph 1 of this Article, the Administration shall verify if the requesting authority owns a regulated

system of protection of personal data and whether the data will be used solely for the requested purpose, unless otherwise defined by the international agreement.

(3) The Administration needs not to act in accordance with the request from the paragraph 1 of this Article if:

1) on the basis of the facts and circumstances, stated in the request, evaluates that there are not enough reasons for suspicion of money laundering or terrorist financing, and,
2) the providing of data would jeopardize or could jeopardize the course of criminal proceeding in Montenegro or in some other way affect interests of the proceeding.

(4) The Administration shall inform in writing the requesting authority on the rejection of the letter rogatory and shall state the reasons for the rejection.

(5) The Administration may determine the terms and limits of using the data from the paragraph 1 of this Article.

Also, every exchange information with foreign counterparts has the following clause:

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Effectiveness

- With the exception of the APMMLTF, assistance is not requested from, or by, competent supervisory authorities.

Recommended action

The authorities are encouraged to adopt measures, which would ensure that the principle of dual criminality will not inhibit the provision of MLA due to the identified shortcomings of the TF offence.

Measures adopted and implemented:

Regarding to the confiscation MLA system is improved by the adoption of the new law in September 2015. The Law on seizure and confiscation of material benefit derived from criminal activities eliminated disadvantage prescribed in the Law on mutual legal assistance in criminal matters in regard to that MLA is no more restricted only to the property obtained from criminal offence.

In the Law on seizure and confiscation of material benefit derived from criminal activities in art. 79 is prescribed that international cooperation within the meaning of this law shall include identification, tracking and tracing material benefit, imposing provisional measures to secure assets, seizing movable property, confiscating material benefit and managing the seized and confiscated material benefit.

The Ministry of Justice in January 2015 introduced an electronic system Luris, which allows electronic register of cases of mutual legal assistance. Through Luris system the Ministry of Justice will monitor received rogatory letters and other requirements in the area of giving and receiving mutual legal assistance, as well as statistical reports in the field of international legal assistance in civil and criminal matters. Reporting is made possible by the type of legal assistance, the crime, the requesting State, the competent authority to act, as well as other parameters that are required in order to precisely monitor the process and procedure of providing legal aid.

Regarding S. Recommendation V, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. the principle of dual criminality from Article 5 of the Law on Mutual Legal Assistance in Criminal matters (Official Gazette of the Republic of Montenegro" no. 4/08 and 36/13) was not amended in its legal description.

Montenegro is ratified the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters ETS. No 182 which in article 1 paragraph 3 prescribes that "*Mutual assistance may also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.*"

Following the above-stated, it is not possible that the principle of dual criminality can inhibit the provisions of MLA due to the ML and TF offences.

Recommended action

The wording of Art. 38 of the MLA Law should be brought in line with international standards.

Measures adopted and implemented

Regarding S. Recommendation V, legal framework of the Republic of Montenegro which was the subject of the 4th round of evaluation by the MONEYVAL Committee did not change i.e. Article 38 of the Law on Mutual Legal Assistance in Criminal matters (official gazette of the Republic of Montenegro no. 4/08 and 36/13) was not amended in its legal description.

Article 38 should be considered in relation with Art. 42 od MLA Law, which regulates delivering of bank and other data. In practice, prior to the decision of the foreign judicial authority on freezing of assets, there will be a letter rogatory based on which will the identification of assets will be conducted. Upon providing mentioned data, the decision will be rendered not only on the basis of the Law, but international conventions as well.

The Ministry of Justice in January 2015 introduced an electronic system Luris, which allows electronic register of cases of mutual legal assistance. Trough Luris system the Ministry of Justice will monitor received rogatory letters and other requirements in the area of giving and receiving mutual legal assistance, as well as statistical reports in the field of international legal assistance in civil and criminal matters. Reporting is made possible by the type of legal assistance, the crime, the requesting State, the competent authority to act, as well as other parameters that are required in order to precisely monitor the process and procedure of providing legal aid.

25. SR.VI - AML requirements for money/value transfer services – rated NC

Deficiencies:

- There is no supervisory system established to oversee some forms of MVT operations;
Please see comment below
- No requirements with respect to fitness and propriety requirements for managers and owners of MVT service operators;
Please see comment below
- The Central bank lacks the legal powers to impose proportional and dissuasive sanctions on MVT service providers for violations of requirements established under the LPMLTF.
Please see comment below

Effectiveness

- The Payment System Law adopted in 2014 will become effective in January 2015, therefore its effectiveness could not be assessed.

Recommended action

Establish supervisory framework for MVT operations:

Recommended action

Maintain consolidated and up to date register of all entities undertaking MVT services:

Measures adopted and implemented:

Article 73 paragraph 1 of the □Payment System Law (Official Gazette of Montenegro no. 62/13 and 06/14) came into force on 8 January 2014 and its implementation started on 9 January 2015, regulates that the Central Bank shall grant an authorization to provide payment services defined in Article 2 of the same Law. Money transfer - Money remittance means a payment service that may be provided by Payment institution only under the issued authority by the CBM. Pursuant to Article 72 of the Payment System Law, a legal person intending to provide payment service – money remittance – has to submit an application for authorisation to provide payment services to the Central Bank.

Payment services are defined in **Article 2** on the Payment Systems Law as follows:

“(1) Payment services shall include:

- 1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;
- 2) Services enabling cash withdrawals from a payment account as well as

- all the operations required for operating a payment account;
- 3) Execution of payment transactions, including transfers of funds on a payment account of the payment service user held with payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
 - 4) Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders;
 - 5) Issuing and/or acquiring of payment instruments;
 - 6) Money remittance;** and
 - 7) Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services”.

Payment service providers are defined in **Article 4** on the Payment Systems Law as follows:

- “ (1) Payment services in Montenegro may be provided by:
- 1) banks and other credit institutions having their head offices in Montenegro;
 - 2) a payment institution having its head office in Montenegro;
 - 3) an electronic money institutions having its head offices in Montenegro;
 - 4) a branch of a third-country credit institution having its head office in Montenegro;
 - 5) the Central Bank of Montenegro (hereinafter: the Central Bank);
 - 6) the state of Montenegro and local authorities when not acting in their capacity as public authorities.
- (2) Payment services in Montenegro may be provided only by payment service providers under in paragraph (1) above.
- (3) Payment service providers under paragraph (1) 1) and 4) above may provide payment services subject to their competencies specified under laws regulating the taking up and pursuit of their respective businesses.
- (4) Payment service providers under paragraph (1) 2) and 3) above may provide payment services pursuant to their authorities specified herein.**
- (5) Rights of payment service providers under paragraph (1) 5) and 6) to provide payment services shall be specified in the law regulating their operations.

Granting authorisation to provide payment services is defined in **Article 73** on the Payment Systems Law as follows:

- “ (1) The Central Bank shall grant an authorisation in line with the application and documentation under Article 72 herein only if, taking into account the need to ensure safe and sound management of the payment institution, it estimates that the payment institution:
- 1) has robust governance arrangements for its payment services business, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility,
 - 2) efficient procedures to identify, manage, monitor and report risks to which it is or might be exposed, and
 - 3) adequate internal control mechanisms, including sound administrative and accounting procedures; those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.
- (2) Where a legal person providing other payment activities has submitted the application for authorisation to provide payment services specified under Article 2 herein, the Central Bank may request the applicant to establish a separate legal person if it assesses that those non-payment services activities of the payment institution may impair either the financial soundness of the payment institution or the ability of the Central Bank to supervise the payment institution in accordance with the law.

(3) Prior to granting the authorisation to provide payment services, the Central Bank may consult with other central banks or other relevant competent authorities in order to make a complete assessment of the submitted application.

(4) The decision on granting the authorization to provide payment services shall be published in the Official Gazette of Montenegro”.

Application for authorisation to provide payment services is defined in **Article 72** on the Payment Systems Law as follows:

“ (1)A legal person intending to provide payment services as a payment institution shall submit an application for authorisation to provide payment services to the Central Bank.

(2)The application under paragraph (1) above shall be supported with the following in particular, but not limited to:

1) the Certificate or Articles of Incorporation, the Articles of Association, and the certificate of registration in the Central Registry of Business Entities (hereinafter CRBE) of a legal person;

2) a business programme, setting out in particular the types of payment services for which the authorisation is sought, in accordance with Article 2 herein;

3) a business plan, including a financial statement projection for the first three fiscal years that demonstrates the ability of the payment institution to operate in a stable manner on the basis of adequate systems, resources and procedures and an appropriate organisational, technical and personnel structure; where such a legal person intends to provide payment services as a hybrid payment institution, it shall also submit financial statements for the past two business years and/or financial statements available as of the date of its establishment ;

4) evidence of the amount of initial capital paid in for the payment institution to be established and/or funds earmarked for the initial capital of the hybrid payment institution;

5) a description of measures taken and/or intended to be taken to safeguard payment service users' funds in accordance with Article 79 herein, including, where applicable, an assessment method for the representative portion of funds assumed to be used for future payment transactions;

6) a description of a the envisaged management framework and internal control mechanism of the payment institution, including administrative, accounting and risk-management procedures which demonstrate that the said management framework and internal control mechanism and procedures are adequate, suitable and reliable;

7) a description of the internal control mechanism, in line with this law and the law governing the prevention of money laundering and terrorist financing;

8) a description of the payment institution's organisational structure, including, as appropriate, a description of the intended operation through branches and agents, outsourcing services and their share in the relevant payment system;

9) for persons holding the qualifying holding in that payment institution, the evidence of the size of their holding and documents under Article 71(2) herein, ensuring safe and sound governance of the payment institution;

10) identities of members of the board of directors, the executive director and persons responsible for managing the payment institution, and, where relevant, of the persons responsible for payment service provision and the evidence that these persons have adequate skills and experience to perform the activity of payment service provision, as well good reputation to be proved by evidence that:

- they have not been convicted for an offence that makes them unworthy of holding a function or performing relevant tasks and duties,
- they were not holding managerial positions in a company at the time the company was subject to insolvency or winding up proceedings, and
- the evidence that they are not under any investigation or subject to any criminal proceedings for a criminal offence persecuted ex officio;

11) where applicable, the evidence of appointment of the statutory auditor and/or audit firm to audit financial statements for the business year for which the application is submitted;

12) a list of persons having connections with the payment institution and the description of the manner in which they are linked”.

Pursuant to **Article 89** of the Payment System Law, and the Decision on the manner of keeping the register of payment institutions and the register of electronic money institutions (OGM 48/14), the CBM maintains a register of payment institutions authorised to provide payment services, and their branches and agents (hereinafter: the register of payment institutions) and update it as appropriate. (The Decision is attached).

Register of payment institutions is defined in **Article 89** on the Payment Systems Law as follows:

“(1) The Central Bank shall maintain a register of payment institutions authorised to provide payment services, and their branches and agents (hereinafter: the register of payment institutions) and update it as appropriate.

(2) The register of payment institutions shall include a list of payment services which the individual entities under paragraph (1) above are authorised to provide and their registration number.

(3) The register of payment institutions shall be publicly available and accessible on the website of the Central Bank.

(4) The Central Bank shall prescribe the manner of keeping the register and the information contained therein to be made available”.

Licensed payment institution may provide payment services (money remittances) through agents as laid down in Articles 5 and 77 of the Payment System Law and the Decision on the manner of keeping the register of payment institutions and the register of electronic money institutions.

The CBM and payments institutions are obliged to maintain the register of their agents for money remittance services. The Register of payment institutions and their agents is available at the CBM website.

Article 5 of the Payment System Law regulates payment service agents, and reads:

“(1) A payment service provider may provide payment services through an agent, unless otherwise provided by this law.

(2) An agent shall be legal person or an entrepreneur providing payment services in the name and for the account of the payment service provider.

(3) The payment service provider providing payment services through an agent shall be liable for all agent’s actions and failures in the provision of these services.

(4) The payment service provider providing payment services through an agent shall ensure that the agent acting on its behalf has informed payment service users thereof”.

Article 77 of the Payment System Law regulates provision of payment services through agents, and reads:

“(1) A payment institution shall provide payment services through an agent in accordance with Article 6 herein and paragraphs (2) to (7) below.

(2) A payment service provider shall apply to the Central Bank for the listing of the agent in the register of payment institutions.

(3) The agent may not commence its operations before it has been listed in the register under paragraph (2) above.

(4) The Central Bank may refuse to list the agent in the register under paragraph (2) above if it has established that the submitted documents contain incomplete or inaccurate information.

(5) The Central Bank may remove the agent from the register under paragraph (2) above if it no longer meets the prescribed requirements and/or if it has established that the listing in the register had been made on the basis of incorrect information or documents.

(6) When the agent has been removed from the register under paragraph (2) above, documentation and funds related to outstanding liabilities and unresolved relationships connected to payment transactions performed by the agent shall be submitted to the payment service provider on whose behalf the agent has been acting.

(7) The Central Bank shall prescribe detailed requirements for agent operations and the information and documents required for their listing in the register.

(8) Provisions under paragraphs (1) to (7) above shall apply *mutatis mutandis* to the listing of agents of other payment service providers under Article 4 herein in the relevant registers”.

Recommended action

Ensure that managers and owners of MVT service operators are subject to fit and proper requirements

Measures adopted and implemented

Refusal of application for authorisation to provide payment services is defined in **Article 75** on the Payment Systems Law as follows:

“The Central Bank shall refuse an application for authorisation to provide payment services:

1) where it assesses that any of the conditions under Article 73 herein has not been met;

2) where it assesses that the persons who intend to hold qualifying participation in a payment institution are not qualified;

- 3) where the exercise of supervision of the payment institution's operation pursuant to the provisions herein may be made difficult or prevented due to links between the payment institution and other legal or natural persons;
- 4) where it assesses that the applicant should establish a separate legal person to provide payment services”.

Recommended action

Ensure proper sanctioning regime exists for MVT service providers for violation of obligations set out in the LPMLTF.

Measures adopted and implemented

The system for payment institution operators supervision - Money remittance – has been established and regulated by the Payment System Law (Chapter VII, articles 91 to 93) and the LPMLTF (Article 94 paragraph 1 point 1).

Payment Systems Law **Chapter VII** SUPERVISION OF PAYMENT INSTITUTIONS

Supervision of payment institutions is defined in Article 91 on the Payment Systems Law as follows:

- “(1) The Central Bank shall exercise supervision of payment institutions.
- (2) The supervision referred in paragraph (1) above shall mean the verification of whether a payment institution operates in accordance with the provisions of this Law and regulations adopted under this Law, and in relation to its provision of payment services and its activities in accordance with Article 68 1) herein, provided that the supervision of hybrid payment institutions shall be limited to a portion of operations of these institutions which refers to the provision of payment services and related operational services.
- (3) In establishing the frequency and scope of the supervision under paragraph 1 above, the Central Bank shall take into account the type and complexity of the activities carried out by a payment institution and its risk profile.
- (4) Other competent authorities may also exercise supervision of the operation of payment institutions in accordance with their powers under the law.
- (5) In the case under paragraph (4) above, the Central Bank may participate in the supervision of the payment institution with the respective competent authority or may require from that authority the data and information which would be relevant for the supervision of the payment institution in question.
- (6) The Central Bank may prescribe detailed conditions for, and the manner of, exercising supervision of payment institutions and the responsibilities of payment institutions in the course of, and following, the supervision.
- (7) The Central Bank may charge a supervision fee which amount and the manner of calculation and payment shall be prescribed by the Central Bank”.

Manner of exercising supervision is defined in **Article 92** on the Payment Systems Law as follows:

- (1) The Central Bank shall exercise the supervision of payment institutions by:
- 1) analysing reports, information and other data that payment institutions are required to submit to the Central Bank pursuant to this law and regulations of the Central Bank, information and data that payment institutions are required to submit at the Central Bank's request, and other data on the operations of payment institutions available to the Central Bank;
 - 2) direct access to business books, accounting and other documents in a payment institution and other participant in the operations subject to supervision (hereinafter: on-site examination).
- (2) The supervision of payment institutions shall be exercised by employees of the Central Bank authorised by the Central Bank for the performance of these operations.
- (3) By way of derogation from paragraph (2) above, the Central Bank may authorise persons not employed by the Central Bank to carry out individual tasks during the supervision of payment institutions.
- (4) The Central Bank shall notify a payment institution of a planned on-site examination, as a rule, at least 10 business days prior to the beginning of the on-site examination.
- (5) Notwithstanding paragraph (4) above, if the report and information available to the Central Bank reveal any irregularity that may be important for the safety and stability of the payment institution's operations, on-site examination may also begin without prior notification.
- (6) The payment institution shall allow the authorised persons of the Central Bank to carry out on-site examination and provide adequate conditions for undisturbed performance of the on-site examination.

On-site examination is defined in **Article 93** on the Payment Systems Law as follows:

“(1) A payment institution shall enable authorised persons of the Central Bank, at their request, to carry out on-site examination at the registered office of the payment institution and other localities in which the payment institution and/or another person authorised by the payment institution carries out activities and operations subject to supervision of the Central Bank.

(2) The payment institution shall enable the authorised persons of the Central Bank, at their request, the access to its business books, other business documentation, and administrative or business records, as well as the information and related technologies, to the extent necessary for the supervision.

(3) The payment institution shall submit to the authorised persons of the Central Bank, at their request, electronic printouts, copies of business books, other business documentation and administrative or business records, in hard copy or in the form of an electronic record on a medium. The payment institution shall provide the authorised persons with a standard interface granting access to the database management system used by the payment institution.

(4) The supervision of the payment institution’s operations shall be carried out by the authorised persons during payment institution’s working hours. Where necessary due to the scope or nature of the supervision, the payment institution shall enable the authorised persons to carry out the supervision outside its working hours”.

In addition, Article 94 of the LPMLTF regulates supervision over the implementation of the law, and reads:

(1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

1) The Central Bank of Montenegro in relation to reporting entities from Article 4 paragraph 2 items 1, 2, **3**, 12 and 14 of this Law;

Additionally, Article 97 of the LPMLTF stipulates that competent authorities from Article 94 of the Law are obliged to inform the Administration on measures taken in the process of supervision in accordance with this Law within 8 days from the date on which the measures were taken.

Measures during the supervision are defined in **Article 95** on the Payment Systems Law as follows:

(1) If a payment institution, within timeframes prescribed by the law, does not submit objections to the supervision report or if it does not objectively dispute supervision report findings, and/or amendments to the report in which irregularities in operations of the payment institution are stated, the Central Bank shall impose measures against the payment institutions ordering it to remove the identified irregularities and take timely actions to improve safety and security of the payment institution's operations.

(2) In the case under paragraph (1) above, the Central Bank may:

1) warn the payment institution in writing on the identified irregularities and request from the payment institution to take one or several activities to remove such irregularities;

2) sign with the payment institution a written agreement to oblige the payment institution to remove irregularities disclosed in its operations within a specified timeframe;

3) pass a decision to impose one or several measures under Article 99 herein; or

4) revoke the authorisation for providing payment services.

Article 184 of the Payment systems Law regulates Violations by payment institutions, and reads:

“(1) The payment institution shall be fined between 2,500 euros and 20,000 euros:

1) if it provides payment services without the authorisation of the Central Bank in accordance with this law (Article 67 paragraph (2));

2) if it fails to inform the Central Bank on a person’s acquiring of qualifying holding in the payment institution no later than within three days following the date of acquiring such a holding and/or fails to submit the prescribed supporting documents (Article 71);

3) if it provides ancillary payment services beyond their competencies specified herein (Article 74);

4) if it fails to safeguard the funds which have been received for the execution of payment transactions in accordance with Article 79 herein;

5) if it uses the payment accounts it operates for purposes other than payment transactions (Article 80 paragraph 1);

6) if it grants credits connected with the provision of payment services contrary to Article 81, paragraph (1) herein;

- 7) if it accepts deposits or any other repayable funds from the public (Article 81 paragraph (2))
- 8) if it does not keep business books and/or compiles financial statements pursuant to Article 82 paragraph (1) herein;
- 9) if it does not keep business books and/or compiles financial statements pursuant to Article 82 paragraph (2) herein;
- 10) if it fails to store bookkeeping documents and other documentation in accordance with Article 82 paragraph (3) herein;
- 11) if it fails to have the financial statements and consolidated financial statements audited (Article 83, paragraph (1));
- 12) if it fails to submit to the Central Bank reports referred to in Article 83, paragraph (2) herein;
- 13) if it fails to notify the Central Bank of intended outsourcing in accordance with Article 85 paragraph (1) or (2) herein;
- 14) if it outsources its operational activities contrary to the conditions referred to in Article 85 paragraphs (4) and (5) herein;
- 15) if it fails to establish or implement governance arrangements in the manner laid down in Article 87 herein;
- 16) if it establishes a branch in a third country without prior authorisation from the Central Bank (Article 88 paragraph (2));
- 17) if it fails to report to the Central Bank in accordance with Article 103 paragraphs (1) and (2) herein;
- 18) if it provides payment services in the territory of another Member State before notifying the Central

Bank thereof in writing (Article 177, paragraph (1)).

(2) A responsible person in the payment institution shall be fined between 500 euros and 2,000 euros for any of the violations referred to in paragraph (1) above.

In addition, **Article 94** paragraph 1 point 1 of the LPMLTF regulates supervision over the implementation of the law, and reads:

“(1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

1) The Central Bank of Montenegro in relation to reporting entities from Article 4 paragraph 2 items 1, 2, **3**, 12 and 14 of this Law”;

Note ² Payment institution operators – Money remittance are subject to applicable 40 FATf recommendations, as regulated by the Payment System Law (Articles 55, 72, 73, 75, 76, 80, 82, 83, 86, 87, 105, 106, and 107).

26. SR.VII - Wire transfer rules – rated PC

Deficiencies:

- Record-keeping requirements in Articles 21 and 70 do not extend to wire transfers regulated by Article 12a of the LPMLTF. (VII.1)
- There is no overriding requirement to verify an originator’s identity using documentation that is reliable and independent. (VII.1)

Measures adopted and implemented

This deficiency is addressed as follows:

Definition of Terms

Article 5

The terms used in this Law have the following meaning:

....

- 17) customer identification means a procedure including:
 - establishing the identity of a customer, or if the identity has been previously established, verifying the identity on the basis of reliable, independent and objective sources;
 - gathering data on a customer, or if data have been gathered, verifying the gathered data on the basis of reliable, independent and objective sources;

Customer Due Diligence Measures

Article 8

(1) A reporting entity shall conduct the customer due diligence measures and particularly the following:

1) to identify and verify a customer's identity based on documents, data and information from reliable, independent and objective sources;

- Legislation is not in place to permit supervision of all organizations able to perform payment transactions. (VII.6)

Measures adopted and implemented

Please see Article 91 of the Payment System Law

- It is not clear what legal basis the Agency for Telecommunication and Postal Services has to monitor compliance by post offices (agents for Western Union) with Article 12a of the LPMLTF, nor what sanctions are available to deal with a failure to comply with wire transfer requirements. (VII.6)

Please see comment below for recommended action regarding: Legislation should permit supervision of all organizations performing payment transactions. (VII.6).

Effectiveness

- The requirement to perform checks on incoming wire transfers did not appear to be understood by one of the banks visited during the onsite visit.

Measures adopted and implemented

In 2014 and 2015, the CBM performed on-site inspections of all banks operating in Montenegro, which included examining of incoming wire transfers by banks. During on-site inspections of banks, there were no regularities determined (all banks were fully aware of their obligations regarding the verification of incoming transfers).

Recommended action

Record-keeping requirements in Articles 21 and 70 should extend to wire transfers regulated by Article 12a of the LPMLTF. (VII.1)

Measures adopted and implemented:

All payment system providers operating in Montenegro are keeping records on executed transfers, and documents and electronic data.

Recommended action

Identification measures required under Article 12a of the LPMLTF should include a clear reference back to Article 5, which defines customer identification. (VII.1)

Measures adopted and implemented:

Within the procedure of collecting data defined in Article 34 paragraph 1 of the LPMLTF, a payment service provider is obliged to establish the identity of a payer upon a personal ID document issued by a competent authority.

Personal documents are public documents proving one's identity.

Recommended action

Article 93 of the LPMLTF should include an offence for failing to make a report when a reporting entity considers that there is suspicion of money laundering or terrorist financing due to lack of accurate or complete data on the sender of a wire transfer. (VII.5)

Measures adopted and implemented

The Law on PMLTF defines in Article 34 paragraph 3 the following:

Article 34(Wire transfers)

(3) A payment service provider, that is an intermediary service provider or payee, **shall refuse to execute funds transfer if the data on payer are not complete** and/or shall require payer data supplement in the shortest possible period of time.

Recommended action:

Legislation should permit supervision of all organizations performing payment transactions. (VII.6).

Measures adopted and implemented

According to the Law on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette, 14/07, 04/08 and 14/12), Article 4 it is prescribed that measures for the detection and prevention of money laundering and financing of terrorism are undertaken before, during and after any activity of receiving, investing, exchanging, keeping or any other way of handling money and other assets, or transactions for which there are reasonable grounds for suspicion of money laundering and financing of terrorism.

These measures are undertaken by the reporting entities, including, according to Paragraph 2, Item 4, the abovementioned posts.

In accordance with Article 86 of the abovementioned Law, monitoring of the implementation of this Law and the regulations passed based on this Law, in relation to postal operators, is performed by the Agency for Electronic Communications and Postal Services.

Montenegro Post obtained from the Agency a special license which allows it to perform universal and commercial postal services defined by Articles 6 and 10 of the Law on Postal Services.

Within its operations Montenegro Post performs the services of pay-in/pay-out of the Western Union remittances in line with the agreement entered into between: MONTENEGRO TRANSFERS Ltd. Podgorica, which is the WESTERN UNION agent for Montenegro and the Montenegrin Post. The services of pay-in/pay-out of the Western Union remittances belong to the financial postal services defined in Article 10 of the Law on Postal Services as commercial postal service.

According to Article 65, Paragraph 1, Item 17 of the Law on Postal Services the Agency conducts expert supervision of the work of postal operators, and thus of the performance of all kinds of postal services.

According to Articles 109, 110 and 111 of the Law on Postal Services the expert supervision of postal operators is conducted by the Agency.

According to Article 109, Paragraph 2, the Agency can perform expert supervision of legal and natural persons registered in the Registry of Postal Operators.

In accordance with Article 69 of the Law on Postal Services, postal operators are required to submit to the Agency data relating to postal services.

Also, in the Rulebook on the type and manner of the submission of data by postal operators (Official Gazette of Montenegro, 57/11), in Article 2, there is a checklist of all data that postal operators are required to submit to the Agency, as the regulatory and supervisory authority, including the financial information regarding the provision of universal and commercial postal services.

According to Article 112, Paragraph 1, Item 10, in respect of Article 69, Paragraph 3, any legal entity will be fined for the offense in the amount of EUR 2,000 – EUR 20,000 “if, at the request of the Agency, a legal entity fails to submit the information that the Agency requires to perform its tasks”. Accordingly, Montenegro Post submits to the Agency reports on the activities of the prevention of money laundering and financing of terrorism within which it delivers data on all cash transactions exceeding EUR 15,000, of all monetary transactions via Western Union conducted in post offices in the amount exceeding EUR 15,000 and of all suspicious and suspended transactions. Other postal operators providing services in the market of Montenegro submit to the Agency reports on the implementation of measures to prevent money laundering and financing of terrorism

The system for payment institution operators supervision - Money remittance – has been established and regulated by the Payment System Law (Chapter VII, articles 91 to 93) and the LPMLTF (Article 94 paragraph 1 point 1).

Payment Systems Law
Chapter VII
SUPERVISION OF PAYMENT INSTITUTIONS

Supervision of payment institutions is defined in Article 91 on the Payment Systems Law as follows:

“(1) The Central Bank shall exercise supervision of payment institutions.

(2) The supervision referred in paragraph (1) above shall mean the verification of whether a payment institution operates in accordance with the provisions of this Law and regulations adopted under this Law, and in relation to its provision of payment services and its activities in accordance with Article 68 1) herein, provided that the supervision of hybrid payment institutions shall be limited to a portion of operations of these institutions which refers to the provision of payment services and related operational services.

(3) In establishing the frequency and scope of the supervision under paragraph 1 above, the Central Bank shall take into account the type and complexity of the activities carried out by a payment institution and its risk profile.

(4) Other competent authorities may also exercise supervision of the operation of payment institutions in accordance with their powers under the law.

(5) In the case under paragraph (4) above, the Central Bank may participate in the supervision of the payment institution with the respective competent authority or may require from that authority the data and information which would be relevant for the supervision of the payment institution in question.

(6) The Central Bank may prescribe detailed conditions for, and the manner of, exercising supervision of payment institutions and the responsibilities of payment institutions in the course of, and following, the supervision.

(7) The Central Bank may charge a supervision fee which amount and the manner of calculation and payment shall be prescribed by the Central Bank”.

Manner of exercising supervision is defined in Article 92 on the Payment Systems Law as follows:

(1) The Central Bank shall exercise the supervision of payment institutions by:

1) analysing reports, information and other data that payment institutions are required to submit to the Central Bank pursuant to this law and regulations of the Central Bank, information and data that payment institutions are required to submit at the Central Bank's request, and other data on the operations of payment institutions available to the Central Bank;

2) direct access to business books, accounting and other documents in a payment institution and other participant in the operations subject to supervision (hereinafter: on-site examination).

(2) The supervision of payment institutions shall be exercised by employees of the Central Bank authorised by the Central Bank for the performance of these operations.

(3) By way of derogation from paragraph (2) above, the Central Bank may authorise persons not employed by the Central Bank to carry out individual tasks during the supervision of payment institutions.

(4) The Central Bank shall notify a payment institution of a planned on-site examination, as a rule, at least 10 business days prior to the beginning of the on-site examination.

(5) Notwithstanding paragraph (4) above, if the report and information available to the Central Bank reveal any irregularity that may be important for the safety and stability of the payment institution's operations, on-site examination may also begin without prior notification.

(6) The payment institution shall allow the authorised persons of the Central Bank to carry out on-site examination and provide adequate conditions for undisturbed performance of the on-site examination.

On-site examination is defined in Article 93 on the Payment Systems Law as follows:

“(1) A payment institution shall enable authorised persons of the Central Bank, at their request, to carry out on-site examination at the registered office of the payment institution and other localities in which the payment institution and/or another person authorised by the payment institution carries out activities and operations subject to supervision of the Central Bank.

(2) The payment institution shall enable the authorised persons of the Central Bank, at their request, the access to its business books, other business documentation, and administrative or business records, as well as the information and related technologies, to the extent necessary for the supervision.

(3) The payment institution shall submit to the authorised persons of the Central Bank, at their request, electronic printouts, copies of business books, other business documentation and administrative or business records, in hard copy or in the form of an electronic record on a medium. The payment institution shall provide the authorised persons with a standard interface granting access to the database management system used by the payment institution.

(4) The supervision of the payment institution's operations shall be carried out by the authorised persons during payment institution's working hours. Where necessary due to the scope or nature of the supervision, the payment institution shall enable the authorised persons to carry out the supervision outside its working hours”.

In addition, Article 94 of the LPMLTF regulates supervision over the implementation of the law, and reads:

(1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

1) The Central Bank of Montenegro in relation to reporting entities from Article 4 paragraph 2 items 1, 2, 3, 12 and 14 of this Law;

Additionally, Article 97 of the LPMLTF stipulates that competent authorities from Article 94 of the Law are obliged to inform the Administration on measures taken in the process of supervision in accordance with this Law within 8 days from the date on which the measures were taken.

Measures during the supervision are defined in Article 95 on the Payment Systems Law as follows:

(1) If a payment institution, within timeframes prescribed by the law, does not submit objections to the supervision report or if it does not objectively dispute supervision report findings, and/or amendments to the report in which irregularities in operations of the payment institution are stated, the Central Bank shall impose measures against the payment institutions ordering it to remove the identified irregularities and take timely actions to improve safety and security of the payment institution's operations.

(2) In the case under paragraph (1) above, the Central Bank may:

1) warn the payment institution in writing on the identified irregularities and request from the payment institution to take one or several activities to remove such irregularities;

2) sign with the payment institution a written agreement to oblige the payment institution to remove irregularities disclosed in its operations within a specified timeframe;

3) pass a decision to impose one or several measures under Article 99 herein; or

4) revoke the authorisation for providing payment services.

Article 184 of the Payment systems Law regulates Violations by payment institutions, and reads:

“(1) The payment institution shall be fined between 2,500 euros and 20,000 euros:

1) if it provides payment services without the authorisation of the Central Bank in accordance with this law (Article 67 paragraph (2));

2) if it fails to inform the Central Bank on a person's acquiring of qualifying holding in the payment institution no later than within three days following the date of acquiring such a holding and/or fails to submit the prescribed supporting documents (Article 71);

3) if it provides ancillary payment services beyond their competencies specified herein (Article 74);

4) if it fails to safeguard the funds which have been received for the execution of payment transactions in accordance with Article 79 herein;

5) if it uses the payment accounts it operates for purposes other than payment transactions (Article 80 paragraph 1);

6) if it grants credits connected with the provision of payment services contrary to Article 81, paragraph (1) herein;

7) if it accepts deposits or any other repayable funds from the public (Article 81 paragraph (2))

8) if it does not keep business books and/or compiles financial statements pursuant to Article 82 paragraph (1) herein;

9) if it does not keep business books and/or compiles financial statements pursuant to Article 82 paragraph (2) herein;

10) if it fails to store bookkeeping documents and other documentation in accordance with Article 82 paragraph (3) herein;

11) if it fails to have the financial statements and consolidated financial statements audited (Article 83, paragraph (1));

12) if it fails to submit to the Central Bank reports referred to in Article 83, paragraph (2) herein;

13) if it fails to notify the Central Bank of intended outsourcing in accordance with Article 85 paragraph (1) or (2) herein;

14) if it outsources its operational activities contrary to the conditions referred to in Article 85 paragraphs (4) and (5) herein;

15) if it fails to establish or implement governance arrangements in the manner laid down in Article 87 herein;

16) if it establishes a branch in a third country without prior authorisation from the Central Bank (Article 88 paragraph (2));

17) if it fails to report to the Central Bank in accordance with Article 103 paragraphs (1) and (2) herein;

18) if it provides payment services in the territory of another Member State before notifying the Central

Bank thereof in writing (Article 177, paragraph (1)).

(2) A responsible person in the payment institution shall be fined between 500 euros and 2,000 euros for any of the violations referred to in paragraph (1) above.

In addition, Article 94 paragraph 1 point 1 of the LPMLTF regulates supervision over the implementation of the law, and reads:

“(1) Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:

1) The Central Bank of Montenegro in relation to reporting entities from Article 4 paragraph 2 items 1, 2, 3, 12 and 14 of this Law”;

Note 2 Payment institution operators – Money remittance are subject to applicable 40 FATF recommendations, as regulated by the Payment System Law (Articles 55, 72, 73, 75, 76, 80, 82, 83, 86, 87, 105, 106, and 107).

27. SR.VIII - Non-profit organisations – rated PC

Deficiencies:

- No mechanism is in place for conducting comprehensive assessments and periodic reassessments of the NPO sector;
- No outreach undertaken to the NPO sector for raising awareness about the potential risk of terrorist abuse and about the available measures to protect against such abuse, and promoting the transparency, accountability, integrity and public confidence in the administration and management of all NPOs;

Measures adopted and implemented

The APLMTF, in cooperation with the Technical Assistance and Information Exchange instrument of the European Commission - TAIEX- held three seminars, in the period 25 – 27 November 2015, under the title „Implementation of FATF Recommendations in the national legislation, with a particular focus on the application of CDD measures, notifying on STRs, and terrorism financing – typologies.

The targeted group of these seminars were the reporting entities defined by the LPMLTF, as well as the representatives involved in the AML/CFT system. The total number of 7 representatives of NGOs attended the mentioned seminars.

- There is no supervision in place to sanction violations of the provisions of the Law on NGOs;
- No requirement to maintain records of domestic and international transactions; annual financial statements are not required to contain detailed breakdowns of incomes and expenditures of the NGOs.

Measures adopted and implemented

The Law on PMLTF applies equally on all reporting entities listed in the Law, including the NGOs.

Effectiveness

- It has not been demonstrated that NPOs, which control significant portions of the financial resources of the sector and substantial shares of the sector’s international activities have been identified, and are adequately supervised or monitored.

Recommended action

It is recommended that the Montenegrin authorities amend the legislation which applies to the NPO sector to ensure that all the requirements apply equally to all NPOs.

Recommended action

A mechanism should be established for conducting comprehensive assessments of the risks connected with the NPO sector, as well as for conducting periodic reassessments of the NPO sector by reviewing new information on the sector’s potential vulnerabilities to terrorist activities.

Measures adopted and implemented

As mentioned in the general part Montenegro has undergone national Risk Assessment procedure tackling also NPO sector. This assessment will be undergoing procedures of further new reassessments periodically.

Recommended action

The authorities are encouraged to build on the experience of cooperation with representatives of NGOs on other topics, with the view to ensure comprehensive out-reach to NGOs about TF risks, as well as about the AML/CFT framework.

The APLMTF, in cooperation with the Technical Assistance and Information Exchange instrument of the European Commission - TAIEX- held three seminars, in the period 25 – 27 November 2015, under the title „Implementation of FATF Recommendations in the national legislation, with a particular focus on the application of CDD measures, notifying on STRs, and **terrorism financing – typologies**.

The targeted group of these seminars were the reporting entities defined by the LPMLTF, as well as the representatives involved in the AML/CFT system. The total number of 7 representatives of NGOs attended the mentioned seminars.

Recommended action

Clear division of competencies between the different authorities involved should be defined to especially avoid negative competency conflicts. An administrative authority should be designated to conduct supervision over the implementation of the requirements of the Law on NGOs as a matter of urgency.

Measures adopted and implemented

In relation to the above stated the Ministry of Interior prepared the Draft Law on Amendments to the Law on Non-Governmental Organizations (text of the Draft was sent to the Secretariat for Legislation for giving opinion. After that, the Draft Law will be submitted for an opinion to the European Commission). Subject of this Law is, among other things, financing projects of NGOs from the state budget and transparent spending of allocated funds (also, responsibility of different state bodies for the allocation of resources and for control over the spending of allocated funds).

Recommended action

Information on all senior officers of NGOs and persons, who own, control or direct their activities, should be publicly available. As for the information on the authorized persons and founders of NGOs, the information publicly available should be wide enough to enable the identification of these persons.

Recommended action

A clear requirement of maintaining information on domestic and international transactions for at least five years, so as it will be possible to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization, should be provided by the legislation. In addition, the requirement to issue annual records should specify that these should contain detailed breakdowns and expenditures.

Measures adopted and implemented

The Law on PMLTF applies equally on all reporting entities listed in the Law, including the NGOs.

28. SR.IX - Cross Border Declaration & Disclosure – rated PC

Deficiencies:

- No power to obtain further information from the bearer in case of false declarations/failure to declare;
Measures adopted and implemented
See comment under recommended action 3 below.
- No power to stop or restrain currency or bearer negotiable instruments;
Measures adopted and implemented
See comment under recommended action 3 below.
- Sanctions are neither proportionate nor dissuasive;

- Deficiencies from R.3 and SR. III apply;
- Inadequate and insufficient level of training provided to Customs Authority.

Effectiveness

- The limited information available (notifications by Customs to APMLTF) does not enable an adequate assessment of effectiveness;
- Sanctions imposed appear to be low;
- Lack of understanding of ML/TF risks associated with cross-border transportation of cash.

Recommended action

Consider assessing the risks of money laundering and terrorist financing through transportation of currency and bearer negotiable instruments across borders, especially by sea, air and by cash couriers; ideally, at an inter-institutional level.

Measures adopted and implemented:

Customs Administration adopted in September 2015 the official "Instructions for Local Risk Analysis" which was drafted in accordance with the guidelines of the World Customs Organization and WCO Risk Management Compendium. Instructions include a special section related to the risk indicators to identify fraud in money laundering and terrorism financing. Indicators for passengers and commodity shipments were separately provided.

Recommended action

Enhance awareness of the declaration obligation for carriers at all border crossing points, i.e. by land, sea and air

Measures adopted and implemented:

In order to implement these recommendations at all border crossings are posted innovated notices in Montenegrin and English language for passengers (residents and non-residents) on the obligation to declare physical import and export of means of payment at the point of entry into Montenegro, and exit from Montenegro, in the value of 10,000.00 € and more.

Also, on the website of the Customs Administration was published the innovated notice for travellers in Montenegrin, English, Russian and Albanian language, which among other things contains the information on the obligation of passengers to declare the transfer of money in the amount of 10,000.00 € and more when entering / exiting Montenegro.

Recommended action

- Introduce a clear legal basis to empower Customs Authority to obtain further information from the bearer about the origin and intended use in case of false declarations/failure to declare currency and bearer negotiable instruments.

- Introduce a clear legal basis that empowers the Customs Authority to stop or restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering or terrorist financing may be found, in cases, where: (i) there is a suspicion of money laundering or terrorist financing or (ii) there is a false declaration.

- Introduce a clear legal basis which would empower the Customs Authority to retain identification data of the bearer in cases of: (i) a false declaration, (ii) a suspicion of money laundering or terrorist financing.

Measures adopted and implemented:

In connection with the given recommendations, the Customs Administration of Montenegro has undertaken the following activities in order to strengthen the powers of customs officers:

- At the initiative of the Customs Administration, the Ministry of Finance adopted the new Law which among other things provides mandate to the customs authority to obtain the information by the carrier in the case of a false declaration or failure to do so, as well as the mandate to an authorized officer to temporarily seize domestic or foreign means of payment during the control, in accordance with special regulations, of which he/she would issue the note.

Excerpt from the new Customs Service Law:

Powers during the conduct of customs tasks

Article 24

Powers of customs officers during the conduct of customs tasks are as follows:

- 1) collecting personal and other data and information;
- 2) verification of correctness of business operations, with insight into business records, archive and other documents;
- 3) verification of identity of a person;
- 4) calling persons for interview in order to collect information;
- 5) issuing warnings and orders;
- 6) temporary restriction of freedom of movement of persons in accordance with the law;
- 7) search of persons;
- 8) search of goods;
- 9) monitoring, stopping, control and search of vehicles;
- 10) entry, control and search of business premises, offices and buildings in accordance with the law;
- 11) temporary seizure of goods and documentation;
- 12) use of force;
- 13) and other tasks prescribed by the law.

Temporary seizure of means of payment

Article 44

Authorized customs officers during the conduct of supervision can temporarily seize domestic or foreign means of payment in accordance with separate law, of which he/she shall issue a note.

Moreover, Articles 43, 44 and 111 of the Law on Misdemeanours ("Official Gazette of Montenegro", no. 01/11, 06/11, 39/11, 32/14) prescribes as follows:

Imposing Protective Measures

Article 43

- (1) The court may impose one or more protective measures on an offender that has been sentenced to a penalty or warning measure.
- (2) A protective measure may be imposed even if the misdemeanor sanction set forth in paragraph 1 of this Article is not imposed, but only if so is provided by law.
- (3) If it is necessary to impose several different types of protective measures for several different committed misdemeanours in a single decision, the court shall impose all of the protective measures in question.
- (4) The authorized body referred to in Article 111 paragraph 2 of this Law may, through a Misdemeanour Order, impose a protective measure suspending the offender's driver's license for the minimum duration provided by law, as well as the protective measure: seizure of items.
- (5) The protective measures referred to in Article 42 paragraph 1 items 1, 4, 5 and 6 of this Law may be imposed even when they are not prescribed for the misdemeanor.

Seizure of Items

Article 44

- (1) Items used or intended for the commission of a misdemeanor, as well as items that came into being as a result of the commission of a misdemeanor may be confiscated provided that they are owned by the offender.
- (2) The items referred to in paragraph 1 of this Article may be confiscated regardless of whether they are the property of the offender or not, provided it is necessary in the interests of the safety of people or property or for moral reasons, or if there is a risk that the items may still be used for committing a misdemeanor, provided that this does not infringe the rights of third persons to damage compensation from the offender.
- (3) If conditions for imposing the measure referred to in paragraph 1 of this Article are not laid down in a law prescribing a misdemeanor, the measure may be imposed if justified by the circumstances under which the misdemeanor was committed, the level of accountability, personal circumstances and inclinations of the offender.
- (4) The competent court that issues a Misdemeanour Decision or the authorized body that issues a Misdemeanour Order shall deliver the confiscated items to the administrative body in charge of the

administration of state property, in accordance with the law regulating the management of permanently and temporarily seized property.

(5) Items that pursuant to the law should or may be confiscated, shall be confiscated regardless of whether the offender is found guilty or acquitted as a result of the misdemeanour proceedings, provided that confiscation is necessary in order to protect the safety of people or property or for moral reasons, as well as for other reasons provided by law.

(6) Laws prescribing misdemeanours may provide for the mandatory imposition of the protective measure: seizure of items.

(7) Destruction of the confiscated items may be prescribed as compulsory by law.

Authorised Petitioners

Article 111

(1) Misdemeanour proceedings may be initiated on the basis of a petition filed by an authorised body, the damaged party or the defendant (hereinafter referred to as: the petitioner).

(2) The authorised body referred to in paragraph 1 of this Article may be a state administrative body, a regional administrative body, an authorised inspector, the state prosecutor and other bodies and organizations that are authorised to perform state duties and are responsible for the direct enforcement or supervision of the enforcement of laws governing misdemeanours.

(3) The damaged party may initiate misdemeanour proceedings if a Misdemeanour Order is not issued or if a Petition to Initiate Misdemeanour Proceedings is not filed within thirty days from the day that the deadline set forth in Article 153 paragraph 1 of this Law expires, except in the case of domestic violence when a Petition may be filed even before the aforementioned period elapses.

(4) The defendant may initiate misdemeanour proceedings by filing a Petition for Court Adjudication in accordance with the conditions set forth in this Law.

Recommended action:

Amend the range of sanctions available when imposing a pecuniary fine in a way that the sanction be proportionate to the severity of the situation as well as enough dissuasive by significantly raising the upper range of sanctions (i.e. in proportion to the undeclared/falsely declared amount of cash or bearer negotiable instruments)

Recommended action:

Raise more awareness with regard to UNSCR 1267 and 1373 among customs officers

Measures adopted and implemented:

In regard to this recommendation, we would like to point out that the Ministry of Foreign Affairs of Montenegro has earlier submitted the competent authorities, including the Customs Administration, notes of the Chairman of the Committee of the Security Council of the United Nations, which, based on the resolution, informed us on the changes in the lists of persons and entities to which the restrictive measures apply, including the disposal of assets, travel ban and arms embargo. Accordingly, the Customs Administration has informed its regional units on the need to implement them. On 29 January 2015 came into force the **Law on international restrictive measures** ("Official Gazette of Montenegro", no. 3/2015).

This Law governs the conduct, administration and the abolition of international restrictive measures that Montenegro implemented in order to restore and maintain international peace and security, respect for human rights and fundamental freedoms, development and strengthening of democracy and achieving other objectives in accordance with the international law.

Restrictive measures, according to the Article 3 of the Law, are applicable to the states and international organizations; Montenegrin citizen; the natural person who is not a Montenegrin national, residing in Montenegro in accordance with the law governing the conditions for the stay of foreigners on the territory of Montenegro, ratified international treaties; a legal entity established in accordance with the regulations of Montenegro; foreign company which carries out any economic activity through its company in the territory of Montenegro; and foreign legal or natural person who owns the property and funds in Montenegro.

Article 4 of the Law prescribes the types of restrictive measures, which are, among other things, complete or partial restriction on the import, export, transit, provision of transport, delivery and other communication services, an embargo on arms, military equipment and dual use goods prescribed by

the certain regulations on Foreign Trade in Arms, Military Equipment and Dual-Use Goods, as well as restrictions on entry into Montenegro.

In accordance with the Article 7 of the Law, the decision on the introduction of restrictive measures is to be adopted by the Government of Montenegro, at the proposal of the Ministry for Foreign Affairs. Decision determines: the basis for the introduction of restrictive measures, types of restrictive measures, the method of implementation, procedure of authorities and legal entities (government bodies, banks and other legal entities), and can be also determined the scope and duration of such restrictive measures. If the decision does not determine the duration of implementation of the restrictive measure, these measures are revoked by the decision of the Government at the proposal of the Ministry of Foreign Affairs. Decisions are published in the Official Gazette of Montenegro.

Chapter III of this law provide the provisions related to the application of restrictive measures relating to the obligations of the government bodies, banks and companies responsible for the application of restrictive measures.

In accordance with the Article 10 of this Law, government bodies, banks and legal entities responsible for the application of restrictive measures shall, in accordance with this Law, within its competence and activities, ensure the implementation of restrictive measures, and to inform the ministry responsible for foreign affairs on the undertaken activities.

Pursuant to this Law, the collection of restrictive measure is established, managed and maintained by this ministry, and the data on restrictive measures under Article 20 of the Law, are submitted by the government bodies and legal entities responsible for the application of restrictive measures.

During 2015 Ministry of Foreign Affairs and European Integrations informed the Customs Administration of the relevant Security Council resolutions and delivered the notes of the Chairman of the Committee of the Security Council of the United Nations which, on the basis of Resolutions 1267 and 1989, referring to Al Qaeda and its associated persons, informed us about the changes in the lists of persons and entities to which the restrictive measures apply, disposition of assets, travel ban and arms embargo, the updated lists of resolutions, of which were informed the regional units in timely manner in order to implement restrictive measures.

Recommended action:

Consider implementing the measure set out in the Best Practices Paper for SR. IX

The APLMTF, in cooperation with the Technical Assistance and Information Exchange instrument of the European Commission - TAIEX- held three seminars, in the period 25 – 27 November 2015, under the title „Implementation of FATF Recommendations in the national legislation, with a particular focus on the application of CDD measures, notifying on STRs, and terrorism financing – typologies.

The targeted group of these seminars were the reporting entities defined by the LPMLTF, **as well as the representatives involved in the AML/CFT system**. The seminar was attended by one representative of the Customs Administration.

Recommended action:

Consider introducing a computerized database which would allow authorities to exchange data and information more efficiently and furthermore facilitate record keeping.

Measures adopted and implemented

For this recommended action please see comment for SR.IX - Cross Border Declaration & Disclosure – rated PC under the title 3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)-

3. Measures planned to address the identified deficiencies in relation to any of the 40 + 9 Recommendations that are rated partially compliant (PC) or non-compliant (NC)

*Note: Information in this part would include only a **summary of draft or planned measures**, which are aimed at implementing the **specific recommendations rated NC or PC** and which have not been*

adopted by the relevant competent authority. See also the note under Section 2 in this respect. To the extent possible, the country should also indicate the stage of the process and the envisaged timeline for finalisation, adoption and implementation.

1. R.1 - Criminalisation of Money Laundering – rated PC

Ministry of Justice is preparing the Work version of the Amendments to the Criminal Code of Montenegro in regard to fix deficiencies in relation to the ML criminal offence.

Ministry of Justice has already prepared the Proposal law on Amendments to the Law on Criminal Liability of Legal Entities. Government will adopt the law in I Q 2016. By these amendments criminal liability of legal entities will no more be restricted and depend on the additional element for the liability (proof that legal entity obtains some profit).

2. R.3 - Confiscation and provisional measures – rated PC

Ministry of Justice is preparing the Work version of the Amendments to the Criminal Code of Montenegro in regard to fix deficiencies in relation to the system of seizure and confiscation. Amendments to the Criminal Code of Montenegro should be adopted in the Parliament in 2017.

3. SR.II – Criminalise terrorist financing – rated PC

Ministry of Justice is preparing the draft version of the Amendments to the Criminal Code of Montenegro in regard to fix deficiencies in relation to the TF criminal offence.

Ministry of Justice has already prepared the Proposal law on Amendments to the Law on Criminal Liability of Legal Entities. Government will adopt the law in I Q 2016. By these amendments criminal liability of legal entities will no more be restricted and depend on the additional element for the liability (proof that legal entity obtains some profit).

4. R. 5 - Customer due diligence-rated PC

Central bank of Montenegro

Measures planned to address the identified deficiencies:

1. In December 2015, the Central Bank started preparing new Guidelines on Bank Risk Analysis in Banks and Risk Factors (these Guidelines will, inter alia, contain provisions on CDD, and recognizing unusual transactions)

Recommended action no.16- An express provision should be added to Article 22 of the LPMLTF to scrutinise transactions to ensure that they are consistent with the customer's risk profile. (c.5.7)

Recommended action no.18- Guidance should be published by the CBM and SEC on ways of monitoring a customer's business activities. (5.7)

Recommended action no.20- Guidelines on risk analysis published by the competent supervisory bodies should address all of the higher risk areas and threats identified in the national strategy and response to the MEQ. (5.8)

2. Amendments to the LPMLTF, which lay down the precise provision removing the Deficiency 27 (R.5), will be prepared by working group during 2016 and the adoption is planned for 2017.

Recommended action no.27-In the very limited circumstances set out in Article 11(3) of the LPMLTF, there should be a requirement for a reporting entity permitted to utilise a business relationship prior to verification to adopt risk management procedures concerning the conditions in which verification may be delayed. (5.14)

5. R.17 - Sanctions– rated PC

Deficiency:

- The SEC may apply sanctions only where a reporting entity fails to remediate a misdemeanour. (17.1)

Recommended actions:

The SEC should be able to apply sanctions under the Law on Investment Funds, Law on Voluntary Pension Funds and Rules on Supervision of Securities Operations in any case where there is a misdemeanour (rather than just where there is a failure to rectify a misdemeanour).

Measures planned to address the identified deficiencies - On 11th of December 2015, The SEC submitted to the Ministry of Finance draft versions of:

- the Law on Amendments of the Law on Investment Funds; and
 - the Law on Amendments of the Law on Voluntary Pension Funds;
- that address afore-mentioned deficiencies.

Above-mentioned laws are at the stage of public hearing.

6. R.23 - Regulation, supervision and monitoring– rated PC

Deficiency:

- The SEC, under the Securities Law and the Law on Voluntary Pension Funds, and the APMLTF, in relation to those financial institutions under its supervision, cannot take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in reporting entities for which they have supervisory responsibility. (23.3)
- Whereas the Central Bank and ISA administer legislation that requires both to give their prior approval to persons who are to hold a controlling interest in a reporting entity, sit on its management board, this is not so for the SEC.

Recommended actions:

A clear legal basis should be introduced to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, or holding a senior management function (including sitting on the board) in an investment management company (or branch of an overseas company), pension fund management company (or branch of an overseas company), or stock-broker (or branch of an overseas company).

Measures planned to address the identified deficiencies

Security and Exchange Commission

- On 11th of December 2015, The SEC submitted to the Ministry of Finance draft versions of:

- the Law on Amendments of the Law on Investment Funds; and
 - the Law on Amendments of the Law on Voluntary Pension Funds;
- that address afore-mentioned deficiencies.

Above-mentioned laws are at the stage of public hearing.

Also, the Law on the Capital Market is in the adoption procedure and this law should address afore-mentioned deficiency regarding stock-broker (or branch of an overseas company).

Agency for Telecommunications and Postal Services

The Government of Montenegro in its session held on 1 October 2015 adopted the Proposal of the Law on Amendments and Modifications of the Law on Postal Services which defined in more details competences of the Agency for Electronic Communications and Postal Services in terms of the performance of expert supervision of postal operators and clearly prescribes that “the expert supervision is governed by provisions of the law which regulates the field of inspection supervision”.

The Law is in the Parliamentary procedure and deliberation of the Law thereto by the Parliamentary Committees has already started. Adoption of the Law is expected in the first half of 2016.

7. R.26- FIU

APMLTF

Beginning from September 2015, the FIU initiated the procedure of developing a full software solution for both operational and administrative work. The finalisation of the project is anticipated in June 2016,

and bearing in mind trainings, adjustments and migration of data, full operational capacity of software is anticipated by the end of current year.

8. R.40 - Other forms of co-operation – rated PC

Deficiency:

- Clear and effective gateways are not in place to facilitate and allow for exchanges of information directly between counterparts:
 - The Central Bank is empowered to exchange information outside Montenegro only with “foreign institutions responsible for bank supervision”. (40.2)

Measures planned to address the identified deficiencies: The Central Bank is empowered to exchange information outside Montenegro only with “foreign institutions responsible for bank supervision”. (40.2)

In July 2015, the Governor of the CBM established the Working Group with the task of preparing the new Law on Credit Institutions by end-2016, which will remove this deficiency.

- The SEC does not have a general power to conduct an examination under the Securities Law on behalf of a foreign authority. (40.5)

Recommended actions:

The authorities should ensure that:

The Securities and Exchange Commission can share information spontaneously under Article 18a of the Securities Law and has a general power to conduct an examination under the Securities Law on behalf of a foreign authority.

Measures planned to address the identified deficiencies

- The Law on the Capital Market (that will replace the Securities Law) is in the adoption procedure and this law should address afore-mentioned deficiencies.

9. SR.V - International co-operation – rated PC

Deficiencies:

Clear and effective gateways are not in place to facilitate and allow for exchanges of information directly between counterparts:

- The Central Bank is empowered to exchange information outside Montenegro only with “foreign institutions responsible for bank supervision”. (40.2)

Measures planned to address the identified deficiencies: In July 2015, the Governor of the CBM established the Working Group with the task of preparing the new Law on Credit Institutions by end-2016, which will remove this deficiency.

Measures planned to address the identified deficiencies: Ministry of Justice, together with the experts, shall once more discuss the possibility to prescribe the exception from application of the principle of dual criminality from Article 5 of the Law on Mutual Legal Assistance in Criminal matters (official gazette of the Republic of Montenegro no. 4/08 and 36/13) on the criminal offence TF and ML.

10. SR.IX - Cross Border Declaration & Disclosure – rated PC

Customs Administration

In order to meet the recommendations, and in line with the enhanced powers of customs officers, Customs Administration has planned the following activities:

* Development of instructions for customs officers in order to achieve efficient and effective implementation of the new Law on the Customs Service in the field of combating money laundering and terrorism financing in terms of newly adopted measures and to raise awareness of the risks in this area.

* Further improve cooperation with APMLFT and other law enforcement agencies in this area in terms of implementation of joint training and meetings aimed at efficient joint activities.

Also, in early 2016, under the EU Customs 2020 Programme, Customs Administration has agreed to visit the Customs Service of Croatia (February 2016) in order to transfer experience of that service in the field of prevention of money laundering, application of the relevant UN resolutions in this field and best practice.

Moreover, in order to improve efficiency and effectiveness in this area, within the support of the World Customs Organisation was agreed that the WCO workshop for the customs officers is to be held during 2016.

In addition, Customs Administration, in the framework of bilateral support of Slovenia we expressed our interest for expert assistance in the area of prohibitions and restrictions – specifically for the implementation of the resolution on the introduction of restrictive measures, control of these goods by customs, risk profiles for them and their monitoring through the TARIC.

Also, the Customs Administration is aware of the shortcomings of human resources engaged in this field, so in future it shall take action on strengthening administrative capacities in this and other areas of customs activities, bearing in mind the limited financial resources.

Recommended action

Consider introducing a computerized database which would allow authorities to exchange data and information more efficiently and furthermore facilitate record keeping

Measures planned to be adopted and implemented

The Customs Administration shall consider introducing an electronic database in the field of combating money laundering and terrorism financing, in accordance with the new powers, prescribed by the Customs Service Law, also bearing in mind the limited financial resources.

4. Statistics

*Note: The template format according to which the statistics should be reported will be prepared by a small group of experts, led by the Bureau, involving also scientific experts, **and will be finalised in January 2012.***

5. Measures adopted implementing relevant EU AML/CFT requirements

Note: Information in this part should include measures taken to implementation the recommendations formulated by the evaluation team when gaps were identified and specific action recommended in the section of the MER covering EU issues.

Where no recommendation or comment was formulated in respect of one of the 23 issues covered under the EU template questionnaire, the relevant sub-section of the EU template should be disregarded.

Where the country has taken additional measures (which modify the legal framework or are aimed at strengthening the level of the implementation of the respective EU requirement), then additional information could be included, as the country may find appropriate

Example:

Recommendation: [**to be completed**]

Measures adopted and implemented: [**to be completed**]

Please amend headings below to reflect only those aspects where a recommendation/comment was formulated by the evaluation team and otherwise delete headings as relevant.

1. *Article 39 of the Directive - Corporate Liability*

No recommendations and comments.

2. *Article 6 of the Directive - Anonymous accounts*

No recommendations and comments.

3. *Art. 7 b) of the Directive- Threshold (CDD)*

- Art. 7 b) of the Directive - *The institutions and persons covered by the Directive shall apply CDD measures when carrying out occasional transactions amounting to EUR 15 000 or more.*
- **Recommendations and comments:** *Guidance is not provided on what may constitute “linked transactions”. Consideration should be given to providing such guidance.*

Measures adopted and implemented

The APMLTF has adopted the **Guidelines on developing risk analysis for the prevention of money laundering and terrorist financing in March 2015. The Guidelines define the term „linked transactions“.**

Customer due diligence

2. Customer due diligence obligation

The reporting entity shall carry out customer due diligence in the following cases:

....

2. when carrying out any transaction in the amount of € 15,000 and more, whether the transaction is carried out in a single operation or in several operations which appear to be linked. Under the ‘transactions that are logically interlinked’ we consider the following:

- two or more successive, separated transactions, amounting to more than € 15,000, executed by a certain customer on behalf of the same third person with the same purpose,
- two or more transactions amounting to more than € 15,000, executed by several persons with family or business links, on behalf of the same third person with the same purpose,

4. *Art. 3(6) of the Directive - Beneficial Owner*

- Art. 3(6) of the Directive - The definition of ‘Beneficial Owner’ establishes minimum criteria (percentage shareholding) where a natural person is to be considered as beneficial owner both in the case of legal persons and in the case of legal arrangements.
- **Recommendations and comments:** *Article 19 of the LPMLTF should be extending to cover legal arrangements.*

Measures adopted and implemented

Article 20 paragraph 3 of the LPMLTF defines that a beneficial owner of a foreign legal person or other form of legal organizing (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, is a natural person that: indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity; and a person that is determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.

The Business Organization Law provides for that the business activity is performed by business organizations and entrepreneurs, i.e. legal and natural persons. Also, according to this Law forms of organization pursuing economic activities are business organizations and other forms such as general partnership, limited partnership, joint stock company, limited liability company, foreign company branch.

5. *Art. 2 (2) of the Directive- Financial activity on occasional or very limited basis*

No recommendations and comments.

6. *Art. 11 of the Directive - Simplified Customer Due Diligence (CDD)*

- Art. 11 of the Directive - *By way of derogation from the relevant Article the Directive establishes instances where institutions and persons may not apply CDD measures. However the obligation to gather sufficient CDD information remains.*
- **Recommendations and comments:** *The legal basis for applying simplified identification measures to a customer that is a post office or organiser of a lottery or special games of chance should be reviewed.*

Measures adopted and implemented

Article 37 of the LPMLTF stipulates that, when there is insignificant risk of money laundering or terrorist financing in relation a costumer, transaction from Article 9 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there is no suspicion of money laundering or terrorist financing, a reporting entity can apply simplified customer due diligence. A reporting entity can apply simplified costumer due diligence from paragraph 1 of this Article on customers, business relationships, transactions or products only after it has previously established that they belong to a category with insignificant risk of money laundering or terrorist financing, based on risk factors defined by the regulation from Article 7 paragraph 3 of this Law.

The new Rulebook on the guidelines for developing risk analysis and risk factors for the purpose of preventing ML and TF defines the factors of insignificant risk. Accordingly, the application of simplified CDD measures is determined.

7. *Art. 3 (8), 13 (4) of the Directive (Annex) - Politically Exposed Persons (PEPs)*

- Art. 3 (8), 13 (4) of the Directive (Annex) - *The Directive defines PEPs broadly in line with FATF 40 (Art. 3(8)). It applies enhanced CDD to PEPs residing in another Member State or third country (Art. 13(4)). Directive 2006/70/EC provides a wider definition of PEPs (Art. 2) and removal of PEPs after one year of the PEP ceasing to be entrusted with prominent public functions (Art. 2(4)).*
- **Recommendations and comments:** *Montenegrin legislation should require reporting entities to apply adequate measures to establish the source of wealth of the customer and beneficial owner and to obtain senior management approval before establishing a business relationship with a PEP.*
- **Measures adopted and implemented**

The new LPMLTF (Art. 33) provides for the obligation of reporting entities to:

- obtain a written consent from a senior management before establishing business relationship with a customer, and if the business relationship has already been established, obtain a written consent from a senior management for continuing the business relationship;

When conducting enhanced customer due diligence measures for the customer that is a politically exposed person, in addition to the measures from Article 8 of LPMLTF, a reporting entity is obliged to:

- obtain data on the sources of funds and property that are the subject of a business relationship or transaction, from the documents submitted by a customer, and if the prescribed data cannot be obtained from the submitted documents, the data shall be obtained directly from a customer's written statement;

8. *Art. 13 (3) of the Directive - Correspondent banking*

- Art. 13 (3) of the Directive - *For correspondent banking, Art. 13(3) limits the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.*

- **Recommendations and comments:** *Provisions that exclude banks or similar credit institutions that have a registered office in “states from the list” should be removed.*
 - **Measures adopted and implemented**
In Article 31 of the new LPMLTF, words “countries from the list” are removed, and the following has been added: “When establishing a correspondent relationship with a bank or other credit institution that has a registered office outside the European Union or outside the countries from the list of countries that apply international standards in the area of preventing money laundering and terrorist financing that are on the level of EU standards or higher...”
9. *Art. 13 (6) of the Directive - Enhanced Customer Due Diligence (ECDD) and anonymity*
- Art. 13 (6) of the Directive - The Directive requires ECDD in case of ML or TF threats that may arise from products or transactions that might favour anonymity.
 - **Recommendations and comments:** *Consideration should be given to following the broader approach to anonymity that is adopted in Article 13(6) of the Directive. Article 28a of the LPMLTF should be amended to refer to new and developing technologies (rather than new developing). The scope of Article 28a of the LPMLTF should be extended to include all institutions and persons covered by the Directive.*
 - **Measures adopted and implemented**
The mentioned deficiencies will be addressed in the new Law on PMLTF that is expected to be adopted at the end 2017.
10. *Art. 15 of the Directive - Third Party Reliance*

No recommendations and comments.

11. *Art. 2 (1)(3)(a) of the Directive - Auditors, accountants and tax advisors*

- Art. 2 (1)(3)(a) of the Directive - *CDD and record keeping obligations are applicable to auditors, external accountants and tax advisors acting in the exercise of their professional activities.*
- **Recommendations and comments:** *Guidance should be published to confirm that CDD and reporting obligations extend to all professional activities of audit companies, independent auditors, and legal or natural persons providing accounting and tax advice services.*
- **Measures adopted and implemented**

In relation to the Article 7 paragraph 3 of the Law on PMLTF(Official Gazette of Montenegro No. 33/14 , dated on 4th August 2014) and Article 2 Rulebook on Guidelines for Developing Analysis and Risk Factors with the view to Preventing Money Laundering and Terrorism Financing Official Gazzete of Montenegro No. 53/14 , dated on 19th December 2014), the Administration for the Prevention of Money Laundering and Terrorist Financing established:

The Guidelines on developing risk analysis with a view of preventing of money laundering and terrorist financing business organizations, legal persons, entrepreneurs and natural persons conducting activities: auditing, independent auditor, accounting and providing tax advice services

12. *Art. 2(1)(3)e) of the Directive - High Value Dealers*

No recommendations and comments.

13. *Art. 10 of the Directive – Casinos*

No recommendations and comments.

14. Art. 23 (1) of the Directive- Reporting by accountants, auditors, tax advisors, notaries and other independent legal professionals via a self-regulatory body to the FIU

No recommendations and comments.

15. Articles. 22 and 24 of the Directive - Reporting obligations

- Articles. 22 and 24 of the Directive - *The Directive requires reporting where an institution knows, suspects, or has reasonable grounds to suspect money laundering or terrorist financing (Art. 22). Obligated persons should refrain from carrying out a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction. If to refrain is impossible or could frustrate an investigation, obliged persons are required to report to the FIU immediately afterwards (Art. 24).*
- **Recommendations and comments:** Article 33 should explicitly require reporting entities to refrain from carrying out a suspicious transaction.
- **Measures adopted and implemented**
According to the Art.41 LPMLTF a reporting entity is obliged to deliver to the APMLTF a report that contains accurate and complete data from Article 79 items 1 – 4 and 8-11 of this Law on any transaction executed in cash in the amount of at least €15,000, immediately after, and not later than three working days since the day of execution of the transaction.

Also, a reporting entity is obliged to, without delay, provide to the APMLTF the data from Article 79 of LPMLTF in all cases when in relation to the transaction (regardless of the amount and type) or customer there is a suspicion of money laundering or terrorist financing. (Art.41 par. 2) **These data have to be provided to the APMLTF before the execution of the transaction, and a reporting entity has to state the deadline within which the transaction is to be executed (Art.41 par.3).**

A reporting entity can provide these data to the APMLTF via telephone, but it has to deliver them in written form not later than the following working day from the day of providing the information via telephone. (Art.41 par.4).

A reporting entity shall deliver to the APMLTF a report containing the data from Article 79 of LPMLTF immediately after the transaction has been executed, when in relation to the transaction (regardless of the amount or type) or customer there is a suspicion of money laundering or terrorist financing.

When there is a suspicion of money laundering or terrorist financing related to a transaction and when the delay of such transaction is not possible, or it would undermine the efforts of monitoring the customer engaged into activities suspected to be related to money laundering or terrorist financing, reporting entities shall immediately notify the APMLTF.

The provisions from paragraphs 2, 3 and 4 apply to an announced transaction as well.

The mentioned Article defines that **the reporting entities are obliged** to file suspicious transaction report before the execution. Also FIU, according to Article 61, has power to suspend a transaction or to inform a bank to execute it.

16. Art. 27 of the Directive - Tipping off (1)

No recommendations and comments.

17. Art. 28 of the Directive- Tipping off (2)

- Art. 28 of the Directive - *The prohibition on tipping off is extended to where a money laundering or terrorist financing investigation is being or may be carried out. The Directive lays down instances where the prohibition is lifted.*

- **Recommendations and comments:** *Consideration should be given to including an express provision prohibiting disclosure of the fact that a STR is being reported or provided to the APMLTF (distinct from the data, information, or documentation contained in, or provided with, such a report).*
- *Competent supervisory authority access to confidential information under Article 80 should be clarified.*
- **Measures adopted and implemented**

**Prohibition of giving information
Article 88**

- (1) Reporting entities, lawyers, notaries and their employees, members of the administrative, supervisory or other managing bodies, or other persons, to whom data from Article 79 of this Law are available or have been available, must not reveal to a customer or third person the following:
.....
.....
- (2) Information on data from paragraph 1 of this Article, reports on suspicious transactions, as well as all other data, information and documentation collected by the Administration in accordance with this Law shall be designated the appropriate degree of confidentiality and must not be made available to third parties.

The APMLTF is not obliged to confirm or deny the existence of a confidential data.

The Law on Classified Information regulates the unique system for determination of classified information, access, use, storage, recording, and protection of classified information.

18. Art. 34 (2) of the Directive - Branches and subsidiaries (1)

- *Art. 34 (2) of the Directive - The Directive requires credit and financial institutions to communicate the relevant internal policies and procedures where applicable on CDD, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication to branches and majority owned subsidiaries in third (non EU) countries.*

- **Recommendations and comments:** *The terms “financial institution” should be clarified.*

- **Measures adopted and implemented**

The term “financial institution” is defined in the Law on the Central Bank, as well as in the new LPMLTF.

The definition of “financial institution” is given in Article 5 par. 1 it. 8 of the LPMLTF as follows: financial institution means a legal person, other than a credit institution, that possesses licence or approval for work issued by the Central Bank of Montenegro.

19. Art. 31(3) of the Directive- Branches and subsidiaries (2)

- *Art. 31(3) of the Directive- The Directive requires that where legislation of a third country does not permit the application of equivalent AML/CFT measures, credit and financial institutions should take additional measures to effectively handle the risk of money laundering and terrorist financing.*

- **Recommendations and comments:** *Article 34(2) of the LPMLTF should be expressed as applying to cases where a country does not permit the application of equivalent AML/CFT measures.*

- **Measures adopted and implemented**

Article 42 par.2 of the existing LPMLTF defines that if the regulations of another state do not prescribe the application of measures of detection and prevention of money laundering or terrorist financing to the same extent defined by this Law, a reporting entity shall immediately inform the Administration and competent authorities from Article 94 of this Law thereof and undertake measures for eliminating money laundering or terrorist financing risks.

According to Art.97 par.4 of the new LPMLTF authorities from the Article 94 of this Law may issue an order to the reporting entity to terminate carrying out business in its subsidiaries in other country, if it is unable to implement measures to detect and prevent money laundering and terrorist financing stipulated by this Law.

20. Art. 25 (1) of the Directive - Supervisory Bodies

- Art. 25 (1) of the Directive - *The Directive imposes an obligation on supervisory bodies to inform the FIU where, in the course of their work, they encounter facts that could contribute evidence of money laundering or terrorist financing.*
- **Recommendations and comments:** *Consideration should be given to extending the reporting obligation in Article 89(3) of the LPMLTF to facts established **in any way** that could be related to money laundering or terrorist financing.*
- **Measures adopted and implemented**
Article 25 (1) of the Directive states that Member States shall ensure that if, in the course of inspections carried out in the institutions and persons covered by this Directive by the competent authorities referred to in Article 37, or in any other way, those authorities discover facts that could be related to money laundering or terrorist financing, they shall promptly inform the FIU.

According to the Article 97 par.3 of the LPMLTF if the competent authorities from the Article 94 of this Law, during the inspection, assess that in relation to any transaction or person there is a suspicion of money laundering or terrorist financing, or establish facts that can be related to money laundering or terrorist financing, they shall immediately, without delay, inform the Administration.

Thus, we believe that the Article 25 (1) of the Directive has been fully implemented into the LPMLTF. Extending it with the term "in any way" would override the requirement set by the Directive.

21. Art. 32 of the Directive - Systems to respond to competent authorities

- Art. 32 of the Directive - *The Directive requires credit and financial institutions to have systems in place that enable them to respond fully and promptly to enquires from the FIU or other authorities as to whether they maintain, or whether during the previous five years they have maintained, a business relationship with a specified natural or legal person.*
- **Recommendations and comments:** Consideration should be given to requiring reporting entities to have such systems in place.
- **Measures adopted and implemented**
According to the Article 43 of the LPMLTF a reporting entity has to establish and apply appropriate rules regarding the procedures with a customer, reporting, keeping of data, internal control, risk assessment, risk management and communication, with a view to prevent money laundering and terrorist financing.
Banks, other credit institutions, financial institutions and other reporting entities shall order, conduct and supervise the application of the rules from paragraph 1 of this Article in branches and other parts in majority ownership with registered offices in other countries.

Furthermore, Article 45 par. 1 it. 1, 2 and 3 of the LPMLTF, defines that a compliance officer from Article 43 of this Law shall perform the following affairs: 1) take care for establishing, functioning and developing the system of detecting and preventing money laundering and terrorist financing; 2) take care for proper and timely data provision to the Administration and cooperate during the inspection procedure; 3) initiate and participate in preparing and modifying operational procedures and preparing reporting entity's internal acts related to the prevention and detection of money laundering and terrorist financing

Also, according to Article 78 par.2, a reporting entity is obliged to keep records on clients, business relationships and transactions in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that could be used as evidence in the process of detecting customer's criminal activities.

In order to regulate this issue more precisely the new Rulebook on the manner of work of the compliance officer, the manner of conducting the internal control, data keeping and protection, manner of record keeping and employees professional training ("Official Gazette of Montenegro", No. 48/14 dd 13.11.2014) was adopted.

22. Art. 4 of the Directive - Extension to other professions and undertakings

No recommendations and comments.

23. Art. 11, 16(1)(b), 28(4),(5) of the Directive - Specific provisions concerning equivalent third countries

- Art. 11, 16(1)(b), 28(4),(5) of the Directive -*The Directive provides specific provisions concerning countries which impose requirements equivalent to those laid down in the Directive (e.g. simplified CDD).*

- **Recommendations and comments:** *Guidance should be published on the basis for assessing the equivalence of legislation in place in third countries. A list of countries that apply equivalent securities standards should be published in line with Article 29(2) of the LPMLTF*

- **Measures adopted and implemented**

6. Statistics

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Legend

In completing the following tables please use the following terminology

NA Not applicable

NP Offence not punishable

This template is to be completed in order to support the 4th Assessment Visit Follow-up Report. Only those sections of the template that relate to the follow-up report are required to be completed.

Although this template sets out tables that need to be completed, it is appreciated that data collected for domestic purposes may not exactly conform to the format of the tables set out below. Where equivalent data is recorded but in a different format due to domestic requirements then this format may be utilised instead. If an alternative basis or format has been utilised please indicate this in the following tables.

Please state if figures are not available for a full year.

1. Background Information

1.1 Number of reported criminal offences (If available)

The following table should contain details of the number reports of criminal acts to the law enforcement agencies in the jurisdiction regardless of whether these criminal acts were subsequently investigated. This table mirrors the designated categories of offences as set out in the glossary to the FATF Methodology. Where domestic data collection on the level of reported crime does not use the same categorisation then the domestic categories may be substituted.

The aim of this table is to identify the level of non-fiscal economic crime. If it is more convenient to provide a table of all crimes reported, then this is permissible.

	2013	2014	2015
Criminal offences of organizes crime	48	5	36
Terrorism, including terrorist financing	0	0	0
Trafficking in human beings and migrant smuggling	12	0	30
Solicitation and Making Arrangements for Sex Act (art. 209 CC)	1	0	0
Pandering(art.210 CC)	3	6	6
Illicit trafficking in narcotic drugs and psychotropic substances	142	162	144
Illicit arms trafficking (art.265 para 2)	8	4	0
Abuse of the official duty (art.416)	633	676	806
Misuse of Position in Business Activity (272)	159	180	208
Misuse of Authority in Business Operations (276)	11	20	21
Active bribery in private sector (276a)	1	0	0
Passive bribery in private sector (276b)	0	0	0
Active bribery in official duty (423)	10	1	19
Passive bribery in official duty (424)	9	2	2
Fraud (244)	479	376	289
Counterfeiting of money (258)	14	14	18
Unauthorized Use of Copyrighted Works or Objects of Related Rights (234)	0	1	0
Stealing a protected natural good (311)	0	2	1
Taking protected natural good or specially protected plant and animal in and out of the country, and trading in them (312)	0	0	0
Murder (143 CC)	5	7	8
Aggravated Murder (144)	7	10	10
Grievous bodily injury (151)	217	147	178
Kidnapping (164)	4	0	3
Theft (239)	578	576	412
Aggravated theft (240)	464	405	423
Robbery (241)	5	9	13
Assault and robbery (241)	81	72	59
Smuggling (265)	19	15	15
Extortion (250)	8	36	18
Insider trading and market manipulation	0	3	0
Other: Please Specify			

1.2 Number of convictions for predicate offences

The following table should contain details of the number of convictions for the predicate offences. This table mirrors the designated categories of offences as set out in the glossary to the FATF Methodology. Where domestic data collection on the number of convictions does not use the same categorisation then the domestic categories may be substituted.

The aim of this table is to identify the level of funds-generating crime. If it is more convenient to provide a table of all convictions, then this is permissible. Although the table requires details of both the number of cases and the number of persons convicted one or other category may be deleted if domestic statistics are not available.

Criminal offence	2013		2014		2015	
	Cases	Persons	Cases	Persons	Cases	Persons
401a Establishment of Criminal Organization	2	16	3	11	0	0
444 Trafficking in Persons	0	0	1	1	0	0
405 Illegal Crossing of State Border and Smuggling of Persons	2	14	3	6	3	5
209 Solicitation and Making Arrangements for Sex Act	1	1	0	0	1	1
210 Pandering	2	5	0	0	3	3
300 Unauthorized Production, Possession and Release into Circulation of Narcotic Drugs	90	119	72	97	31	37
265 Par.2 Smuggling of Arms	1	1	0	0	0	0
423 Passive Bribery	5	10	1	2	0	0
424 Active Bribery	2	2	2	2	0	0
416 Misuse of Office	16	58	13	17	9	19
272 Misuse of Position in Business Activity	40	56	30	33	22	25
276 Misuse of Authority in Business Operations	0	0	0	0	0	0
276a Passive Bribery in Business Sector	0	0	0	0	0	0
276b Active Bribery in Business Sector	0	0	0	0	0	0
244 Fraud	66	85	63	70	36	42
258 Counterfeiting Money	8	9	7	10	5	5
234 Unauthorized Use of Copyrighted Works or Objects of Related Rights	1	2	3	4	4	5
311 Stealing a Protected Natural Good	0	0	1	1	0	0
312 Taking protected natural good or specially protected plant and animal in and out of the country, and trading in them	0	0	0	0	0	0
143 Homicide	29	29	28	31	19	20
144 Aggravated Homicide	18	24	7	10	9	10
151 Serious Bodily Injury	139	175	136	160	88	103
164 Abduction	3	6	2	2	0	0
162 Unlawful Deprivation of Liberty	6	11	9	10	6	9
239 Theft	353	401	296	361	216	242
240 Aggravated Theft	280	411	274	406	185	279
242 Assault and Robbery	30	41	54	75	32	42
241 Robbery	3	3	6	8	9	10
265 Para 1 Smuggling	13	19	9	13	13	14
265 Para 3 Smuggling	0	0	0	0	0	0
250 Extortion	6	13	6	10	5	8
345 Piracy	0	0	0	0	0	0

281 Misuse of insider information	0	0	0	0	0	0
281a Manipulation in the stock market and market in other financial instruments	0	0	0	0	0	0

1.3 Estimated Cost of the Reported Criminal Offences (in thousands of Euro) (If available)

Statistics on the estimated cost of crime help to contextualise the measures taken to combat money laundering. These figures will be used merely for analysis of the assessed country's measures and will not be used for comparison with other countries.

Where actual figures are collected and collated on the cost crime these should be included. It is also acceptable to include estimates of the cost of crime to the economy or the value of reported crime. The methodology for calculating the cost of crime should be stated at the foot of the table. Comparative figures should be included if these are available

	2013	2014	20xx
DAMAGE CAUSED TO THE BUDGET OF MONTENEGRO	€2.491.697,18	€1.760.852,75	€26.538.379,24
TOTAL	€30.790.929,17		

The figures given in the table present calculation of damage caused to the state budget of Montenegro on the basis of criminal complaints failed by the police directorate to the state prosecutors office. The figures refer to corruptive criminal offences and other criminal offences that caused damage to the budget of montenegro, budget of local self-governments, banks and other financial institutions.

1.4 Regulated entities

The following table should contain details of the number of entities regulated for AML/CFT purposes.

Number at end of year	2013	2014	2015
FINANCIAL SECTOR			
Banks			
Securities		17	17
Insurance	6	21	22
MSBs and exchange offices			
Financial leasing	13	12	12
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	62	65	76
Providing services of founding	7	9	10
NON FINANCIAL SECTOR			
Casinos			
Real estate	1408	1442	1455
Dealers in precious metals and stones			
Lawyers			
Notaries			
Accountants & auditors	410	433	464
Trust and company service providers			
NGOs	2966	3321	3879
Construction companies	2360	2428	2506
Tourist agencies	501	521	542
Providing Catering Services	3268	3485	3697
Car dealers	283	292	309
Marketing and consulting activities related to business activities and other managing activities;	NA	1230	1259
Third persons' property management;	52	56	58
Sport organizations(Sport clubs and national sport associations activities)	1731	1839	1852
Intermediation in industrial equipment, machines, vessels and aircrafts trade	NA	18	20
Wholesale trade in metals and metallic ore	23	27	33
Wholesale trade in watches and jewellery	2	3	3
Production of jewellery and similar goods	57	32	70
Retail sale in watches and jewellery in specialized shops	72	73	76
Religious organisations	19	21	21
Waste sorting and recycling	NA	67	46
Harmless Waste collection	NA	42	37
Processing and removing harmless waste		39	41
Processing and removing harmful waste	/	/	5
Elaborating construction projects		306	322

2. Money Laundering and Financing of Terrorism Investigations, prosecutions and convictions

These tables under Section 2 should include cases which have commenced in the reference year.

As regards ML/TF investigations and prosecutions, this table should reflect only cases which have been commenced by law enforcement authorities independently, without a prior input/STR from the financial intelligence unit. Convictions relate to decisions of a court of competent jurisdiction.

2.1 Investigations, prosecutions and convictions

2013												
	ML/TF Investigations by law enforcement carried out independently without prior STR			Prosecutions commenced			Convictions (first instance)			Convictions (final)		
	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons
ML	3	4					1	5	0	2	5	
FT	0						0	0	0	0	0	0

2014												
	ML/TF Investigations by law enforcement carried out independently without prior STR			Prosecutions commenced			Convictions (first instance)			Convictions (final)		
	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons
ML				2	2		0	0	0	0	0	0
FT												

2015												
	ML/TF Investigations by law enforcement carried out independently without prior STR			Prosecutions commenced			Convictions (first instance)			Convictions (final)		
	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons	Cases	Natural persons	Legal persons
ML							1	2	0	0	0	0
FT							0	0	0	0	0	0

2.2 Analysis of penalties

The following tables are intended to provide an indication of the effectiveness of the criminal sanctioning regime and should give an indication of the severity of the penalties imposed for AML/CFT offences by a court of competent jurisdiction. Where there is comparable domestic data that indicates the types of penalties imposed this may be used instead.

2.2.1 Type of sentence imposed following a conviction for a money laundering offence by a court of competent jurisdiction

Year	Non custodial sentences			Custodial sentences			
	Fines (average in EUR)	Other than fines	Total number	Imposed prison sentence (average in months)	Suspended prison sentence (average in months)	Other measures	Total number
2013	0	0	0	13,2	0	0	5
2014	0	0	0	0	0	0	0
2015	0	0	0	66	0	0	2

2.2.2 Type of sentence imposed following a conviction for a financing of terrorism offence by a court of competent jurisdiction

Year	Non custodial sentences			Custodial sentences			
	Fines (average in EUR)	Other than fines	Total number	Imposed prison sentence (average in months)	Suspended prison sentence (average in months)	Other measures	Total number
2013	0	0	0	0	0	0	0
2014	0	0	0	0	0	0	0
2015	0	0	0	0	0	0	0

2.2.3 Please indicate the range of penalties imposed by a court of competent jurisdiction from highest to lowest

	Non custodial sentences		Custodial sentences	
	Highest	Lowest	Highest	Lowest
2013	0	0	3 years and 9 months	3 months
2014	0	0	0	0
2015	0	0	5 years and 6 months	5 years and 6 months

2.3 Analysis of convictions for AML/CFT cases by a court of competent jurisdiction

The following tables are intended to indicate the quality of convictions. Columns (b), (c) and (d) should not add up to the less than the figure in column (a) and columns (e) and (f) should also add up to the same figure as column (a). If, however, the figures do

Definition

Autonomous money laundering – for these purposes, a third party laundering case not tried together with the underlying offence

Third party laundering - defined as laundering by a person other than the author of the offence.

Self laundering - defined as own proceeds laundering by a person who may be the author of the offence.

Fiscal – defined as relating to offences in connection with taxes, duties, customs and exchange

Cases	Total number of ML convictions	Number of convictions for self-laundering	Number of convictions for third party laundering ⁺	Number of convictions for laundering proceeds of crime committed abroad	Number of convictions for fiscal predicate offences	Number of convictions for non-fiscal predicate offences
	(a)	(b)	(c)	(d)	(e)	(f)
2013	1					
2014	0					
2015	1					

⁺ Please indicate, if available, what were the major predicate offences in these cases and whether any of them were autonomous money laundering cases

20xx	
20xx	
20xx	

3. Provisional Measures and Confiscation

The following tables are intended to provide an indication of the effectiveness of the regime for depriving criminals of the proceeds of their crimes. The tables should reflect the national data for seizing, freezing and confiscating the proceeds of crime.

3.1 Property frozen, seized and confiscated

This table should not include information on property seized/confiscated on the basis of a mutual legal assistance request.

Property frozen refers to the freezing of property on the basis of a court order where a person has already been charged of an offence and that 'property seized' refers to the seizure of property on the basis of court order issued in the course of a criminal investigation where no charges have yet been brought.

Conviction based refers to instances where the order was applied as part of the sentencing for an underlying predicate offence. Conversely, non-conviction-based refers to situation where property is confiscated without a prior conviction of a predicate offence.

2013								
	Property frozen		Property seized		Property confiscated		Property recovered following conviction	
	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)
ML – Conviction-based					2	376.386,00		
ML-non-conviction-based								
Underlying predicate offences where applicable								
ML Total								
FT								

2014								
	Property frozen		Property seized		Property confiscated		Property recovered following conviction	
	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)
ML – Conviction-based								
ML-non-conviction-based								
ML Total								
Underlying predicate offences where applicable								
FT								

2015								
	Property frozen		Property seized		Property confiscated		Property recovered following conviction	
	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)	Cases	Amount (EUR)
ML – Conviction-based					1	19.353.879,22		
ML-non-conviction-based								
ML Total								
Underlying predicate offences where applicable								
FT								

3.2 Cases of persons or entities and amount of property frozen pursuant to or under UN resolutions relating to terrorist financing

Property frozen					
Year	Number of Cases	Natural persons	Legal persons	Amount in EUR and/or type of assets	Legal basis (relevant UN resolution)
20xx					
20xx					
20xx					

3.3 FIU action and provisional measures

Note: This table should only be completed by jurisdictions where the FIU has the power to postpone transactions.

Year	Number of postponement orders issued by FIU to suspend transactions/block account	Number of cases where the FIU order was followed by a preliminary investigation and a seizure order was issued	Number of cases where the FIU order was followed by a preliminary investigation and a freezing order was issued	Number of cases where a prosecution /indictment was initiated	Convictions and confiscation	
					Cases	Amount (in EUR)
2013	16					
2014	17					
2015	17					

4. Suspicious transaction reports and other reports where appropriate under domestic law

The following tables are intended to provide information on the effectiveness of the suspicious transaction reporting regime. The data collected should include both the number of suspicious transaction reports received by the FIU from reporting entities and a breakdown of disclosures about suspicious transactions. If the table reflects the number of transactions reported, rather than the number of reports, this must be clearly stated.

If there is a breakdown on the number of reports relating to attempted transactions compared to executed transactions then this information should also be included. This information can be included in a separate chart if more convenient.

4.1 STRs

	2013					2014					2015				
Reporting entity	TOTAL STRs	Breakdown of STRs				TOTAL STRs	Breakdown of STRs				TOTAL STRs	Breakdown of STRs			
		ML	FT	Other criminal offences	Attempted transactions		ML	FT	Other criminal offences	Attempted transactions		ML	FT	Other criminal offences	Attempted transactions
FINANCIAL INSTITUTIONS															
Banks	94	94	/		3	107	107			2	163	163	/	9 (ML)	
Insurance sector											1	1	/	1	
Securities sector	1	1	/												
Investment firms															
Currency exchange															
Montenegro transfer (western union company)											14	14	/		
Leasing											1	1	/		
Central Bank Montenegro											1	1	/		
DNFBPs															
Casinos															
Real estate agents															
Dealers in precious metals/stones															
Lawyers						1	1	/			1	1	/		
Notaries															
Accountants											1	1	/		
Auditors															
Trust and company service providers															
Investment Fund											1	1	/		
Competent state authorities															
Customs	5	5	/			3	3	/			11	11	/		
Administration for Inspection Affairs	/	/	/			/					1	1	/		
TOTAL	100					111					195				

4.2 Reports filed on domestic or foreign currency transactions above a certain threshold (if applicable)

The following tables are intended to provide information on the effectiveness of the large transaction reporting regime. The data collected should include both the number of reports received from reporting entities and a split between domestic and foreign currency if available. If the table reflects the number of transactions reported, rather than the number of reports, this must be clearly stated.

If there is no requirement to report domestic or foreign currency transactions above a certain threshold this should be clearly stated.

Reporting entity	2013			2014			2015		
	TOTAL CTRs	Domestic currency	Foreign currency	TOTAL CTRs	Domestic currency	Foreign currency	TOTAL CTRs	Domestic currency	Foreign currency
FINANCIAL INSTITUTIONS									
Banks	34 401			35845			33754		
Insurance sector									
Securities sector									
Investment firms									
Currency exchange									
Post office				10			7		
DNFBPs									
Casinos	487			654			594		
Organisers of games of chance	11								
Real estate agents	375			419			463		
Dealers in precious metals /stones									
Lawyers									
Notaries	8224*			6957*			6007*		
Accountants									

Auditors									
Trust and company service providers									
Car dealers	86			55			233		
TOTAL				36983			41058		

* The mentioned reporting entities (lawyers and notaries) are not sending reports but they are providing the contracts.

4.3 Judicial Proceedings related to reports filed

In order to assess the quality of the reports received additional information is required on how the reports were handled and disseminated and how many reports resulted in judicial proceedings. The report should reflect “cases” investigated rather than the number of individual reports involved in an investigation.

If the relevant information is available in a different format then this may be used instead.

	FIU Cases in the reference year			Related judicial proceedings in reference year – Number of cases						Related judicial proceedings in reference year – number of persons					
				Prosecution (based on FIU disseminated cases)			Convictions (final)			Prosecution (based on FIU disseminated cases)			Convictions (final)		
	Under analysis at year end	Archived in reference year	Reports disseminated for investigation	ML	FT	Other criminal offences	ML	FT	Other criminal offences	ML	FT	Other criminal offences	ML	FT	Other criminal offences
2013	51	33	81 (23 prosecutor office 40 Police Directorate 7NSA, 11 Tax Administration)												
2014	192	17	52 (18–Prosecutor Office 22 Police Directorate, 2 NSA, 10 Tax Administration)												
2015	295	18	35 (21 Prosecutor office, 6 Police Directorate, 2 NSA, 5 Tax administration 1 Ministry of Labour)												

Number in the column 'under analysis at year end' is number of cases opened during the year which were opened but not processed and analysed, they are still waiting to be analysed. As for the number for 2013 it is the number of cases that presents sum of 2011, 2012 and 2013, then that number is the base for 2014 and then for 2015.

It has to be defined that in FIU cases are archived only regard the STR for which we establish that there are no grounds for suspicion to be disseminated to other relevant authorities and all the others that has been opened and analysed are on the status 'to be followed' and if analyst during the analysis finds more suspicious the case would be renewed.

STATE PROSECUTORS OFFICE

YEAR	Number of cases formed based on the information from FIU	Number of cases in which pre investigation was led and in which we found that there is no ground for ML offence	Number of cases that are still in pre investigation phase	Number of investigation	Number of prosecution
2013	34	8	25		1*
2014	19	1	18		
2015	25	3	21	1*	

*this is investigation and prosecution for criminal offence of tax evasion from article 265 CC

4.4 Reports filed on cross border transportation of currency and bearer negotiable instruments

The following table is intended to provide information on the effectiveness of the procedures for identifying cross border transportation of currency, etc.. The data collected should include both the number of declarations/disclosures made as well as of suspicious transaction reports received.

Cross border transportation of currency and bearer negotiable instruments									
Year	Number of declarations or disclosures				Suspicious cross border incidents			Assets restrained (amount in EUR)	
	Incoming		Outgoing		Suspicious of ML	Suspicious of FT	False declarations		
	Currency	Bearer negotiable instruments	Currency	Bearer negotiable instruments					
2013	167		246		3				
2014	240		80		4		1	30,000.00	
2015	260		172		12		9	4,145.00	

5. Supervisory Action

The following tables are intended to provide an indication of the effectiveness of the supervisory regime. Column 2 should indicate the overall number of supervisory on-site visits, regardless of whether AML/CFT issues were considered. Columns 3 and 4 are specifically concerned with AML/CFT issues.

5.1 AML/CFT Supervisory on-site visits

2013				
	Total number of entities	Total number of on-site visits conducted	Number of AML/CFT specific on-site visits conducted	Number of AML/CFT combined with general supervision on-site visit carried out
	1	2	3	4
FINANCIAL SECTOR				
Banks	11	7	0	7
Securities	29	37	0	37
Insurance	6	4	0	2
MSBs and exchange offices				
Micro- credit financial institutions	6	0	0	0
Posts (postal operators)	8	20	12	0
Financial leasing	13			
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	62	1	0	0
Providing services of founding	7	1	0	0
NON FINANCIAL SECTOR				
Casinos	5	1	1	/
Real estate	1408	61	61	0
Dealers in precious metals and stones	0	0	0	0
Lawyers	N/A	0	0	0
Notaries	N/A		0	0
Accountants & auditors	410	0	0	0
Trust and company service providers	/	/	/	/

Construction companies	2360	50	50	
Tourist agencies	501	18		0
Providing Catering Services	3268	28	18	0
Car dealers	283	12	12	0
Third persons' property management;	52	0	0	0
Sport organizations(Sport clubs and national sport associations activities)	1731	/		
Wholesale trade in metals and metallic ore	23	0	0	0
Wholesale trade in watches and jewellery	2	0	0	0
Production of jewellery and similar goods	57	0	0	0
Retail sale in watches and jewellery in specialized shops	72	2	2	0
Religious organisations	19	0	0	0
NGOs	2966	2	2	0

2014				
	Total number of entities	Total number of on-site visits conducted	Number of AML/CFT specific on-site visits conducted	Number of AML/CFT combined with general supervision on-site visit carried out
	1	2	3	4
FINANCIAL SECTOR				
Banks	12	10	3	7
Securities	17	30	0	26
Insurance	21	6	1	4
MSBs and exchange offices				
Micro-credit financial institutions	5	0	0	0
Posts (postal operators)	10	33	12	10
Financial leasing	12	1	0	0
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	65	4	0	0
Providing services of founding	9	1	0	0
NON FINANCIAL SECTOR				
Casinos	5	0	0	0
Real estate	1442	36	0	0
Dealers in precious metals and stones	/	/	/	/
Lawyers	N/A	0	0	0
Notaries	N/A	0	0	0
Accountants & auditors	433	/	0	0
Trust and company service providers	/	/	/	/
Construction companies	2428	35	0	0
Tourist agencies	521	15	0	0
Providing Catering Services	3485	13	0	0
Car dealers	292	10	0	0

Marketing and consulting activities related to business activities and other managing activities;	1230	0	0	0
Third persons' property management;	56	6	0	0
Sport organizations(Sport clubs and national sport associations activities)	1839	0	0	0
Intermediation in industrial equipment, machines, vessels and aircrafts trade	18	0	0	0
Wholesale trade in metals and metallic ore	27	2	0	0
Wholesale trade in watches and jewellery	3	0	0	0
Production of jewellery and similar goods	32	0	0	0
Retail sale in watches and jewellery in specialized shops	73	2	0	0
Religious organisations	21	0	0	0
Waste sorting and recycling	67	5	0	0
Harmless Waste collection	42	0	0	0
Processing and removing harmless waste	39	0	0	0
Processing and removing harmful waste	5	0	0	0
Elaborating construction projects	306	5	0	0
NGOs	3321	2	0	0

2015				
	Total number of entities	Total number of on-site visits conducted	Number of AML/CFT specific on-site visits conducted	Number of AML/CFT combined with general supervision on-site visit carried out
	1	2	3	4
FINANCIAL SECTOR				
Banks	14	17	10	7
Securities	17	24	0	19
Insurance	22	8	1	6
MSBs and exchange offices				
Micro-credit Financial Institutions	6	3	0	3
Payment institution	3	0	0	0
Posts (postal operators)	10	28	16	0
Financial leasing	12	1		
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	76	3	0	0
Providing services of founding	10	/	0	0
NON FINANCIAL SECTOR				
Casinos	5	1	1	0
Real estate	1455	16	0	0
Dealers in precious metals and stones	0	0	0	0
Lawyers	N/A	0	0	0
Notaries	N/A	0	0	0
Accountants & auditors	464	1	0	0
Trust and company service providers	/		0	0
Construction companies	2506	49	0	0
Tourist agencies	542	2	0	0
Providing Catering Services	3697	8	0	0
Car dealers	309	2	0	0
Marketing and	1259	8	0	0

consulting activities related to business activities and other managing activities;				
Third persons' property management;	58	4	0	0
Sport organizations(Sport clubs and national sport associations activities)	1852	/	0	0
Intermediation in industrial equipment, machines, vessels and aircrafts trade	20	/	0	0
Wholesale trade in metals and metallic ore	33	/	0	0
Wholesale trade in watches and jewellery	3	0	0	0
Production of jewellery and similar goods	70	0	0	0
Retail sale in watches and jewellery in specialized shops	76	0	0	0
Religious organisations	21	2	0	0
Waste sorting and recycling	46	3	0	0
Harmless Waste collection	37	0	0	0
Processing and removing harmless waste	41	0	0	0
Processing and removing harmful waste	5	0	0	0
Elaborating construction projects	322	10	0	0
NGOs	3879	2	0	0

5.2 AML/CFT sanctions or other measures imposed by supervisory authorities

The following tables are intended to provide an indication of the effectiveness of the supervisory regime, including the application of sanctions.

Please complete a table (as beneath) for sanctions imposed for AML/CFT infringements in respect of each type of supervised entity and adjust the table to indicate any criminal sanctions where applied.

The total number of inspections carried out should be identical to the sum of columns 3 and 4 in a. above.

If equivalent statistics are available in a different format then these may be used instead. If it is more convenient separate tables may be used for the financial and non-financial sector.

2013									
	Total number of inspections carried out	Number of inspections having identified AML/CFT infringements	Type of sanction/measure applied						Number of sanctions taken to court (if applicable)
			Written warning	Fines		Removal of manager/compliance officer (where applicable)	Withdrawal of license (where applicable)	Other (please specify and add further columns as applicable)	
				Number	Amount (EUR)				
FINANCIAL SECTOR									
Banks	7	4	0	0	0	0	0	0	0
Securities	37	0	0	0	0	0	0	0	
Insurance	2	1	1						
MSBs and exchange offices									
Micro-credit Financial Institutions	0	0	0	0	0	0	0	0	0
Financial leasing	0	0	0	0	0	0	0	0	0
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	1	0	0	0	0	0	0	0	0
Providing services of founding	0	0	0	0	0	0	0	0	0
NON FINANCIAL SECTOR									

Casinos	1	1	/	1	€2,150.00	/	/	/	1
Real estate	61	21 ¹		18	€26,400.00				8 Orders issued by Competent Misdemeanour Body for fines in the amount of €11,500.00
Dealers in precious metals and stones									
Lawyers									
Notaries									
Accountants & auditors	/	/	/	/	/	/	/	/	/
Construction companies	50	29 ²		28	€45,200.00				7 Orders issued by Competent Misdemeanour Body for fines in the amount of €12,725.00
Tourist agencies	18	1 ³		2	€5,600.00				
Hotels and similar accommodation	28	12 ⁴		6	€10,800.00				2 Orders issued by Competent Misdemeanour Body for fines in the amount of €3,300.00

1. _____

¹ Real estate - Out of 21 APMLTF inspections, where AML/CFT infringements were identified, in 9 inspections APMLTF inspectors issued 18 misdemeanour orders (9 for natural persons and 9 for legal persons). In relation to 12 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

² Construction companies- Out of 29 APMLTF inspections, where AML/CFT infringements were identified, in 14 inspections APMLTF inspectors issued 28 misdemeanour orders (14 for natural persons and 14 for legal persons). In relation to 15 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

³ Tourist agencies - In one APMLTF inspection, where AML/CFT infringement was identified, 2 misdemeanour orders (one for natural person and one for legal person) were issued.

⁴ Hotels and similar accommodation - Out of 12 APMLTF inspections in 3 inspections APMLTF inspectors issued 6 misdemeanour orders (3 for natural persons and 3 for legal persons). In relation to 6 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

Car dealers	12	2⁵		4	€3,000.00				
Third persons' property management;	0								
Sport organizations(Sport clubs and national sport associations activities)	0								
Wholesale trade in metals and metallic ore	0								
Wholesale trade in watches and jewellery	0								
Production of jewellery and similar goods	0								
Retail sale in watches and jewellery in specialized shops	2								
Religious organisations	0								
NGOs	2	1⁶							
Other		1⁷		2	€1,200.00				
TOTAL									
APMLT total		65⁸		60	€ 93,200.00				17 Orders issued by Competent Misdemeanour Body for fines in the amount of €27,525.00.

1. _____

⁵ Car dealers- In 2 APMLTF inspections, where AML/CFT infringements were identified, APMLTF inspectors issued 4 misdemeanour orders (2 for natural persons and 2 for legal persons)

⁶ NGOs - In one APMLTF inspection, where AML/CFT infringements were identified, APMLTF inspectors issued one misdemeanour order.

⁷ Other - In one APMLTF inspection, where AML/CFT infringements were identified, APMLTF inspectors issued 2 misdemeanour orders.

⁸ TOTAL- during 65 inspections APMLTF inspections identified AML/CFT infringements. Out of this number in 31 inspections APMLTF inspectors issued misdemeanour orders and in relation to 34 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

2014									
	Total number of inspections carried out	Number of inspections having identified AML/CFT infringements	Type of sanction/measure applied						Number of sanctions taken to court (if applicable)
			Written warning	Fines		Removal of manager/compliance officer (where applicable)	Withdrawal of license (where applicable)	Other (please specify and add further columns as applicable)	
				Number	Amount (EUR)				
FINANCIAL SECTOR									
Banks	10	6	0	1	34.152,00	0	0	0	0
Securities	26	1	0	0	0	0	0	1 misdemeanour charge (Securities and Exchange Commission reported infringement to the Competent Misdemeanour Body in Podgorica)	
Insurance	5	5	5						
MSBs and exchange offices									
Micro-credit Financial Institutions	0	0	0	0	0	0	0	0	0
Financial leasing	1	0							
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	4	0							
Providing services of founding	1	0							
NON FINANCIAL SECTOR									

Casinos	/	/	/	/	/	/	/	/	/
Real estate	36	11 ⁹		14	€12,236.06				1 Order issued by Competent Misdemeanour Body for fine in the amount of €1,200.00.
Dealers in precious metals and stones									
Lawyers	NA								
Notaries	NA								
Accountants & auditors	/								
Trust and company service providers									
Construction companies	35	14 ¹⁰		20	€31.783,32				6 Order issued by Competent Misdemeanour Body for fine in the amount of € 6,030.00
Tourist agencies	15	6 ¹¹		10	€14.830,00				1 Order issued by Competent Misdemeanour Body but the fine was not charged since limitations for misdemeanour prosecution has elapsed
Hotels and similar	13	5 ¹²		10	€12,000.00				2 Orders

1. _____

⁹ Real estate - Out of 11 APMLTF inspections, where AML/CFT infringements were identified, in 8 inspections APMLTF inspectors issued 16 misdemeanour orders (8 for natural persons and 8 for legal persons). In relation to 3 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

¹⁰ Construction companies- Out of 14 APMLTF inspections, where AML/CFT infringements were identified, in 11 inspections APMLTF inspectors issued 22 misdemeanour orders (11 for natural persons and 11 for legal persons). In relation to 3 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

¹¹ Tourist agencies - Out of 6 APMLTF inspections, where AML/CFT infringements were identified, in 5 inspections APMLTF inspectors issued 10 misdemeanour orders (5 for natural persons and 5 for legal persons) and In relation to 1 inspection request for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

accomodation									issued by Competent Misdemeanour Body for fine in the amount of €600.00
Car dealers	10	1 ¹³							1 Order issued by Competent Misdemeanour Body but the fine was not charged since limitations for misdemeanour prosecution has elapsed
Marketing and consulting activities related to business activities and other managing activities;	0								
Third persons' property management;	6	2 ¹⁴		2	€915.01				3 Orders issued by Competent Misdemeanour Body for fine in the amount of € 9,330.00
Sport organizations(Sport clubs and national sport associations activities)	0								
Intermediation in industrial equipment, machines, vessels	0								

2.

¹² Hotels and similar accomodation- - Out of 5 APMLTF inspections, where AML/CFT infringements were identified, in 5 inspections APMLTF inspectors issued 10 misdemeanour orders (5 for natural persons and 5 for legal persons). In relation to 3 inspections request for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

¹³ Car dealers - In 1 APMLTF inspection, where AML/CFT infringement was identified, APMLTF inspectors issued 1 misdemeanour order). In relation to 1 inspection request for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

¹⁴ Third persons' property management;- Out of 2 APMLTF inspections, where AML/CFT infringements were identified, in 1 inspection APMLTF inspectors issued 2 misdemeanour orders (1 for natural persons and 1 for legal persons). In relation to 1 inspection requests for initiating misdemeanour procedure was submitted to the Competent Misdemeanour Body.

and aircrafts trade									
Wholesale trade in metals and metallic ore	2								
Wholesale trade in watches and jewellery	0								
Production of jewellery and similar goods	0								
Retail sale in watches and jewellery in specialized shops	2								
Religious organisations	0								
Waste sorting and recycling	5								
Harmless Waste collection	0								
Processing and removing harmless waste	0								
Processing and removing harmful waste	0								
Elaborating construction projects	5								
NGOs	2	2 ¹⁵		4	€7.280,00				
TOTAL									
Total APMLTF		44 ¹⁶		57	€79,344.39				14 Orders issued by Competent Misdemeanour Body for fine in the amount of € 17,160-00

1. _____

¹⁵ NGOs- Out of 2 APMLTF inspections, where AML/CFT infringements were identified, in 2 inspection APMLTF inspectors issued 4 misdemeanour orders (2 for natural persons and 2 for legal persons). .

¹⁶ TOTAL- During 44 inspections APMLTF inspections identified AML/CFT infringements. Out of this number in 32 inspections APMLTF inspectors issued 64 misdemeanour orders (32 for natural persons and 32 for legal persons),and in relation to 12 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

2015										
	Total number of inspections carried out	Number of inspections having identified AML/CFT infringements	Type of sanction/measure applied						Number of sanctions taken to court (Misdemeanour Court)	
			Written warning	Fines		Removal of manager/compliance officer (where applicable)	Withdrawal of license (where applicable)	Other (please specify and add further columns as applicable)	Number	Amount (EUR)
				Number	Amount (EUR)					
FINANCIAL SECTOR										
Banks	17	9	0	0	0	0	0	0	2	10.500,00 (misdemeanours from 2013 and 2014)
Securities	19	4	3	0	0	0	0	1 administrative order to rectify irregularities	0	
Insurance	7	6	6							
MSBs and exchange offices										
Micro-credit Financial Institutions	3	2	0	0	0	0	0	0	0	0
Payment institutions	0	0	0	0	0	0	0	0	0	0
Financial leasing	1									
Sale and purchase of claims; factoring and forfeiting ; issuing and performing operations with payment and credit cards;	3									
NON FINANCIAL SECTOR										

Casinos	/	/	/	/	/	/	/	/	/	
Real estate	16	5 ¹⁷		8	€11,783.16					
Lawyers	NA									
Notaries	NA									
Accountants & auditors	1									
Construction companies	49	22 ¹⁸		25	€36.138,01					4 Orders issued by Competent Misdemeanour Body for fine in the amount of € 4,110.00
Tourist agencies	2	1 ¹⁹								
Providing Catering Services	8	2 ²⁰		4	€6,580.00					
Car dealers	2	2 ²¹		4	€4,783.30					
Marketing and consulting activities related to business activities and other managing activities;	8	1 ²²		1	€500.00					
Third persons' property management;	4	2		2	2.333,33					1 Orders issued by Competent Misdemeanour Body for fine in the amount of

1. _____

¹⁷ Real estate - Out of 5 APMLTF inspections, where AML/CFT infringements were identified, in 4 inspections APMLTF inspectors issued 8 misdemeanour orders (4 for natural persons and 4 for legal persons) and in relation to 1 inspection requests for initiating misdemeanour procedure was submitted to the Competent Misdemeanour Body.

¹⁸ Construction companies - Out of 22 APMLTF inspections, where AML/CFT infringements were identified, in 17 inspections APMLTF inspectors issued 34 misdemeanour orders (17 for natural persons and 17 for legal persons) and in relation to 5 inspection requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

¹⁹ Tourist agencies- In one inspection, where AML/CFT infringements were identified, and APMLTF inspectors issued one misdemeanour order.

²⁰ Providing Catering Services- Out of two inspections, where AML/CFT infringements were identified, in 2 inspections APMLTF inspectors issued 4 misdemeanour orders (2 for natural persons and 2 for legal persons).

²¹ Car dealers- Out of two inspections, where AML/CFT infringements were identified, in 2 inspections APMLTF inspectors issued 4 misdemeanour orders (2 for natural persons and 2 for legal persons).

²² Marketing and consulting activities related to business activities and other managing activities – In one inspection ,where AML/CFT infringement was identified, APMLTF inspectors issued 4 misdemeanour orders (2 for natural persons and 2 for legal persons)

											€1.050,00
Religious organisations	2										
Waste sorting and recycling	3										
Elaborating construction projects	10										
Renting own real estate or rented real-estate and their management	5	3²³		6	€7.118,00						
Other activities	14	1²⁴		2	€2333,33						
TOTAL											
Total APMLTF		39²⁵		52	€69,236.58						

1. _____

²³ Renting own real estate or rented real-estate and their management - Out of 3 APMLTF inspections, where AML/CFT infringements were identified, in 3 inspections APMLTF inspectors issued 6 misdemeanour orders (3 for natural persons and 3 for legal persons) .

²⁴ Other activities- In one APMLTF inspection, where AML/CFT infringements was identified, APMLTF inspectors issued 2 misdemeanour orders (1 for natural persons and 1 for legal persons).

²⁵ TOTAL- during 39 inspections APMLTF inspections identified AML/CFT infringements. Out of this number in 31 inspections APMLTF inspectors issued 62 misdemeanour orders (31 for natural persons and 31 for legal persons) and in relation to 8 inspections requests for initiating misdemeanour procedures were submitted to the Competent Misdemeanour Body.

6. Mutual legal assistance and other international requests for co-operation

The following tables a. and b. are to provide information on the level of mutual legal assistance in relation to money laundering and terrorist financing investigations. This table mirrors the designated categories of offences as set out in the glossary to the FATF Methodology. Where domestic data collection does not use the same categorisation then the domestic categories may be substituted. Conversely, if equivalent data is recorded but in a different format due to domestic requirements then this format may be utilised instead.

The table should only relate to mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings.

6.1 Mutual legal assistance and extradition requests – incoming requests

Until 2015 Ministry of justice does not have electronic computerized database of the cases handled by the Department of International Cooperation. Due the lack of a computerized system, the staff has to execute all the requests manually and on paper, which makes the process lengthier, as well as does not enable the authorities to maintain comprehensive statistics and evaluate these. As has been stated above with regard to resources, the Department of International Cooperation of the Ministry of Justice does not have a computerized database and as a result, we already informed you that comprehensive statistics are not maintained with regard to MLA. No statistics in relation to MLA have been provided for the years 2009-2012.

Regarding 2013, statistics were provided regarding MLA related to ML, TF and FATF designated predicate offences. 4 MLA requests were received and 7 requests were send by Montenegro for money laundering in that year and no requests were processed for TF. No information has been provided about the time of execution of the requests, nor about the countries to which the requests were related. Statistics also do not differentiate between the requests on which the legal assistance was provided and those in which the assistance was declined.

Statistics were also provided about incoming and outgoing requests for extradition, which also covered ML, TF and the designated predicate offences. In 2013 one ML request was received, no requests were send and there have been no requests related to TF. The extradition statistics included also the length of execution, which for the ML request was 73 days, whilst for the extradition requests for predicate offences the average time was 64 days.

2013											
	Received		Pending		Refused		Executed		Average time of execution(days)		Refusal grounds applied
	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	
Money laundering	4	1						1		73 days	
Terrorist financing	0										
Participation in an organised criminal group and racketeering;	16	4		2		1		1		60 days	Not met the conditions stipulated by the contract
Terrorism	0										
Trafficking in human beings and migrant smuggling;	6	1						1		60 days	
Sexual	2	1						1		60 days	

exploitation, including sexual exploitation of children;										
Illicit trafficking in narcotic drugs and psychotropic substances;	47	5		1			4		95.5 days	
Illicit arms trafficking;	15									
Illicit trafficking in stolen and other goods;										
Corruption and bribery;	9									
Fraud;	35	3					3		33.4 days	
Counterfeiting currency;	3	1					1		86 days	
Counterfeiting and piracy of products;	0									
Environmental crime	2									
Murder, grievous bodily injury;	25	5		2			3		68.4 days	
Kidnapping, illegal restraint and hostage-taking;	1									
Robbery or theft;	49	16		1			15		90.4 days	
Smuggling;	10									
Extortion;	7									
Forgery;	35	1					1		14 days	
Piracy; and	3									
Insider trading and market manipulation	0									
Total	269	38		6		1	31			

2015											
	Received		Pending		Refused		Executed		Average time of execution(days)		Refusal grounds applied
	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	
Money laundering	11	2	10	0	0	0	1	2	20	178	
Terrorist financing	/	/									
Participation in an organised criminal group and racketeering;	9	3	7	1	0	1	2	1	23	182	
Terrorism	/	/									
Trafficking in human beings and migrant smuggling;	10	3	2	1	1	0	7	2	17	77	
Sexual exploitation, including sexual exploitation of children;	/	/									
Illicit trafficking in narcotic drugs and psychotropic substances;	50	12	25	2	4	1	21	9	73	134	
Illicit arms trafficking;	1	/	0		0		1		2		
Illicit trafficking in stolen and other goods;	1	/	0		0		1		27		
Corruption and bribery;	1	/	1		0		0				
Fraud;	22	8	14	4	2	0	6	4	104		
Counterfeiting currency;	3	1	0	0	0	0	3	1	1	141	
Counterfeiting and piracy of products;	1	/	0		0		1		0		
Environmental crime	/	/									
Murder, grievous	20	6	7	1	3	1	10	4	14	104	

bodily injury;											
Kidnapping, illegal restraint and hostage-taking;	2	0	0	0	1	0	1	0	28		
Robbery or theft;	52	24	23	27	6	0	23	17	32	120	
Smuggling;	13	/	10		0		3		102		
Extortion;	2	1	1	1	0	0	1	0	154		
Forgery;	26	6	15	2	1	0	10	4	34	100	
Piracy; and	/	/									
Insider trading and market manipulation	/	/									
Total	224	65	115	18	18	2	91	44	44	126	

The Ministry of Justice in January 2015 introduced an electronic system Luris, which allows electronic register of cases of mutual legal assistance. Statistics is available only for 2015 and for future cases.

6.2 Mutual legal assistance and extradition requests – outgoing requests

2013											
	Received		Pending		Refused		Executed		Average time of execution(days)		Refusal grounds applied
	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	
Money laundering	7	1		1							
Terrorist financing	0										
Participation in an organised criminal group and racketeering;	7	1						1		180 days	
Terrorism	0										
Trafficking in human beings and migrant smuggling;	2										
Sexual exploitation, including sexual exploitation of children;	8	1						1		90 days	
Illicit trafficking in narcotic drugs and psychotropic substances;	54	9		5		1		3		80 days	Prosecution barred by statute of limitations
Illicit arms trafficking;	8	2		2							
Illicit trafficking in stolen and other goods;	6										
Corruption and bribery;	14	3		1		1		1		60 days	He served his sentence being provisionally arrested
Fraud;	30	10		9				1		30 days	
Counterfeiting currency;	6										
Counterfeiting	0										

and piracy of products;											
Environmental crime	1										
Murder, grievous bodily injury;	35	5		4				1		90 days	
Kidnapping, illegal restraint and hostage-taking;	1										
Robbery or theft;	84	15		11				4		97.5 days	
Smuggling;	15	1		1							
Extortion;	0										
Forgery;	34	4		3				1		90 days	
Piracy; and	1										
Insider trading and market manipulation	2										
Total	315	52		37		2		13			

2015											
	Received		Pending		Refused		Executed		Average time of execution(days)		Refusal grounds applied
	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	MLA	Extradition	
Money laundering	5	/	4		0		1				
Terrorist financing	/	/									
Participation in an organised criminal group and racketeering;	17	2	15	2	0	0	2	0	18		
Terrorism	/	/									
Trafficking in human beings and migrant smuggling;	2	1	2	1	0	0	0	0			
Sexual exploitation,	/	/									

including sexual exploitation of children;											
Illicit trafficking in narcotic drugs and psychotropic substances;	24	5	17	4	1	0	6	1	46	190	
Illicit arms trafficking;	/	/									
Illicit trafficking in stolen and other goods;	5	/	3		1		1		50		
Corruption and bribery;	2	/	2		0		0				
Fraud;	28	3	19	1	1	0	8	2	79	193	
Counterfeiting currency;	5	1	3	1	0	0	2	0	86		
Counterfeiting and piracy of products;	/	/									
Environmental crime	/	/									
Murder, grievous bodily injury;	33	7	25	5	2	0	6	2	213	18	
Kidnapping, illegal restraint and hostage-taking;	1	/	0		1		0				
Robbery or theft;	57	15	42	11	4	0	11	4	94	116	
Smuggling;	5	1	4	1	0	0	1	0	251		
Extortion;	2	/	2		0		0				
Forgery;	43	5	32	3	3	0	8	2	103	83	
Piracy; and	/	/									
Insider trading and market manipulation	/	/									
Total	229	40	170	29	13	0	46	11	101	113	

6.3 International requests sent or received regarding freezing, seizing and confiscation

The following table is intended to provide information on the level of mutual legal assistance requests sent or received regarding freezing, seizing and confiscation. Where equivalent data is recorded but in a different format due to domestic requirements then this format may be utilised instead.

The table should relate to mutual legal assistance in relation to requests sent or received to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value.

Reference year	Incoming requests								Outgoing requests
	Total			Breakdown of executed incoming requests					
	Received	Executed	Refused	Freezing	Seizing	Confiscation	Average execution time	Amount (EUR)	
2015									
ML	4	1	/	1			101	/	4
FT									
Predicate offences	Fraud, Participation in an organised criminal group, Theft	Fraud, Embezzlement		Fraud, Embezzlement			101		Abuse of an Official Position
20xx									
ML									
FT									
Predicate offences									
20xx									
ML									
FT									

Predicate offences									
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The following tables 6.4 to 6.6 are intended to provide an indication of the level of cooperation between FIUs, law enforcement agencies and supervisory authorities. Where equivalent data is recorded but in a different format due to domestic requirements then this format may be utilised instead.

6.4 FIU to FIU co-operation

International co-operation	2013	2014	2015	Total
INCOMING REQUESTS				
Foreign requests received by the FIU	40	39	47	126
Foreign requests executed by the FIU	40	39	47	126
Foreign requests refused by the FIU	0	0	0	0
Spontaneous sharing of information received by the FIU	1	1	1	3
TOTAL (incoming requests and information)	40	39	47	126
Average number of days to respond to requests from foreign FIUs	up to 30 days			
Refusal grounds applied	/	/	/	/
OUTGOING REQUESTS				
Requests sent by the FIU	210	142	135	487
Spontaneous sharing of information sent by the FIU	2	0	3	5
TOTAL(outgoing requests and information)	210	142	135	487

6.5 Law enforcement agencies co-operation

Police Directorate

International co-operation	2013		2014		2015	
	ML	FT	ML	FT	ML	FT
INCOMING REQUESTS						
Foreign requests received by law enforcement authorities related to ML	130	176	172	228	176	1916
Foreign requests executed	130	176	172	228	176	1916
Foreign requests refused						
TOTAL						
Average time of execution (days)						
OUTGOING REQUESTS						
Number of requests sent abroad by law enforcement authorities	110	101	164	153	176	374
Number of requests sent and executed	110	101	164	153	176	374
Number of requests sent and refused						
TOTAL						

Please NOTE: Data in column ML refer to the requests on money laundering that are received and sent through the International Police Cooperation Department of the Police Directorate Montenegro. Data in the column FT refer to requests on terrorism. There is no data base from which it could be possible to extract just cases that refer to financing of terrorism. The mentioned Department was not able to provide data on the average time necessary for response.

6.6 Supervisory authorities international cooperation

International co-operation	20xx		20xx		20xx	
ML/FT INCOMING REQUESTS						
Foreign requests received by supervisory authorities related to ML/FT specifically						
Foreign requests executed						
Average time of execution (days)						
Foreign requests refused						
AML/CFT OUTGOING REQUESTS						
Requests sent by supervisory authorities related to AML/CFT specifically						
Number of requests sent and executed by foreign authority						
Number of requests sent and refused by foreign authority						
TOTAL						

7. AML/CFT Training

The following tables are intended to provide details of the level of training and awareness raising that has been undertaken on matters related to the AML/CFT regime. Where equivalent data is recorded but in a different format due to domestic requirements then this format may be utilised instead.

7.1 Training Received since on-site visit

	Subject	Date	Number of attendees
a. FIU	<p>2013</p> <p>JANUARY 29 January - SPS Info day, devoted to NATO program Science for Peace and Security (SPS) - Podgorica – Ministry of Foreign Affairs and European Integration in cooperation with the University of Montenegro– 1 APMLTF employee</p> <p>FEBRUARY 13-15 February - Strategic priorities in the cooperation against cybercrime - hosted by Minister of Interior and the Minister of Justice of Croatia – Dubrovnik, Croatia - 1 APMLTF employee 27 February – Presentation on „Suppressing organized financial crime“ – Ministry of Interior, General Prosecution GB, Podgorica – 1 APMLTF employee</p> <p>MARCH 7 March - Exchange of alternatives practices for the utilization of confiscated criminal assets – Delegation of the EU to Montenegro and Local Democracy Agency Montenegro– 1 APMLTF employee 14-15 March -Fight against organized crime and corruption - Strengthening the Prosecutors' Network – Judicial Training Centre of Montenegro (JTCM) in cooperation with German organization for the International Cooperation and Dutch Centre for International Cooperation – Podgorica, Montenegro– 2 APMLTF employees 13 March – Integrity plan – Podgorica – Human Resources Management Authority (HRM Authority) – 3 APMLTF employees</p>		

21-22 March - **Financial investigations and confiscations** - experience of Croatia and Great Britain – HRM Authority, JTCM, UNDP and OSCE, Petrovac, Montenegro - 2 APMLTF employees
28-29 March – **From an idea to a successfully realized project** (seminar for creating IPA projects) – Podgorica – HRM Authority – 1 APMLTF employee

APRIL

1-5 April- A five-day **Workshop related to creating a new Action Plan** – Police Directorate in cooperation with the OSCE mission to Montenegro-Pržno - 1 APMLTF employee

1-3 April – **FIU strategic analysis** – World bank and Kazakhstan Ministry of Finance – Borovoe, Kazakhstan - 2 APMLTF employees

17-19 April- **Models of communication between citizens and public administration in information society**– Podgorica – Ministry for Information Society and Telecommunications – 2 APMLTF employees

29-30 April- **Closing Conference on Cyber Crime** – IPA, Budva, Montenegro, 1 APMLTF employee

MAY

8 May – **Constitutional system of Montenegro**, HRM Authority, Podgorica, 1 APMLTF employee

8 May – **Prevention of corruption**, HRM Authority, Podgorica, 6 APMLTF employees

17 May – **Public administration system**, HRM Authority, Podgorica, 7 APMLTF employees

24 May –**European Union** - HRM Authority, Podgorica, 7 APMLTF employees

28 May– **Public finances system** – HRM Authority, Podgorica, 7 APMLTF employees

JUNE

5 June - **Free access to information in correlation with personal and confidential data** - HRM Authority, Podgorica, 2 APMLTF employees

20 June – **Business correspondence** – HRM Authority, Podgorica, 6 APMLTF employees

22-24 June – V Seminar of International Association of Anti-Corruption Authority (IAACA) - IAACA and the Supreme People's Procurator of the People's Republic of China (SPP), - Jinan, the

	<p>capital of Shandong Province, China) – 1 APMLTF employee 24 – 28 June – Seminar on financial investigation – British Embassy – Police Academy, Danilovgrad – 3 APMLTF employees</p> <p>JULY</p> <p>4 July - Mobbing – HRM Authority, Podgorica, 1 APMLTF employee 5 July – Code of Ethics – HRM Authority, Podgorica, 3 APMLTF employees 8 July- Office Affairs – HRM Authority, Podgorica, 1 APMLTF employee 10 July- Conflict management – HRM Authority, Podgorica, 1 APMLTF employee 4-5 July - “Workshop on implementation of international restrictive measures”, Podgorica – General Directorate of EC for Enlargement - 2 APMLTF employees</p> <p>AUGUST</p> <p>26 – 30 August – The sixth regional - Euro Atlantic Camp REACT 2013 (NGO ALFA CENTAR) – Plav, Montenegro – 1 APMLTF employee</p> <p>SEPTEMBER</p> <p>4-5 September – Regional Conference on money laundering and assets recovery - Belgrade, USA Embassy in Belgrade, Attorney general of the USA Ministry of Justice and OSCE Mission to Serbia – 2 APMLTF employees 24 – 25 September– Judicial cooperation in criminal matters – Public Administration and Justice Ministry, International Criminal Law Department of Hungary and Ministry of Justice of Montenegro, Podgorica, 3 APMLTF employees</p> <p>OCTOBER</p> <p>1 October – Drafting and adopting a law – HRM Authority – Podgorica, Montenegro –2 APMLTF employees 3 – 4 October - Assessment of opportunities for developing skills in public administration - HRM Authority in cooperation with ENA (French school for public administration), Podgorica– 1 APMLTF</p>		
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	<p>employee</p> <p>8-10 October - National workshop on the International Legal Framework against Terrorism and its Financing – Police Directorate and UNODC - HRM Authority, Podgorica, Montenegro – 3 APMLTF employees</p> <p>9-10 October - The position of organizations performing public powers - SIGMA/OECD and Ministry of Interior - RESPA Danilovgrad, Montenegro - 1 APMLTF employee</p> <p>23 -25 October – The role of FIU in the fight against money laundering linked with narcotics-traffic – institutional network and best practices – MILDT – Sofia, Bulgaria – 2 APMLTF employees</p> <p>NOVEMBER</p> <p>4 -5 November – South –East Europe Workshop on the Links between Terrorism and organized crime, organized by RACVIAC, SELEC, Counter terrorism Committee- Executive Directorate, Turkish National police, Regional Cooperation Council, Antalya, Turkey</p> <p>12-13 November -Financing and budgeting of projects, HRM Authority, Podgorica, Montenegro – 1 APMLTF employee</p> <p>12 -15 November- 19th EAG Plenary Meeting, Ashgabat, Turkmenistan</p> <p>15 November – Round table „Opening the negotiation process within the Chapter 23– judiciary and fundamental rights– are we ready or not“ –Podgorica – Centre for Development of Non-Governmental Organizations in partnership with the Centre for Anti- Discrimination „Ekvista“ from Podgorica, Adria from Bar and Democratic centre from Bijelo Polje</p> <p>18 -21 November- EU Accession and international cooperation in suppression of organized crime, organized by Ministry of Justice Croatia and US Embassy in Croatia, Dubrovnik, Croatia</p> <p>22 November – Round table: European integration process and fight against high level corruption, Podgorica – Monitor in cooperation with the Embassies of the Netherlands and Austria– 1 APMLTF employee</p> <p>DECEMBER</p> <p>2 – 3 December – National Risk Assessment –</p>		
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	<p>implementing the new FATF Recommendation 1 – APLMTF, Budva, 9 APLMTF employees 6 December – The ability to conduct structured interview by managers and heads of authorities - HRM Authority in cooperation with IPA Project, Podgorica – 1 APLMTF employee</p> <p>TRAININGS ORGANIZED BY THE APLMTF 2013</p> <p>27-28 March – Conducting supervision over the implementation of the LPMLTF by Securities Commission and Insurance Supervision Agency – organized by the APLMTF-3 participants and 4 lecturers from the APLMTF – in cooperation with the OSCE mission to Montenegro.</p>		
	<p>2014 JANUARY</p> <p>27 January 2014 - Prevention of money laundering in Montenegro and best practices wide world– NGO MANS and European Union Office to Montenegro, Podgorica – 4 APLMTF employees</p> <p>FEBRUARY</p> <p>4 February 2014 - Assessment of civil servants and employees – Human Resources Management Authority (HRM Authority) – 3 APLMTF employees 10 February 2014 - Procedure before the Commission for complaints – HRM Authority, 2 APLMTF employees 10-11 February 2014, HEMOLIA Conference and presentation – FIU Romania - Bucharest, Romania – 2 APLMTF employees 17-20 February 2014 – EGMONT Committee and Working Group Meeting– Budapest, Hungary, 2 APLMTF employees 24-25 February 2014 – Workshop on the legitimate and illegitimate use of offshore corporate structures, legal arrangements, foreign trade operations and free trade zones – Project against MLTF in Serbia – MOLI Serbia – Belgrade – 1 APLMTF employee</p>		

	<p>MARCH</p> <p>14 March 2014 - Public relations training- NATO Membership Council's Communication Team – Podgorica – 1 APMLTF employee</p> <p>24-26 March 2014- Workshop on National Risk Assessment from money laundering and terrorist financing- TAIEX, OSCE, World Bank in cooperation with Government of Montenegro- APMLTF</p> <p>APRIL</p> <p>8-9 April 2014 - Paris Pact Expert Working Group on Illicit financial flows deriving from the trafficking of opiates originating in Afghanistan, organized by UNODC, Vienna, Austria, 1 APMLTF employee</p> <p>16–18 April 2014, Conference of the Parties to CETS no°198, Strasbourg , France</p> <p>17 April 2014 – Managing risks in public finances – HRM Authority, 1 APMLTF employee</p> <p>28-30 April 2014 – Regional interagency seminar on investigation and prosecution based on supervision of the dual use goods – BAFA – Federal Office of Economics and Export Control, Becici, Montenegro– 1 APMLTF employee</p> <p>MAY</p> <p>13 May 2014 – Strategic planning and strategic management, organized by HRM Authority, Podgorica, 1 APMLTF employee</p> <p>12-15 May 2014 - MONEYVAL – Meeting on typologies of laundering proceeds of crime, San Marino, 2 APMLTF employees</p> <p>14 May 2014 – Education of public officials on conflict of interest – Commission for the Prevention of Conflict of Interest– HRM Authority, 1 APMLTF employee</p> <p>18-20 May 2014 - Workshop on development of the sector planning document for IPA II 2014, Becici, Montenegro</p> <p>19–20 May 2014 - Financial investigations and seizure of property, organized by HRM Authority</p>		
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	<p>and OSCE Office in Podgorica, Becici, Montenegro, 1 APMLTF employee 26 - 27 May 2014 – Managing human resources – HRM Authority, 1 APMLTF employee JUNE</p> <p>1–6 June 2014 – 22nd EGMONT Plenary and Working Group Meetings, Lima, Peru, 2 APMLTF employees 4-5 June 2014 – Working meeting on IT solutions with FIU Serbia, Belgrade, 2 APMLTF employees 16–20 June 2014 - 20th EAG Plenary Meeting, Moscow, Russian Federation, 2 APMLTF employees 26 June 2014 – Workshop “The role and importance of Internet in promoting the work of state administration authority” – Ministry for Information Society and Telecommunications – press hall of the Government of Montenegro – 1 APMLTF employee 30 June- 01 July 2014 – Conference on the best international practice in conducting financial investigations and property seizure, organized by the USA Embassy, OSCE, Judicial Training Centre of Montenegro, Kolašin, Montenegro, 2 APMLTF employees JULY</p> <p>29.07- 01.08 2014.- Conference HERCULE 2, organized by OLAF and Hungarian Prime Minister’s Office, Budapest, Hungary, 1 APMLTF employee AUGUST</p> <p>4–8 August 2014 - Course of Legal Drafting and the Revised Action Task Forces 40 Recommendations, organized by IMF, Vienna, Austria, 1 APMLTF employee 24-30 August 2014 - Strategic Analysis Training, Council of Europe, Strasbourg, France 27-29 August 2014 – Final Conference of the project HERCULE 2, organized by OLAF and Hungarian Prime Minister’s Office, Budapest, Hungary, 2 APMLTF employees SEPTEMBER</p>		
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19 September 2014 – **Increasing the level of safety** - HRM Authority, Podgorica, 2 APMLTF employees

23-25 September 2014 - **Countering Corruption - Effectiveness through Interagency and Multi-Sectorial Approaches**, organized by George Marshall Centre and Ministry of Defence Albania-Tirana, Albania, 1 APMLTF employee

23-25 September 2014 - **Strengthening capacities in fight against illegal crossbred funds transfer**, organized by the UNODC- Ohrid, Macedonia, 2 APMLTF employees

25–26 September 2014 – **Social dialogue and conflict management** – HRM Authority, Podgorica, 1 APMLTF employee

25–26 September 2014 – **International Conference on Terrorism and Organised Crime**, organized by Council of Europe and University of Malaga- Malaga, Spain, 1 APMLTF employee

OCTOBER

6-8 October 2014– **General administrative procedure** – HRM Authority, Podgorica, 2 APMLTF employees

9-10 October 2014 – **Workshop on National Risk Assessment**, organized by the APMLTF with the financial support of OSCE mission to Montenegro, Budva, Montenegro – 7 APMLTF employees

NOVEMBER

6 November 2014 – **Civil society and negotiation in Chapters 23 and 24** – organized by NGOs: Institute Alternative (AI), Centre for Monitoring (CEMI) and Centre for democracy and human rights (CEDEM)–Podgorica, 1 APMLTF employee

12 November 2014 – Round table **Presentation of the Draft Law on Seizure and Confiscation of Proceeds of Crime**, organized by Ministry of Justice Montenegro, Podgorica, 1 APMLTF employee

10 -14 November 2014 - **EAG Plenary meeting**-Dushanbe, Republic of Tajikistan

17-21 November 2014– **International conference**

– **currency fraud**, organized by the Italian Ministry of Finance and OLAF Office- Rome, Italy, 1 APMLTF employee
24-28 November 2014 - **Financial investigations techniques** – ILEA Academy, Budapest, Hungary, 1 APMLTF employee
DECEMBER

1-3 December 2014 – **Procedure before the Appeal Commission**– organized by HRM Authority - Podgorica, Montenegro, 1 APMLTF employee

3-4 December 2014– **Cooperation between the state administration bodies and civil society organisations** – organized by HRM Authority and Centre for Development of Non-Governmental Organizations - Podgorica, Montenegro, 1 APMLTF employee

4-5 December 2014 – **Financial investigation and seizure of property** – organized by HRM Authority, OSCE office to Montenegro and Judicial Training Centre of Montenegro – Budva, Montenegro, 2 APMLTF employees

5 December 2014 – **The Eight National Anticorruption Conference** – organized by the Network for Affirmation of the NGO Sector (MANS) - Podgorica, Montenegro, 1 APMLTF employee

12 December 2014 - **Workshop on human resource planning**– organized by HRM Authority - Podgorica, Montenegro, 1 APMLTF employee

17 December 2014 – **AML/CFT training for accountants and auditors** - Institute of Certified Accountants of Montenegro – one lecturer from the APMLTF

TRAININGS ORGANIZED BY APMLTF

6 May 2014, **Workshop for reporting entities on prevention of ML/TF in money transfer companies**, organized by OSCE Office in Podgorica and APMLTF, Podgorica, 20 participants (bank representatives -12, Post office Montenegro – 1, APMLTF – 7), Podgorica

16-17 October 2014, **Workshop on legal terms and obligations of reporting related to fight against organized crime**, organized by TAIEX and

	<p>APMLTF – 6 APMLTF employees and 14 reporting entities representatives (Tourism sector -1, constructing companies -2, accounting agencies - 8, real estate trade-4), Podgorica</p> <p>19 November 2014– Prevention of money laundering and terrorist financing on the capital market, APMLTF, HRM Authority, Securities Commission – Podgorica – 2 APMLTF employees (1 lecturer from the APMLTF)/ targeted group were the securities market participants and supervisors – Securities Commission</p> <p>20-21 October 2014- VIII Regional conference of the heads of FIUs, organized by the APMLTF and in cooperation with OSCE mission to Montenegro-Podgorica, 6 APLMTF employees</p>		
	<p>2015 JANUARY</p> <p>1. 15-16 January – Fight against financial crime – Judicial Training Centre of Montenegro (JTCM) – „Seminar on ML, property confiscation and management of confiscated property“ – Podgorica, 2 APMLTF employees</p> <p>FEBRUARY</p> <p>1. 3 February – Implementation of the Law on Free Access to Information in practice – organized by OSCE office to Montenegro and Human Resources Management Authority (HRM Authority) - Podgorica, Montenegro – 2 APMLTF employees</p> <p>2. 3-4 February - Money laundering, seizure of property and management of seized property - organized within the IPA Project EU Support to the Rule of Law in Montenegro – in cooperation with HRM Authority, AMI Consulting Global, JTCM, Podgorica, 1 APMLTF employee</p> <p>3. 10 February – Informatics data protection – organized by HRM Authority - Podgorica, Montenegro, 2 APMLTF employees</p> <p>4. 11 February - Round table: Presentation of the new Law on Administrative Procedure - organized by HRM Authority - Podgorica, Montenegro, 2 APMLTF employees</p> <p>5. 16 February - Strategic planning, financial</p>		

	<p>management and control -organized by HRM Authority - Podgorica, Montenegro, 2 APLTF employee</p> <p>MARCH</p> <ol style="list-style-type: none"> 1. 2-3 March - Strategies for suppression of violent extremism including implementation of the provisions of the new Criminal Code regarding foreign fighters - organized by JTCM - Becici, Montenegro - 2 APLTF employees 2. 5-6 March - Cooperation between the state administration bodies and civil society organisations – organized by HRM Authority and Centre for Development of Non-Governmental Organizations - Podgorica, Montenegro-2 APLTF employees <p>APRIL</p> <ol style="list-style-type: none"> 1. 8-10 April – Training on Establishing Joint Investigation Teams- good practices and challenges - organized by UNODC and the Government of the Republic of Hungary, Budapest -1 APLTF employee 2. 13- 17 April – 47th Moneyval Plenary Meeting and pre-meeting with the Moneyval experts, Strasbourg, France 3. 29-30 April - Seminar on EU pre-accession instruments (IPA I and IPA II); organized by CDP (Capacity Development Programme for the Government of Montenegro) - Becici, Montenegro - 1 APLTF employee <p>MAY</p> <ol style="list-style-type: none"> 1. 11-12 May – Countering Illicit Drug Trafficking and Transnational Organized Crime – organized by UNODC - Zagreb, Croatia - 1 APLTF employee 2. 18-23 May – 22 EAG Plenary Meeting - Tashkent, Uzbekistan, 2 APLTF employees <p>JUNE</p> <ol style="list-style-type: none"> 1. 4-5 June - Financial investigations, money laundering, obtaining and providing evidence – organized by HRM Authority, US Embassy and OSCE – Becici, Montenegro -2 APLTF employees 2. 8-12 June - Terrorism Financing, organized by Ministry of Justice USA, US Embassy in Croatia and Ministry of Interior Croatia - Zagreb, Croatia, 1 		
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	<p>APMLTF employee</p> <p>3. 22-24 June - Workshop on National Risk Assessment (NRA) from Money Laundering and Terrorist Financing- Podgorica, Montenegro</p> <p>4. 24-25 June - Practical implementation of the Law on Administrative Procedure, organized by HRM Authority – Podgorica, Montenegro- 6 APMLTF employees</p> <p>JULY</p> <p>1. 1 July - Strengthening influence of State Audit Institution in Montenegro, organized by NGO Institute Alternative, - Podgorica, Montenegro, 1 APMLTF employee</p> <p>SEPTEMBER</p> <p>1. 13-15 September - “Project planning workshop”- Cybercrime Programme Office of the Council of Europe(C-PROC), Romania, Bucharest, 1 APMLTF employee</p> <p>OCTOBER</p> <p>1. 07 October - Education of public officials on conflict of interest- organized by Commission for Prevention of Conflict of Interests Montenegro, Rozaje, Montenegro -1 APLMTF employee</p> <p>2. 19-23 October- Criminal- intelligence analytics – organized by UNODC in cooperation with the Turkish International Academy against Drugs and Organized Crime (TADOC), Podgorica, Montenegro, 2 APMLTF employees</p> <p>3. 26 - 28 October- Strategic Analysis, organized by EGMONT group in cooperation with the Financial Information Treatment Unit Morocco - Rabat, Morocco -1 APMLTF employee</p> <p>NOVEMBER</p> <p>1. 9- 13 November – 23rd EAG Plenary Meeting, Moscow, Russia, 2 APMLTF employees</p> <p>2. 8 -11 November – 49th Moneyval Plenary Meeting, Strasbourg, France</p> <p>3. 17 November - Alternative banking platforms, organized by EUROL in cooperation with British liaison officer from Vienna, Danilovgrad, Montenegro - 6 APMLTF employees</p> <p>4. 20 November- Prevention and fight against fraud, embezzlement and managing irregularities with a view to protecting EU financial interests - HRM Authority and Ministry of Finance -1 APMLTF employee</p>		
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	<p>5. 27 November – Conference „Through free access to information to open institutions“ – organized by NGO Centre for Democratic Transition, Podgorica, Montenegro, 1 APLMTF employee</p> <p>DECEMBER</p> <p>1. 3-4 December –Workshop on best practices of prosecuting cases of high level corruption and organized crime with the focus on special investigation activities –Ministry of Justice and TAIEX – Podgorica – 2 APLMTF employees</p> <p>2. 7 December- „Civil society makes a decision“- Centre for Development of Non-Governmental Organizations -Podgorica- 1 APLMTF employee</p> <p>3. 9 -10 December- IX National convention on fight against corruption and organized crime - MANS- Podgorica- 1 APLMTF employee</p> <p>4. 9-12 December- Study visit related to new provisions of Criminal Code on foreign fighters – USA Embassy in Podgorica -Vienna, Austria - 2 APLMTF employees</p> <p>TRAININGS ORGANIZED BY THE APLMTF:</p> <p>1. 19 – 20 March – Implementation of the FATF Recommendations in the national legislation – organized by the Administration for the Prevention of Money Laundering and Terrorist Financing in cooperation with TAIEX - Podgorica, Montenegro – 27 participants (Tax Administration – 4 representatives, Agency for Electronic Communications and Postal Services -3, Games on Chance Administration -2, Ministry of Interior/Police Directorate-2, Insurance Supervision Agency (ISA)-4, Securities Commission-2, Central Bank of Montenegro-4, APLMTF-6 representatives)</p> <p>2. 8 July – Prevention of money laundering and terrorist financing in the life insurance sector - APLMTF, ISA and HRM Authority, Podgorica, 30 participants (insurance companies dealing with life insurance and representatives from the Insurance Supervision Agency)</p> <p>3. 25 November- Implementation of the New FATF Recommendations into national legislation -</p>		
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	<p>Implementation of the CDD measures, organized by APMLTF with TAIEX support, Podgorica, Montenegro, 48 participants (Certified Accountants Institute -1 representative, accounting agencies-10, banking sector-11, casinos-3, betting houses-3, life insurance companies-6, Customs Administration- 1, Insurance Supervision Agency -2, Police Directorate-1, Securities Commission-1, Prosecutor's Office- 1, Central Bank of Montenegro-1, APMLTF-7 representatives)</p> <p>4. 26 November - Implementation of the New FATF Recommendations into national legislation – Suspicious transactions reporting by the new categories of the reporting entities, organized by APMLTF with TAIEX support, Podgorica, Montenegro, 25 participants (constructing companies-9 representatives, multi-level sale-3, religious communities-3, marketing agencies-1, APMLTF- 7)</p> <p>5. 27. November- Implementation of the New FATF Recommendations into national legislation-Prevention of terrorist financing, organized by APMLTF with TAIEX support, Podgorica, Montenegro, 24 participants (NGOs and NPOs-4, Post Office of Montenegro- 1, banks- 10, APMLTF- 8)</p> <p>6. 2-3 December - Enhancing Cooperation among competent authorities in fighting money laundering and terrorist financing, with reference to financial investigation procedure – organized by the APMLTF in cooperation with OSCE mission to Montenegro, Budva, MNE, 15 participants (APMLTF -7, the other representatives were from the Court, Prosecutor's Office, Police Directorate, Tax Administration)</p>		
<p>b. Police and other law enforcement agencies</p>	<p>Police Directorate(In the table below are listed trainings that refer to the financial investigations since on all these trainings with subject financial investigations or likewise, money laundering was included as one of the subjects.)</p> <p>1. Stopping money laundering in Montenegro and the best practice around the world</p>	<p>27.01.2014.</p>	<p>2</p>

	2. National strategy for fight against the money laundering and the financing of terrorism	24.- 26.03.2014.	1
	3. Drafting of the national strategy for risk assessment of money laundering and the financing of terrorism- Money laundering and the financing of terrorism	22.06 – 24.06.2015.	1
	4. Stopping money laundering and the financing of terrorism	17.11.2015.	3
	5. Money laundering and financial investigations	04.03.- 07.03.2014	2
	6. Financial investigations	10.03.-13.03.2014	2
	7. Financial investigations and repossessing	30.06.-01.07.2014	2
	8. Conference about the best practice related to laws about the foreign fighters	17.10.2014	2
	9. Financial investigations and the most suitable ways to implement them	24.-28.11.2014	2
	10. Foreign fighters	2.- 03.03.2015	1
	11. Training, financing of terrorism	8-12.06.2015	2
	12. Training for the conduction of a financial investigation	03-05.06.2015	2
	13. Risk assessment and terrorism analysis	09.13.11.2015	1
	14. Tutoring visit to the money laundering unit and the unit for financial investigations of Ministry of the Interior Affairs of Republic of Serbia	07-10.12.2015	3
	15. Investigations of organized crime	27.04-05.2015	11
	16. Investigation of financial crimes	05-09.10.2015	3

	17. Improvement of cooperation between law enforcement agencies that deal with money laundering and financing of terrorism including the conduction of the financial investigations	02.-03.12.2015	3
c. Customs and border control officers	12 th plenary session of C2013 cash control work group	27-28 May 2013	1
	14 th session of cash control work group	5-6 December 2013	1
	47 th plenary session of committee of experts for assessment of measures for suppression of money laundering and terrorism financing MONEYVAL	13-17 April 2015	2
	18 th plenary session of coordination cash control group	12-13 November 2015	1
	Training for involved parties pursuant to the Law on prevention of money laundering and terrorism financing	25 November 2015	1
	Training »Financial investigations and seizure of assets«	4-5 December 2014	2
	Training »Prevention and combatting fraud, managing irregularities in order to protect EU financial interests«	20 November 2015	1
	Training »Financial investigations – suspicious transactions«	23-24 November 2015	1

	Support to the implementation of anticorruption strategy and Action plan	23-24 January 2013	2
	Combatting corruption	26-27 February 2013	1
	Role of public administration reform on combatting corruption and EU integration process	1 March 2013	1
	Combatting organized crime and corruption - strengthening prosecutors organization	14-15 March 2013	2
	Prevention of corruption	8 May 2013	5
	Code of ethics of customs officers and employees and "combatting corruption"	9 May2013	22
	Code of ethics of customs officers and employees and "combatting corruption"	29 April 2013	23
	Code of ethics of customs officers and employees and "combatting corruption"	13 May2013	20
	Code of ethics of customs officers and employees and "combatting corruption"	10 May2013	22

	Training «Prevention of corruption; integrity plans«	5-6 June 2013	1
	Training entitled »Prevention of corruption«	24 October 2013	2
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	25 December 2013	20
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	20 December 2013	20
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	16 December 2013	20
	Training entitled Code of ethics of customs officers and employees and “combatting	26 December 2013	16
	Seminar entitled »Prevention of corruption«	27March 2014	4
	Seminar entitled »Prevention of corruption«	15 April2014	1
	French training “Combatting corruption”	02-27 June 2014	1
	suppression of corruption at BCPs	16 May 2014	7
	suppression of corruption at BCPs	19 May 2014	7

	suppression of corruption at BCPs	20 May 2014	7
	Course in anti-corruption	14-18 July 2014	1
	Training in suppression of corruption at BCPs	28 October 2014	7
	Training in suppression of corruption at BCPs	29 October 2014	7
	Training in suppression of corruption at BCPs	30 October 2014	7
	Seminar entitled »Prevention of corruption«	29 April 2015	6
	Seminar entitled »Role of accounting audit and internal controls as mechanisms for prevention of corruption«	27 May 2015	5
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	14 October 2015	18
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	16 October 2015	16
	Training entitled Code of ethics of customs officers and employees and “combatting corruption”	21 October 2015	20
	Workshop on best practice of processing cases of high corruption and organized crimes, focusing on special investigative activities	3-4 December 2015	4
Training for suppression of corruption at BCP	9 December 2015	7	

	Training for suppression of corruption at BCPs	10 December 2015	7
d. Judges and prosecutors	"Investigation in cases of cross border criminal: strengthening of cooperation among police , prosecutors and other state and international authorities"	14-15 March 2013.	10
	"Financial investigations and confiscation of property- experience of the Republic of Croatia and Great Britain "	21-22 March 2013.	12
	„Confiscation of assets gained by criminal offence in domestic legislation and comparative case law“	25-26 March 2013.	8
	"Financial investigations and confiscation of property"	30 May 2013.	10
	"Financial investigations and confiscation of property"	2-3 July 2013.	15
	"International legal instruments in fighting against terrorism"	8-10 October 2013.	2
	""Financial investigations and confiscation of property" experience of the Republic of Slovakia"	10 October 2013.	23
	""Financial investigations and confiscation of property" "	19-20 May 2014.	13
	"The best international praxis in conducting of financial investigations and property confiscation: the new approach and cooperation among institutions"	30 June-01 July 2014.	15
	"Financial investigations, money laundering and confiscation of property"	4-5 December 2014.	26
	"Contemporary financial investigations and money flow in the field of IT criminal"	16-17 December 2014.	25
	"Fight against financial criminal offences in EU"	15-16 January 2015.	16
"Money laundering, property confiscation and	3-4 February 2015.	9	

	managing of confiscated property "		
	"Strategies for supressing of violent extremism, including application of the new provisions of Criminal Code regarding foreign fighters "	"Strategies for supressing of violent extremism, including application of the new provisions of Criminal Code regarding foreign fighters "	"Strategies for supressing of violent extremism, including application of the new provisions of Criminal Code regarding foreign fighters "
	"Cyber terrorism and new cyber threats to Montenegro"	12-13 March 2015.	22
	„Measures of secret surveillance and using of proofs before courts in the cases where such evidence were collected in cross border cooperation “	27-28 April 2015.	14
	"Conference on supressing cross border criminal between Montenegro and Kosovo"	7-8 May 2015	15
	„Judicial cooperation in criminal matters: instruments of EU in international legal assistance and recognition of foreign court decisions”	12-13 October 2015.	11
	"Hi tech criminality"	18-19 November 2015.	6
	"Financial investigations and cooperation among institutions"	23-24 November 2015.	12
e. Regulatory or supervisory bodies	<p><i>Central Bank of Montenegro</i></p> <p>2013.</p> <ol style="list-style-type: none"> 1. Seminar “AML/CFT Methodology for the New standards“-JVI , Vienna; 2. Seminar „ALM/CFT“- Association of banks with the ATTF-Luxembourg, Podgorica; 3. Workshop on the implementation of international restrictive measures-organised by Ministry of Interior, Podgorica; 4. Workshop organised by APMLTF and the OSCE mission: “Performing national risk 	<p>15.-19.04.2013</p> <p>10.-12.06.2013.g.</p> <p>04.-05.07.2013.g.</p> <p>02.-03.12.2013.g.</p>	<p>2</p> <p>1</p> <p>2</p> <p>2</p>

	assessment from money laundering and terrorism financing“.		
	2014.		
	1. Workshop organised by Council of Europe and APMLTF Serbian „Workshop on the legitimate and illegitimate use of offshore corporate structure, legal arrangements, foreign trade operations and free trade zones“, Beograd-Serbia;	24.-25.02.2014.g.	1
	2. Workshop organised by World Bank, TAIEX and mission OSCE „Performing national risk assessment from money laundering and terrorism financing ,Podgorica;	24.-26.03.2014.g.	3
	3. Seminar organised by APMLTF „Western Union- money transfer“, Podgorica;	06.05.2014.g.	1
	4. Workshop organised by APMLTF and OSCE mission „Drafting report and AP NRA“, Pržno-Budva;	09.-10.10.2014.g.	3
	2015.		
	1. Seminar organised by APMLTF and TAIEX „Implementation FATF Recommendations in national regulation“, Podgorica;	19.-20.03.2015.g.	4
	2. Compliance/KYC Registry Forum, organised by SWIFT Group and Association of banks, Podgorica;	17.06.2015.g.	2
	3. Finally Workshop regard to NRA (Group III and Grupa VI) organised by APMLTF, TAIEX and OSCE mission in Montenegro, Podgorica;	22.-24.06.2015.g.	3
	4. Workshop “Supporting the Prevention of abuse of NPOs for FT “ organised by OSCE mission, Sarajevo;	14.-16.07.2015.g.	1
	5. Course on Risk Based Approaches to Anti-money Laundering/Combating the of Terrorism Supervision for Financial Sector Supervisor organised by JVI, Vienna;	24.-28.08.2015.g.	2
	6. Workshop „Combating money laundering and FT“ organised by Deutsche Bundesbank, Frankfurt;		
	7. Training: Financial Investigations and		1

	<p>Interagency Cooperation organised by APMLTF and OSCE, Budva;</p> <p>8. „Training seminar for evaluators” organised by MONEYVAL, Liechtenstein;</p> <p>9. Seminar „Money laundering and terrorism financing“ organised by APMLTF and TAIEX-EC, Podgorica;</p> <p>10. Seminar for banks: „Recognizing suspicious customers and transactions and recognizing unusual transactions “, organised by Central bank of Montenegro, Podgorica.</p>	<p>02.-06.11.2015.g.</p> <p>23.-24.11.2015.g.</p> <p>22.-28.11.2015.g.</p> <p>25.11.2015.g.</p> <p>23.12.2015.g.</p>	<p>1</p> <p>1</p> <p>1</p> <p>2</p>
	<p><i>Securities and Exchange Commission</i></p> <p>Securities and Exchange Commission and APMLTF organised training: “Prevention of money laundering and terrorist financing in the capital market.”, for all its reporting entities</p> <p>Securities and Exchange Commission’s representatives participated in the TAIEX Workshop on “Money Laundering Risk Assessment”</p> <p>Securities and Exchange Commission’s representatives participated in the TAIEX Workshop: “Expert mission on anti-money laundering legislation”</p> <p>Securities and Exchange Commission’s representatives participated in the TAIEX Workshop on Money Laundering and Terrorism Financing</p>	<p>8th November 2014</p> <p>14-16th November 2014</p> <p>19-20th March 2015</p> <p>25th November 2015</p>	<p>39</p>
	<p><i>Insurance Supervision Agency</i></p> <p>1. Implementation of the supervision of the Law on prevention of money laundering and terrorist financing by the Securities Commission</p>	<p>27th - 28th March 2013</p>	<p>2</p>

	<p>and Insurance Supervision Agency – organized by the APMLTF – Budva, Montenegro;</p> <p>2. Training on AMLTF compliance in general and suspicious transactions – Belgrade, Serbia</p> <p>3. ISA in cooperation with ABF education organized training on the prevention of money laundering and financing of terrorism in insurance sector.</p> <p>4. Application of the law on AMLTF organized by the Institute of Certified Accountants and Administration for prevention of money laundering and terrorist financing;</p> <p>5. Application of the law on AMLTF organized by the Institute of Certified Accountants and Administration for prevention of money laundering and terrorist financing;</p> <p>6. ISA organized a training for the reporting entities which are subjected to supervision for LAMLTF;</p> <p>7. Risk Based Approaches to Anti money Laundering /Combating the of Terrorism Supervision for Financial Sector Supervisors – JVI Vienna;</p> <p>8. TIAEX Project – study visit National Bank of Slovakia, Bratislava – Anti-money Laundering and Terrorism Financing in insurance sector</p>	<p>1st – 2nd November 2013</p> <p>13th – 14th June 2014</p> <p>17th December 2014</p> <p>30th January 2015</p> <p>1st July 2015</p> <p>24th – 28th August 2015</p> <p>10th – 11th December 2015</p>	<p>1</p> <p>3</p> <p>2</p> <p>2</p> <p>3</p> <p>1</p> <p>3</p>
	<p><i>Employees of the Department for Postal Services Agency</i></p> <p>Employees of the Department for Postal Services Agency participated in the following seminars organized by the Administration for the Prevention of Money Laundering and Financing of Terrorism:</p> <ul style="list-style-type: none"> ○ <u>Implementation of FATF recommendations in the national legislation.</u> 	<p>19 March - 20 March 2015</p>	

	<p>Employees of Montenegro Post are continuously trained based on the submitted instructions and through the Internal Control Service.</p> <p>Other postal operators in Montenegro have trainings for employees on regular basis and they conduct them continuously based on annual training programs for professional improvement, which are developed and adopted for each calendar year.</p>		
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7.2 Involvement in international working parties

Details of any significant involvement in international working parties, including typology studies, working groups and drafting seminars.

7.3 Training provided to private sector and NPOs since on-site visit

Details of any significant training or other awareness raising initiatives undertaken with the private sector and non-profit organisations: