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

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# Montenegro

## Progress report and written analysis by the Secretariat of Core Recommendations<sup>1</sup>

12 December 2013

<sup>1</sup> Fourth 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

Montenegro is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 43<sup>rd</sup> plenary meeting (Strasbourg, 9-13 December 2013). For further information on the examination and adoption of this report, please refer to the Meeting Report (MONEYVAL(2013)35) of the 43<sup>rd</sup> plenary meeting at <http://www.coe.int/moneyval>

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**This is the fourth 3<sup>rd</sup> round written progress report submitted to MONEYVAL by Montenegro. This document includes a written analysis by the MONEYVAL Secretariat of the information on the Core Recommendations (1, 5, 10, 13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL's 32<sup>nd</sup> plenary in respect of progress reports.**

# Montenegro

## Fourth 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

### 1. *Written analysis of progress made in respect of the FATF Core Recommendations*

#### 1.1 *Introduction*

1. The purpose of this paper is to introduce Montenegro's fourth report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the 3rd round mutual evaluation report (MER) on the Core<sup>1</sup> Recommendations<sup>2</sup>.

2. The on-site visit to Montenegro took place from 15 to 20 September 2008. MONEYVAL adopted the mutual evaluation report (MER) of Montenegro under the third round of evaluation at its 29<sup>th</sup> plenary meeting (16-20 March 2009)<sup>3</sup>. As a result of the evaluation process, Montenegro was rated Non-compliant (NC) on 8 recommendations and Partially Compliant (PC) on 14 recommendations, including Core and Key<sup>4</sup> Recommendations.

3. According to MONEYVAL procedures, Montenegro submitted its first year progress report to the Plenary in March 2010. The 1st progress report<sup>5</sup> was analysed and adopted by the 32nd Plenary and as a result Montenegro was requested to report back in March 2012. The second progress report<sup>6</sup> was discussed and adopted by the 38th Plenary in March 2012. At the plenary several concerns were raised in respect of progress and compliance with R.1, SR.II and SR.III. The Committee applied Paragraph 42 of the Rules of procedures and invited Montenegro to provide a further progress report in December 2012. The third progress report<sup>7</sup> was discussed and adopted by the 40<sup>th</sup> Plenary meeting in December 2012. MONEYVAL concluded at the time that Montenegro had responded to a number of the recommendations since the adoption of the second 3rd round progress report with respect to the Core Recommendations. Pursuant to Rule 41, the Plenary decided that Montenegro should report back in December 2013. Montenegro's evaluation under the 4<sup>th</sup> round is scheduled to take place from 2-8 March 2014 and the report will be examined by MONEYVAL for adoption in December 2014.

4. This paper is based on the Rules of Procedure as revised in March 2010, which require a Secretariat written analysis of progress against the Core Recommendations. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat. The procedure requires the Plenary to be satisfied with the information provided and the progress

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<sup>1</sup> The Core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

<sup>2</sup> It should be pointed out that the FATF Recommendations were revised in 2012 and that there have been various changes, including their numbering. Therefore, all references to the FATF Recommendations in the present report concern the version of these standards before their revision in 2012. The Core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

<sup>3</sup> See MONEYVAL(2009)10 at [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL\(2009\)10Rep-MNE\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round3/MONEYVAL(2009)10Rep-MNE_en.pdf)

<sup>4</sup> The Key Recommendations as defined in the FATF procedures are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR.I, SR.III and SR.V.

<sup>5</sup> See MONEYVAL(2010)11 at [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL\(2010\)11\\_ProgRepMNE\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL(2010)11_ProgRepMNE_en.pdf)

<sup>6</sup> See MONEYVAL(2012)7 at : [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%202y/MONEYVAL\(2012\)7\\_MGR\\_ProgRep2\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%202y/MONEYVAL(2012)7_MGR_ProgRep2_en.pdf)

<sup>7</sup> See MONEYVAL(2012)25 at: [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%202y/MONEYVAL40\(2012\)25\\_MTNProgRep3\\_en.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Progress%20reports%202y/MONEYVAL40(2012)25_MTNProgRep3_en.pdf)

undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, with both documents being subject to subsequent publication.

5. Montenegro has provided the Secretariat and Plenary with a full report on its progress, including supporting material, according to the established progress report template. The Secretariat has drafted the present report to describe and analyse the progress made for each of the Core Recommendations.

6. Montenegro received the following ratings in respect of the Core Recommendations:

R.1 – Money laundering offence (PC)
SR.II – Criminalisation of terrorist financing (PC)
R.5 – Customer due diligence (PC)
R.10 – Record Keeping (LC)
R.13 – Suspicious transaction reporting (PC)
SR.IV – Suspicious transaction reporting related to terrorism (LC)

7. This paper provides a review and analysis of the measures taken by Montenegro to address the deficiencies in relation to the Core Recommendations (Section 1.2) together with a summary of the main conclusions of this review (Section 1.3). This paper should be read in conjunction with the second and third progress reports and annexes submitted by Montenegro.

8. It is important to be noted that the present analysis focuses only on the Core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by the country, and, as such, the assessment made does not confirm full effectiveness.

## **1.2 Detailed review of measures taken by Montenegro in relation to the Core Recommendations**

### **A. Main changes since the adoption of the MER**

9. Since the adoption of the 3<sup>rd</sup> round MER and the third progress report, Montenegro adopted a number of amendments to the Criminal Code on 21<sup>st</sup> August 2013. These amendments were still in draft form at the time of the adoption of the third progress report in December 2012. Various provisions aim at addressing deficiencies related to the money laundering and financing of terrorism offences.

10. The authorities also indicated that a revised version of the Law on the Prevention of Money Laundering and Terrorist Financing (LPMLTF) has been prepared. The authorities indicated that its adoption is foreseen in the first half of 2014. The purpose of the LPMLTF is to align the preventive measures with the 2012 FATF Recommendations. The law will address some of the deficiencies with respect to Recommendation 5.

11. In January 2013, the Government adopted an Analysis of the implementation of the Criminal Procedure Code and a Working group has been set up to draft amendments aimed at overcoming the legal and institutional shortcomings it identified. Adoption of amendments to the Criminal Procedure Code is expected in October 2014.

12. More generally, on 16th May 2013, the Action Plan for the Fight against Corruption and Organised Crime for the period 2013-2014 was adopted. The adoption of the Action Plan initiated the second phase of the implementation of the Strategy for the Fight against Corruption and Organised Crime 2010-2014. Drafting of the new Strategy for the reform of Judiciary 2013-2018 is in progress. Adoption by Government is expected by the end of 2013.

13. The progress report submitted by the Montenegrin authorities also refers to various awareness-raising activities and supervisory actions to enhance the anti-money laundering/counter-terrorist financing (AML/CFT) regime of Montenegro. Further details may be found in the progress report, which also sets out measures taken to address deficiencies identified in respect of the key and other Recommendations, though these fall outside of the scope of the present report and thus are not reflected in the text of the analysis beneath.

#### **B. Review of measures taken in relation to the Core Recommendations**

14. The review of measures taken in relation to the Core Recommendations should be read in conjunction with the analysis of the Core Recommendations outlined in the first, second and third progress reports submitted to MONEYVAL.

15. The Secretariat analysis below focuses only on new developments since the last progress report in December 2012 and in particular on those deficiencies that do not appear to have been fully or adequately addressed.

#### **Recommendation 1 - Money laundering offence (rated PC in the MER)**

*Deficiency No.1 – Montenegro should amend the Criminal Code to clearly include insider trading and market manipulation offences as predicate offences for money laundering.*

16. In the third 3<sup>rd</sup> round progress report, the Secretariat concluded that a number of amendments to the Criminal Code, which at the time were in the process of being adopted, would address the deficiency related to insider trading and market manipulation. The amendments entered into force on 21 August 2013. It should be noted that the relevant provisions which are now in force differ slightly from the provisions which were quoted in paragraph 21 of the third 3<sup>rd</sup> round progress report. Notwithstanding these changes, the offences of insider trading and market manipulation are now criminalised under the Criminal Code and are predicate offences for money laundering.

*Deficiency No.2 – There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of “all serious offences” in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.*

17. In the third 3<sup>rd</sup> progress report, reference was made to draft amendments to Article 137(2) of the Criminal Code for the purpose of reducing the reference to ‘an imprisonment sentence of five years or more’ to four years. These amendments entered into force on 21<sup>st</sup> August 2013.

18. In the analysis, the Secretariat had urged the Montenegrin authorities to clarify in law whether the scope of criminal activity also covers criminal offences committed abroad by a foreigner against a foreign country or a foreigner, if a sentence for certain predicate offences is less than 4 years. No changes have occurred since the third progress report. This issue will be discussed in further detail at the 4th round MONEYVAL evaluation in March 2014.

#### ***Effectiveness***

19. The authorities referred to various ML investigations initiated in 2013. They also referred to one conviction at first instance for self-laundering involving three persons in 2013. It appears that since the 2009 evaluation, Montenegro has achieved several convictions. However, the desk based review cannot assess the quality of the convictions achieved based on the limited information available. There are also some reservations on the effectiveness of the ML investigations and prosecutions, and this issue will need to be considered in more detail in the 2014 MONEYVAL on-site assessment

20. The authorities should ensure that any remaining deficiencies under Recommendation 1 are addressed without any further delay. In addition statistics should be gathered and provided to demonstrate that money laundering offences and activities are adequately investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.

### **Special Recommendation II - Criminalisation of terrorist financing (rated PC in the MER)**

Deficiency 1 identified in the MER – *Montenegro should lay down in the Criminal Code a definition of “funds”, which includes “assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit”.*

21. The definition of ‘resources’ referred to in paragraph 42 of the third 3<sup>rd</sup> round progress report, which covers all the elements in the definition of funds in the FATF Recommendations, was adopted on 21<sup>st</sup> August 2013, with a slight amendment (reference to ‘resources’ was changed to ‘funds’). Action has been taken to address this deficiency.

Deficiency 2 identified in the MER – *Montenegro should amend the Criminal Code to incorporate the incrimination of funding of terrorist organisations and individual terrorists.*

22. Article 449 of the Criminal Code, which was referred to in paragraph 44 of the third 3<sup>rd</sup> round progress report, entered into force on 21<sup>st</sup> August 2013. Action has been taken to address this deficiency.

Deficiency 3 identified in the MER – *Montenegro should bring Article 449 of the Criminal Code into line with international standards.*

23. The additional purposive elements under Article 447 of the Criminal Code, which provides for the offence of terrorism, have not been removed. The authorities should seriously consider whether the prosecution of the financing of the offences referred to in Article 2(1)(a) of the United Nations TF Convention might be hindered as a result of the additional purposive elements and, should the need arise, to amend the criminal code accordingly.

### ***Effectiveness***

24. The FT offence has never been tested before the courts in Montenegro. No STRs relating to terrorist financing suspicions have even been received.

25. The amendments referred to in the third 3<sup>rd</sup> progress report were adopted on 21<sup>st</sup> August 2013. Action has been taken to address the deficiencies previously identified. Montenegro’s overall compliance with SR II will be re-examined during the 4<sup>th</sup> round follow-up visit in March 2014.

### **Recommendation 5 - Customer due diligence (rated PC in the MER)**

Deficiency 1 identified in the MER – *Montenegro should amend the LPMLTF to require reporting entities to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement.*

26. At the time of the adoption of the 3<sup>rd</sup> round MER, the evaluators noted that there was no requirement to verify that the person acting on behalf of a customer has that authority. Additionally, in verifying the legal status of the legal person or arrangement, the law did not require obligors to obtaining documents regulating the power to bind the legal person or arrangement.

27. The LPMLTF contains two provisions dealing with the identification (and verification of identity) of natural persons who seek to establish a business relationship on behalf of a legal person.

Article 16 refers to the identification and verification procedures of the legal representative (such as a director) of a legal person. Article 17 refers to the identification and verification procedures of an authorised person other than the legal representative of a legal person (such as a person issued with a power of attorney to act on behalf of a company).

28. According to Article 16 of the LPMLTF, obligors are required to establish and verify the identity of the legal representative of a legal person. However, there is no requirement to verify whether the legal representative is authorised to act on behalf of the legal person, by, for instance, obtaining a copy of the memorandum and articles of association of the legal person containing information on the natural persons vested with the legal and judicial representation of the legal person.

29. With respect to authorised persons, Article 17 of the LPMLTF requires obligors to identify and verify the identity of the authorised person and identify the legal representative on whose behalf the authorised person acts. The identification of the legal representative is to be based on a certified written power of authorisation issued by the legal representative. By requiring the production of a certified written power of authorisation, indirectly, Article 17 requires obligors to verify that the authorised person is authorised to act on behalf of the customer.

30. Therefore, as far as an authorised person is concerned, criterion 5.4(a) is covered. The deficiency in relation to the legal representative of a legal person remains.

31. The requirement under criterion 5.4(b) which requires financial institutions to verify the legal status of the legal person or arrangement by obtaining documents regulating the power to bind the legal person or arrangement appears not to have been introduced in the LPMLTF yet.

32. Consideration is being given by the authorities to address these issues in the changes to the LPMLTF.

*Deficiency 2 identified in the MER – The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register.*

33. In the 3<sup>rd</sup> round report it was noted that in establishing the identity of a beneficial owner of a legal person, financial institutions relied solely on a certificate from the Commercial Trade Register. The evaluation team considered this to be insufficient to properly identify the beneficial owner. Hence, a recommendation was made to the authorities to establish procedures to address the limitations of the commercial register.

34. The authorities have indicated that in accordance with an amendment to Article 15 of the LPMLTF, 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, the reporting entity shall obtain a written statement from a legal representative or authorised person before establishing a business relationship or executing a transaction. The amendments are still in draft form and are expected to enter into force in the first quarter of 2014.

35. While taking note of this development, this review considers that the concerns of the 3<sup>rd</sup> round evaluators will not have been adequately addressed upon the enactment of this amendment. Procedures will need to be adopted to provide guidance to reporting entities on the identification of a beneficial owner, as recommended by the 3<sup>rd</sup> round evaluation team.

*Deficiency 3 identified in the MER – Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal assets holding*



*vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8.*

36. Following the adoption of the 3<sup>rd</sup> round report, the provisions requiring the application of enhanced due diligence were widened. Article 25 of the draft LPMLTF now states that reporting entities shall conduct enhanced customer due diligence in any situations where a reporting entity identifies areas of higher risk on the basis of its risk assessment procedures.

37. In addition, pursuant to a proposed amendment to the LPMLTF, the Minister of Finance shall by regulations issue guidelines which, *inter alia*, will contain a list of high risk customers, business relationships, transactions or products. The amendment is expected to enter into force in the first quarter of 2014.

Deficiency 4 identified in the MER – *A specific clause should be inserted into the LPMLTF requiring reporting entities to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring reporting entities to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc.*

38. The Montenegrin authorities referred to Articles 11 and 12 of the draft LPMLTF which state that where the reporting entity is not in a position to conduct CDD measures, it shall not establish a business relationship, terminate an existing relationship or carry out a transaction. Article 12, also requires reporting entities to submit a suspicious report to the FIU. This review notes that, while criterion 5.15(b) requires financial institutions to ‘consider making a suspicious transaction report’, Article 12 requires reporting entities to submit a report to the FIU automatically in all cases where the reporting entity is unable to conduct CDD measures.

### ***Effectiveness***

39. The information provided in the progress report does not enable to draw firm conclusions on the effective application of Recommendation 5. It is positively noted that the Montenegrin FIU submitted requests for the initiation of offence proceedings against five banks between 2012 and 2013, though there are no further details about the underlying deficiencies in relation to these proceedings.

40. While noting positively that a number of amendments (which are expected to be adopted in the first quarter of 2014) have been carried out to address some of the remaining deficiencies, further measures are required to be undertaken in order to ensure that the requirements of R.5 are adequately implemented. An in-depth analysis of the technical compliance and on the effective implementation of Recommendation 5 by financial institutions will be conducted during the upcoming 4<sup>th</sup> round MONEYVAL on-site visit in March 2014.

### **Recommendation 10 - Record keeping (rated LC in the MER)**

Deficiency 1 identified in the MER – *There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. Montenegro should amend the LPMLTF to take this requirement into account.*

41. The authorities indicated that Article 77 of the revised LPMLTF provides that reporting entities shall keep records of customers, business relationships and transactions in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that would serve as evidence in the process of detecting the customer’s criminal activity. The revised LPMLTF is

expected to enter into force in the first quarter of 2014. Consequently, the deficiency identified cannot be considered as having been addressed pending the enactment of legislation.

**Recommendation 13 – Suspicious transaction reporting (rated PC in the MER)**

Deficiency 1 identified in the MER – *The Book of Rules should be endorsed in law with sanctions for breaches in order to become “other enforceable means”.*

42. The reader should refer to the analysis of the Secretariat of this deficiency in the second 3<sup>rd</sup> round progress report, which remains valid.

***Effectiveness***

43. Based on the statistics set out in the report, which cover the period from January 2013 to November 2013, the FIU received 89 STRs from reporting entities, 88 from commercial banks and one from the securities registrars. The number of CTRs received in that period is 40,200. The Montenegrin FIU has disseminated 157 reports related to ML to law enforcement. During this period the FIU opened 239 cases related to ML.

44. From a desk-based perspective, concerns remain, notably in relation to the implementation of the reporting obligation by the reporting entities. The authorities should review the existing levels of reporting and take necessary steps, such as additional guidelines or outreach/training to raise the awareness of the reporting entities on the importance of their obligation to report to the FIU. Further analysis of disclosures made by the reporting entities, will be necessary on the basis of additional information and breakdowns before being able to formulate an opinion on the quality and quantity of reports and to assess the effectiveness of implementation of the reporting obligation by reporting entities. Given the limits of the desk-based review, the efficiency and effectiveness of the STR system remain to be demonstrated in the context of the 4<sup>th</sup> round evaluation

**Special Recommendation IV– Suspicious transaction reporting related to terrorism (rated LC in the MER)**

45. The reader should refer to the analysis of the deficiencies in the previous 3<sup>rd</sup> round progress report, which remains valid.

Deficiency 1 identified in the MER –*There are no reports on financing of terrorism which raises question of effectiveness of implementation.*

46. There were no FT related STRs filed since the third 3<sup>rd</sup> progress report. It is difficult in the context of a desk base review to assess the factors that justify such results. However, on the basis of the information received, the concerns remain and as such, the authorities are invited to consider taking additional measures to ensure that the reporting entities understand adequately the scope of the FT reporting obligation and that they implement it effectively.

**1.3 Main conclusions**

47. Since the adoption of the third 3<sup>rd</sup> round progress report in respect of Recommendation 1, the Montenegrin authorities have introduced amendments to the Criminal Code that address the deficiency related to insider trading and market manipulation. These amendments entered into force on 21<sup>st</sup> August 2013. However, the issue of extraterritoriality still needs to receive further attention by the authorities.

48. Montenegro has also taken steps to remedy some of the deficiencies identified in the 3<sup>rd</sup> MER in respect of SR.II. However, additional measures will have to be undertaken to completely align the FT offence with international standards.

49. With regard to Recommendation 5, action has been taken with the drafting of a revised LPMLFT, with the purpose of aligning the preventive measures with the 2012 FATF

Recommendations. Nevertheless, it appears that not all recommendations made previously have been addressed in the revised LPMLFT. Pending the adoption and entry into force of the legislation, which is expected in the first half of 2014, these deficiencies cannot be considered as having been addressed.

50. As a general conclusion, subject to what has been said above, Montenegro has responded to a number of the recommendations since the adoption of the third 3rd round progress report with respect to the Core Recommendations. However, a number of outstanding issues remain. An in-depth assessment of the core (and also key and other) recommendations, both in terms of technical compliance and effective implementation, will be undertaken in the 4<sup>th</sup> round MONEYVAL evaluation of Montenegro in March 2014.

51. As a result of the discussions held in the context of the examination of this progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to the Rules of procedure, the progress report should be subject to an update every two years between evaluation visits (i.e. December 2015). However, according to the revised Rules of procedure, the third round follow-up process shall end if a fourth round evaluation visit is undertaken by MONEYVAL before an update report is due to be submitted.

MONEYVAL Secretariat

## ***2. Information submitted by Montenegro for the fourth 3rd round progress report***

### ***2.1 General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field***

#### **Situation at the time of the first progress report (16 March 2010)**

After the most important step that Montenegro has made in approaching the EU, on 15<sup>th</sup> December 2008, when it presented its official application for joining the EU, the European Council on 23<sup>rd</sup> March 2009 invited the European Commission to submit its opinion on the application. The next step was presenting Montenegro with the European Commission's Questionnaire on 22 July 2009, which formally represents the beginning of the procedure of deciding on accepting the candidacy of Montenegro for the EU membership. Montenegro officially sent the responses to the Questionnaire on 9 December 2009, and the set of responses to the additional questions were sent to the EC at the end of January 2010.

By the Council of European Union decision the nationals of Montenegro can as of 19th December 2009 travel without visas to the EU countries and to the three countries that are not EU members, but have accessed the Schengen area (Switzerland, Norway and Island). The requirement needed for entering the mentioned countries is to own biometric passports that have been issued in Montenegro since 5th May 2008. The decision on visa liberalization refers to entrance and stay up to 90 days within six months, with the purpose of tourist visit, business stay, visit to cousins and friends, business meetings and similar.

The NATO Ministers of Foreign Affairs, in the meeting held on 4th December 2009 in Brussels, took a decision on Montenegro's joining the Membership Action Plan (MAP) – a NATO program of assistance and practical support tailored to the individual needs of countries wishing to join the Alliance.

The activities for implementing the strategic commitments of Montenegro for the EU membership, within the accession process, are targeted at further meeting of obligations undertaken by signing the Stabilization and Association Agreement and the Interim Agreement on trade and trade-related matters between the European Community and Montenegro, as well as by the tasks set in the National Program for Integration with the European Union for the period 2008 – 2012, and the obligations that will follow depending on the forthcoming accession phases.

Considering the strategic documents, in the period following the last evaluation, in March 2009, the Government of Montenegro made a decision to develop, for the forthcoming three-year period, a **Strategy for Fight against Corruption and Organised Crime** and the **Action plan** for the implementation of the Strategy, and the drafting of these documents is underway. The working group formed by the Minister of Interior Affairs and Public Administration is composed of the representatives of the following institutions: Ministry of Interior Affairs and Public Administration, Ministry of Justice, Ministry of Finance, Prosecutor's Office, judiciary, Police Directorate, Directorate for Anti-Corruption Initiative, Administration for the Prevention of Money Laundering and Terrorist Financing, State Audit Institution, Customs Administration, Department of Public Revenues and two NGOs. This group has begun the activities related to the drafting of the mentioned documents. Namely, on 28th July 2005, the Government of Montenegro adopted the **Program of Fight against Corruption and Organised Crime**, as the first national strategic document that has defined the goals that are to be reached in the area of fight against organised crime and corruption.

With a view to implementing the measures defined in this Program, the Government of Montenegro has adopted on 24th August 2006 the **Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime**. The National Commission for monitoring the implementation of the Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime was established on 15th December 2007. On 29th May 2008 the **Innovated Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime for the period 2008 - 2009** was adopted. The realisation of measures and activities defined in the Innovated Action Plan for the implementation of the Program of Fight against Corruption and Organised Crime was planned to

be completed till 31st December 2009. Thus the Government of Montenegro passed a decision to develop a **Strategy for Fight against Corruption and Organised Crime and the Action plan for the implementation of the Strategy for the forthcoming three-year period, from 2010 to 2012.**

The activities related to drafting the national **Strategy for Fight against Terrorism, Money Laundering and Terrorist financing** and the **Action Plan for the implementation of the Strategy for the period 2009 – 2012.** An interagency Working Group for drafting the Bill for these documents was formed. The members of the Working Group are the representatives of the following institutions: Ministry of Interior Affairs and Public Administration, Prosecutor's Office, Central Bank of Montenegro, Insurance Supervision Agency, the Ministry of Finance, the Ministry of Justice, the Customs Administration, Police Directorate, Directorate for Anti-Corruption Initiative, Administration for Games on Chance, Securities Commission, Administration for the Prevention of Money Laundering and Terrorist Financing, National Security Agency, State Audit Institution and the representatives of the non-governmental sector.

The Working group, composed of the representatives of: Administration for the Prevention of Money Laundering and Terrorist Financing, Police Directorate, Department of Public Revenues, Customs Administration, with the help of the OSCE Mission to Montenegro Customs and Fiscal Assistance Office – CAFAO, United Nations Office on Drugs and Crime – UNODC, Swedish National Police Board, International Criminal Investigative Training Assistance Program – ICITAP, US Embassy and British Embassy, harmonised the model of joint office for coordination and intelligence data exchange- with working title “ National coordination office for the state administration”. The establishing of this office will enable data exchange between the Administration for the Prevention of Money Laundering and Terrorist Financing, the Police Directorate, the Department of Public Revenues and the Customs Administration.

On 28<sup>th</sup> January 2009, the Central Bank of Montenegro and the European Central Bank concluded the agreement of co-operation and exchange of information, through which CBM joined the efforts undertaken by the ECB in the field of prevention and detection of false euro banknotes.

On 7<sup>th</sup> May 2009, the Central Bank of Montenegro and the National Bank of Serbia signed the Protocol on business co-operation in the field of professional improvement of employees.

On 16th October 2009, the Central Bank of Montenegro and the Croatian National Bank signed Memorandum of Understanding establishing the co-operation in supervising banks operating in the territory of the Republic of Montenegro and the Republic of Croatia.

In the period from the last evaluation in March 2009 Montenegro has largely progressed in harmonisation of criminal legislation with the European standards – through adoption of the new Criminal Procedure Code, and drafting of the Law on Amendments of the Criminal Code.

In July 2009 the new Criminal Procedure Code was adopted („Official Gazette of Montenegro“ 57/2009).

In the newly adopted Code, special attention was dedicated to confiscation of revenues, property and material gain acquired through criminal act. The Code, in Article 90, stipulates the procedure for temporary confiscation of property and financial investigation for expanded confiscation of property. Through adoption of this Code the procedure of permanent confiscation of property whose legal origin was not proven is introduced (Art. 486-489). The procedure stipulates that after the irrevocability of the judgment by which the accused is pronounced guilty for a criminal act for which the Criminal Code stipulates the possibility of expanded confiscation of property from the convicted, his legal successor or the person to whom the convicted transferred the property, who can not prove the legality of its origin, the state prosecutor, within the period of one year the latest, submits a request for permanent confiscation of the property of the convicted, his legal successor or the person to whom the convicted transferred the property for which he can not prove the legality of its origin. The request is submitted to the convict without delay, to his legal successor or the person to whom the convicted transferred the property, with the warning that he is obliged to prove the legality of the origin of the property, and that the property will be confiscated if the legality of its origin is not proved. If the convicted, his legal successor or the person to whom the convicted transferred the property, by valid documents, or in the absence of valid documents, in another way does not prove the legality of the origin of the property, the court reaches a decision on permanent confiscation of the property. If the convicted, his legal successor or the person to whom the

convicted transferred the property, by valid documents, or in the absence of valid documents, in another way proves the legality of the origin of the property or a part of the property, the court reaches a decision on complete or partial dismissal of the request for permanent confiscation of the property.

Provisions of the Criminal Procedure Code relating to temporary confiscation of property and financial investigation for expanded confiscation of property (art. 90) and the procedure of permanent confiscation of property whose legal origin was not proved (art. 486-489) start to be applied from the day of beginning of the application of the provisions of the Law on Amendments of the Criminal Code. The procedure of adopting of this law is in progress. The new solutions will, through adopting of the instrument of expanded confiscation of property gain and reverse burden of proof and in material-legal sense, enable their application stipulated by the procedural law.

According to the Article 158 of the new Criminal Procedure Code, it is prescribed the list of the criminal offences for which is possible to order measure of secret surveillance. Montenegro has accepted recommendation of MONEYVAL- to have the possibility to order those measures for types of the criminal offence – money laundering, which recommendation was given in the Third round of mutual evaluation on Montenegro. In the previous CPC measures of secret surveillance could be ordered only for the criminal offences punishable by minimum of 10 years of imprisonment as well as for the criminal offences committed in the organised way, so measures of secret surveillance, according to this previous Code, could be ordered only if the money laundering was committed in the organised way. In order to avoid this kind of limitation, new Criminal Procedure Code prescribes in article 158:

Measures of secret surveillance may be ordered for the following criminal offence:

1. For which a prison sentence of ten years or more serve penalty may be imposed
2. Having elements of organised crime
3. Having elements of corruption, as follows: money laundering, causing false bankruptcy, abuse of assessment, passive bribery, active bribery, disclosure of an official secret, trading in influence, abuse of authority in economy, abuse of an official position and fraud in the conduct of official duty with prescribed imprisonment sentence of eight year or more
4. Abduction, extortion, blackmail, mediation in prostitution, displaying pornographic material, usury, tax and contributions evasion, smuggling, unlawful processing, disposal and sorting of dangerous substances, attack on a person acting in an official capacity during performance on an official duty, obstruction of evidences, criminal association, unlawful keeping of weapons and explosions, illegal crossing of the state border and smuggling in human being
5. Against the security of computer data

A great step forward was taken also in view of amendments of incriminations of criminal offences of money laundering and terrorist financing, in accordance with the recommendations of FATF, relevant conventions of the Council of Europe, the United Nations and *acquis communautaire*. These amendments introduce criminal offences of abuse of authority in business activities and unlawful influence – which could be predicate for money laundering offence – as recommended after the evaluation of MONEYVAL. A significant novelty is also incorporation of the new criminal offence of forming a criminal organisation (Article 401a) within the criminal acts against public peace and order. It relates to incrimination that will enable a more efficient and stricter criminal-legal intervention regarding the organised crime offences. The term and conditions of criminal organisation are given in accordance with the UN Convention on trans-national organised crime. With this Law, in the chapter of criminal offences against humanity and other goods protected by international law several amendments were conducted, and the most significant are the ones starting from the new concept of terrorist offences.

The basic terrorism offence (regardless whether the act is directed against Montenegro, a foreign state or an international organisation) is stipulated in Article 447 with many forms of committing an offence. This criminal offence, as well as new terrorist offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as terrorist financing (Article 449) were included and brought in line with a number of conventions aiming at prevention of terrorist acts, and

specially with the Convention of the Council of Europe on the Prevention of Terrorism from 2005 that was ratified by Montenegro in 2008.

In the framework of those changes, the definition of the criminal offence – money laundering is now completely in accordance with Vienna and Palermo Conventions.

In the field of international judiciary co-operation, it is important to point out that after the accession of Montenegro to the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism (CETS 198), in December 2009 Montenegro accessed to another important convention in the field of international legal assistance – European Convention on Mutual Assistance in Criminal Matters with additional protocols, European Convention on Extradition with additional protocols and European Convention on Transfer of Convicted Persons with additional protocols, by confirming this convention Montenegro completed the set of international instruments applied in the area of international legal assistance in criminal matters.

In accordance with the National Program for Integration of Montenegro into the EU, adoption of the law that will define appliance and implementation of the restrictive measures, competences of certain state authorities and manner of record keeping on natural and legal person against whom international restrictive measures are introduced, or the law by which the legal framework for introducing unilateral restrictive measures will be created, is planned for the end of 2011.

Supreme State Prosecutor's Office, according to the Law on Amendments and Changes of the Law on State Prosecutors, extended the competences of the Department for suppression of organised crime corruption, terrorism and war crime. The Department is now competent for the criminal offences of corruption, terrorism, and war crime

On September 15th 2008, the number of deputies of prosecutors in the Department has been extended. Now in the Department for suppression of organised crime corruption, terrorism and war crime there are Special Prosecutor and five Deputies, and the Department has the adequate premises and techniques.

During 2009, on the basis of the Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 14/07 from 21.12.2007) in addition to:

**i.), The 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. 80 of 26. 12. 2008) and**

**ii.) The Rulebook on the Manner of Reporting Cash Transactions in the Amount of 15,000 Euros and more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 79 of 23.12.2008),**

the following were passed as well:

- **„The Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money Laundering and Terrorist Financing,, (Official Gazette of Montenegro No. 20/09 of 17.03.2009)**
- **„The Rulebook on Indicators for recognising Suspicious Clients and Transactions,, (Official Gazette of Montenegro No. 69/09 of 16.10.2009)** determines the List of Indicators. The List of Indicators for recognising suspicious customers and transactions is included in the Rulebook, as follows:
  - List of Indicators for banks,
  - List of Indicators for capital market,
  - List of Indicators for the Customs Administration,
  - List of Indicators for the Department of Public Revenues,
  - List of Indicators for leasing companies,
  - List of Indicators for auditors,
  - List of Indicators for accountants,
  - List of Indicators for lawyers and
  - General indicators.

On the basis of the Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 79 20/09 of 17.03.2009), the

APMLTF has determined the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing for the reporting entities the APMLTF supervises (the reporting entities from the Article 4 Paragraph 2 items 14 and 15 of the LPMLTF).

Guidelines were also determined by the following supervising authorities: the Securities Commission and the Administration for Games on Chance. The guidelines of the Central Bank of MNE are in the draft form.

Regarding the bilateral co-operation with the counterparts from other countries, during 2009 the APMLTF signed several Memoranda of Understanding – financial intelligence data exchange with: FIC EULEX – Kosovo, the State Committee for Financial Monitoring (FIU) of Ukraine, as well as with the Anti-money Laundering and Suspicious Cases Unit – United Arab Emirates FIU and the Financial Intelligence Agency - FIA Bermuda.

Securities Commission has concluded several bilateral agreements with international supervisors of securities market in relation with co-operation and exchanging data . On 17th February 2009 Securities commission signed IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Co-operation and the Exchange of Information

Supreme State Prosecutor's Office and Police Directorate concluded the Memorandum of Understanding and exchange of information related to prevention, detection and prosecution of offenders prosecuted ex officio.

On 19th February 2010 APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration signed the MoU in prevention and prosecution of offenders related to organised crime and corruption

The MoU defines obligations, general rules and terms of forming and working of the joint team that will act in special cases of organised crime and corruption. The team, whose work will be coordinated by the Supreme State Prosecutor, is composed of representatives of APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration, who will be appointed for the period of three years..

On the national level, the APMLTF signed the Memorandum of Understanding with the State Audit Institution of Montenegro in March 2009.

On the basis of analysing the assessment of needs for concluding new bilateral Memoranda, the APMLTF has, for the forthcoming period, planned signing memoranda with those supervising authorities from Article 86 of the LPMLTF with which it has not signed memoranda yet, as well as innovating the previously signed memoranda.

With a view to implementing the MONEYVAL experts' recommendations related to changes in the national legislation in the AML/CFT area, the Ministry of Finance has, upon the initiative of the APMLTF, started the activities for preparing the changes of the LPMLTF. The working group, formed by the Ministry of Finance (which proposes the law), consists of the representatives of the following institutions: Ministry of Finance, Administration for the Prevention of Money Laundering and Terrorist Financing, legislative authorities, Ministry of Justice, Ministry of Interior Affairs and Public Administration and the Administration for Games on Chance. The working group will, when drafting the changes to the Law, be introduced to all the MONEYVAL experts' recommendations referring to the solutions in the LPMLTF, in order to meet all the criteria from the FATF Recommendations. The Government of Montenegro adopts the Proposal for changing. Afterwards, the Proposal is subject to parliamentary procedure, relevant parliamentary boards' consideration, parliamentary discussion and adoption.

According to its competencies to participate in professional training and improvement of the compliance officers at reporting entities, APMLTF organised a two-day Workshop for reporting entities' compliance officers on the subject „Preventing money laundering and terrorist financing in the financial and non-financial sector“. The participants were representatives of various categories of reporting entities: commercial banks, brokers, car dealers, leasing companies, casinos, real estate agencies...

With a view to effectively implementing the LPMLTF and bylaws, in the forthcoming period, the APMLTF will:



- *Strengthen institutional co-operation with other institutions involved in AML/CFT system;* (APMLTF has been planning to sign Memoranda of Understanding with other supervising authorities from Article 86 of the LPMLTF, as well as to innovate some previously signed Memoranda of Understanding with Customs Administration, Department of Public Revenues, Ministry of Interior Affairs, Central Bank of Montenegro, Securities Commission and Basic Court in Podgorica).
- *Improve international co-operation with the competent institutions of other countries* (signing Memoranda of Understanding with several more countries, as well as innovating some of the already signed Memoranda are being planned).
- *Improve the existing IT system;* (In order to fully implement the new data delivery forms which make an integral part of the Rulebook on the Manner of Reporting Cash Transactions in the Amount of 15,000 Euros and more and Suspicious Transactions, APMLTF will initiate a complete innovation of the existing IT system. Supplying the special analytical software I2 and the training for designers and users of this software are underway).
- *Proceed with continuous training of professionals;* (APMLTF will proceed with organising trainings for reporting entities compliance officers and the employees that directly contact with customers. The training will be focused on more effective implementation of the Law and bylaws, with special reference to PEPs, proper identification, recognition and reporting of suspicious transactions to the APMLTF on the basis of STR indicators, ML typologies...).

As a regulatory authority of the insurance market, the Insurance Supervision Agency is involved in the implementation of measures from the innovated action plan for the implementation of programs against the corruption and organised crime, among which is one of the tasks that the Agency undertook by this plan. The task is establishing guidelines on risk analysis to prevent money laundering and terrorism financing, and defining other procedures aimed at identifying suspicious transactions, and that will be addressed to obligators under Article 4, paragraph 8 of the Law on Prevention of money laundering and terrorism financing, i.e. insurance companies and branches of foreign insurance companies that conduct life insurance business. The above mentioned guidelines will be harmonised with the Regulation on the development of guidelines for risk analysis to prevent money laundering and financing terrorism, adopted by the Ministry of Finance during the 2009 year.

Activities on the development of these Guidelines, Agency began at the beginning of the 2010 and it is expected that the activities of their development and publishing will be completed in the first half of this year. Also, those activities began within the IPA 2008 twinning project "Strengthening the regulatory and supervisory capacity of financial regulators", whose goal is aid to the financial regulators in Montenegro in building institutional capacity through the technical assistance and professional training of employees, establishing a modern operational procedures, strengthening co-operation between financial regulators and ensuring greater stability of the entire financial system. The start of the activities is expected at the end of January 2010 under the fourth component within the mentioned project, which is related to the Insurance Supervision Agency. One of the activities will refer to the preparation / review of appropriate guidelines for addressed reporting entities who are defined by the existing Law on AML/CFT, and that project activity will be the best control done so far regarding this issue. The ultimate goal of this part of the project will be transposing the European legislation from this area into National legislation as well as adaptation of the function of supervision of the Agency in accordance with the best international practice from this area.

In the previous period, co-operation with the authorities involved in the system AML/CFT was successful and comprehensive. However, in accordance with the conclusions of the Government of Montenegro, the Insurance Supervision Agency is planning to formalize mentioned co-operation's during 2010 through the special agreements on co-operation signed from the both sides.

Since its recent establishment, the priority of the Agency in 2009 was the establishment of co-operation

and signing formal agreements with the insurance market regulators and institutions from the Region, as well as those on the global level. In 2009, the Agency has become a full member of the International Association of the Insurance Supervisors - IAIS, which will significantly facilitate the establishment of closer level of co-operation and exchange of information of the Agency with the insurance regulators in the world, efficient monitoring and improving the overall financial stability in Montenegro. With the same goal, but in the regional framework, during 2009 the Agency has achieved intensive co-operation and contacts with all the insurance regulators in the Region. Formal Memorandums of Understanding were signed with the Austrian Financial Market Authority - FMA, Insurance Supervision Agency of Slovenia and the Croatian Agency for Supervision of Financial Services - HANFA.

In order to strengthen its institutional capacity, the Agency has recently started with the activities in this field. Within the IPA 2007 twinning project "Fight against organised crime and corruption", employees of the Agency have participated in training in the period from 30.08 to 04.09.2009, which was provided by the representatives of the administration of the United Kingdom and Northern Ireland, and dedicated to representatives of the supervisory authority under the Law of AML/CFT.

Throughout the already mentioned fourth component of the IPA 2008 twinning project, during 2010 and the beginning of the 2011, it will be implemented a range of activities with the goal to improve existing legislation in the field of AML/CFT, building professional capacity of the Agency regarding AML/CFT, raising the legal awareness of Law reporting entities and public opinion, as well as improving co-operation between supervisory authorities in the field. Quoted will include the analysis of the current regulatory framework, preparing the draft guidelines which will be used in this area by the Agency, developing programs and techniques of inspections for the Agency, as well as providing training to the addressed reporting entities defined by the Law of AML/CFT. It also includes preparation of informational materials, raising awareness about the importance of AML/CFT among the competent bodies which are connected by the Law of AML/CFT, prosecution and judiciary, and, at the end, eventually establishing formal co-operation between supervisory authorities, or more precisely, signing the Memorandums of Understanding.

### **New developments since the adoption of the first progress report (5 March 2012)**

THE PROJECT AS SET OUT ABOVE HAS BEEN SUCCESSFULLY COMPLETED

#### **Bill on Amendments and changes of the Law on the Prevention of Money Laundering and Terrorist Financing**

During 2011, the new revised Bill on Amendments and changes of the Law on the Prevention of Money Laundering and Terrorist Financing has been submitted to the Government for adoption. Afterwards that it was submitted to the Parliament for consideration and adoption. **In February 2012 director of APMLTF presented the Bill on Changes and Amendments to the LPMLTF to Members of Parliament of Montenegro and we expect that the voting procedure and adoption of the law should be completed at the beginning of March 2012.**

The mentioned Bill was changed in accordance with recommendation of given by MONEYVAL after 3<sup>rd</sup> Round Mutual evaluation of Montenegro, the legal experts of the European Commission and CoE, suggestions of the APMLTF, the Insurance Supervision Agency, Ministry of Finance and it is harmonized, to the highest possible extent, with the following EU Directives: **DIRECTIVE 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing; COMMISSION DIRECTIVE 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis; DIRECTIVE 2002/92/EC OF THE EUROPEAN PARLIAMENT AND OF**

THE COUNCIL of 9 December 2002 on insurance mediation and Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions

Bill on Amendments and Changes of the Rulebook on Indicators for recognizing suspicious customers and transactions in the area of real-estate trade and construction businesses has been submitted to the Ministry of Finance for consideration and adoption.

The most important provisions in the Bill on Changes and Amendments to the Law on Prevention of Money Laundering and Terrorism Financing are as follows:

The amendments to the existing Law regarding the reporting entity's obligation on reporting suspicious transactions, indicating that the obligor shall have to submit to the relevant institution data on client or transaction after the transaction, when there is reason to suspect that the transaction (no matter to the amount or type) or client is involved in money laundering and terrorism financing. Also the list or reporting entities is extended in relation to legal and natural persons conducting business activities of investing, trading and mediation in real-estate trade and sports organizations. **Sports organizations** are for the first time introduced as reporting entities that are obliged to carry out measures for detecting and preventing money laundering and terrorist financing. Sports clubs, associations and other sports organizations shall be directly supervised by APMLTF in accordance with Article 86 of the LPMLTF in which supervision is defined. This solution is considered as good one since the majority payments in sports clubs are carried out in cash and there is a possibility for numerous misuse in relation to money laundering and terrorist financing. (Article 3 of the Bill on Changes and Amendments to the LPMLTF).

Also, financial institutions are obliged to take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.). Due to that financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing.(the mentioned is defined by new Article 28a (Article 23 of the Bill on Changes and Amendments to the LPMLTF)– harmonization with FATF Recommendation 8.

Through changes of Article 12 it is defined that if the evidence on the client's identity cannot be obtained the business relationship shall not be established and transactions shall not be executed. The New Article 12a regulates wire transfers in the manner that a reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer. (Articles 10 and 11 of the Bill on Changes and Amendments to the LPMLTF) - harmonization with special Recommendation VII 7 FATF.

Additionally, the obligation that the competent state authority shall publish on its website the list of countries that apply international standards(FATF Recommendations) in the area of preventing money laundering and terrorist financing that are at the same level as the EU standards or higher is introduced through the Bill on Changes and Amendments to the LPMLTF . The distinction between countries that apply AML/CFT standards and the countries that do not apply these standards has been made. (Article 37 of the Bill on Changes and Amendments to the LPMLTF).

The organizers of special games of chances are obliged (shall) in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law and this was not the defined in provision of the current Law on PMLTF. (Article 7 of the Bill on Changes and Amendments to the LPMLTF).

The APMLTF suggested that in Article 48 (of the Current LPMLTF) a new paragraph 7 shall be added and it defines that Upon the competent administration body's request for delivering data, information and documents from paragraphs 1 to 5, a reporting entity shall, in cases when the request is designated as urgent, deliver the requested data without delay, not later than 24 hours after receiving the request.

(Article 34 of the Bill on Changes and Amendments to the LPMLTF).

Article 28 of the Bill on Changes and Amendments to the LPMLTF a new Article 33a is introduced and it defines, for the first time, the necessity of paying significant attention on all unusually large transactions which have no apparent economic or visible lawful purpose . This means that besides suspicious transactions all unusual transactions shall be analyzed- harmonization with FATF Recommendation 11.

Article 54 of the current Law that defines data collection upon the initiative of the competent state authority is completely changed. Namely, the current Article 54 of the Law is not clear enough and leaves possibility of being interpreted incorrectly. Due to that the Article 54 is fully changed and now it precisely defines cases when the competent state authority (APMLTF) shall initiate the procedure for obtaining and analyzing data, information and documentation for the purpose of detecting and preventing money laundering and terrorist financing, upon the request of other competent state authorities and also the type of that which this initiative shall include. (Article 36 of the Bill on Changes and Amendments to the LPMLTF).

The recommendations of the European Commission regarding the definition of the beneficial owner, a politically exposed person and its close associate are accepted and introduced in the Bill on Changes and Amendments to the LPMLTF. The definition of beneficial owner given in the current Law is not fully harmonized with the definition from Directive 2005/60/EC - Article 3 item 6 of the Directive. The change refers to the words „more than 25%“that are now changed and in the new item 8 stated as „of at least“. Thus, a beneficial owner of a business organization includes those natural persons that own 25% of shares as well, and not only the natural persons that own more than 25% shares as provided for by the current Law. (Article 14 of the Bill on Changes and Amendments to the LPMLTF) Provision regarding PEPs are changed so that the PEPs is considered , not only a person that is acting or has been acting in the last year on a distinguished public position in a state, but also a person that is acting or has been acting in the last year on a distinguished public position in Montenegro or in another country or on the international level. In addition to that the list of politically exposed persons shall be published on the website of the competent administration body (APMLTF). (Article 21 of the Bill on Changes and Amendments to the LPMLTF).

In Article 42 of the Bill on Changes and Amendments to the LPMLTF (Article 86 of the current Law), the Bar Association of Montenegro and Notary Chamber are designated as new supervisors for implementation of the Law by lawyers and notaries. Also, In Article 43 of the Bill on Changes and Amendments to the LPMLTF (Article 89 of the current Law) amendments defines that If the supervisory authorities from the Article 86 of this Law, during the inspection, assess that in relation to any transaction or person there is suspicion of money laundering or terrorist financing, or establish facts that can be related to money laundering or terrorist financing, shall immediately and without delay inform the competent administration body.

Article 33 of the Bill on Changes and Amendments to the LPMLTF defines that in Article 43 of the current Law after paragraph 4 a new paragraph shall be added and it defines that 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 competent administration body (APMLTF).

The penalty area of the Law is amended with more rigid fines and the amount of fines is given in euros. The range of the amount of fine is from **€ 2, 500 to €20, 000** . Article 50 of the Bill on Changes and Amendments to the LPMLTF defines that After Article 96 (of the current Law) a new Article is added and it stipulates that in the event of particularly serious violation or repeated violations from the Articles 92 - 96 of this Law a prohibition on performing business activities may be imposed to the legal person up to two years and a prohibition on performing business activities may be imposed to the responsible person and natural person up to two years. (Articles **45-50** of the Bill on Changes and Amendments to the

LPMLTF refers to changes and amendments to the Articles 92-96 of the current Law)

### **Administration for the Prevention of Money Laundering and Terrorist Financing**

In the first half of 2010 analysts from the **Administration for the Prevention of Money Laundering and Terrorist Financing** - Analytics Department completed the training for the new analytical software »I2«, »ANALYST NOTEBOOK«

On 2<sup>nd</sup> June 2010 Montenegro was granted observer status with EAG group – the Eurasian group on combating money laundering and financing of terrorism.

During 2010 APMLTF signed MOUs with the financial intelligence units of Moldova, San Marino and Israel. Additionally, APMLTF innovated MoU with the financial intelligence unit of Russian Federation regarding prevention of terrorist financing.

On 19<sup>th</sup> February 2010, in the aim of establishing new manners and methods of cooperation in the area of suppression of organised crime and the most serious types of criminal offence of corruption the Supreme State Prosecution, Police Directorate, Directorate for Public Revenues, APMLTF and Customs Administration signed Memorandum on establishing the Special Investigative Team. The team is headed by the Special Prosecutor for organized crime and corruption.

On 10<sup>th</sup> December 2010, during the opening the Project ILECU I, the representatives of the Ministry of Interior, Ministry of Justice, APMLTF, Police Directorate, Customs Administration and Directorate for Public Revenues signed Memorandum on improving the cooperation in the area of suppression of crime. The main goal of signing this Memorandum is improvement of cooperation in the area of suppression of crime for the purpose of exchanging operative data that refer to the suppression of crime in accordance with Montenegrin legislation.

During 2009 and 2010 the requests for initiating first degree misdemeanor procedure were submitted to the person authorized for conducting first degree misdemeanor procedures (Department for conducting a first degree misdemeanor procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanor procedure. According to the new Law on misdemeanors that entered into force on 1<sup>st</sup> September 2011, the requests for initiating first degree misdemeanor procedure are submitted to the District misdemeanor authorities.

On 20<sup>th</sup> January the new APMLTF Systematization Act is adopted. In accordance with the new Systematization there are systematized working positions for 38 employees. Currently there are 29 employees and one trainee. The main novelty introduced with this act is the new Department for prevention reporting in area of PMLTF. This Department will continue to carry out activities related to European and Euro Atlantic integrations as well as updating National Action plans referring to implementation of the national strategies.

During 2010 APMLTF representatives participated at the following trainings:

- Workshop on “Cooperation between Financial Intelligence Units and Law Enforcement Agencies in fighting against money laundering and recovering illicit assets”, held in Syracuse, Italy, October 4 – 8, 2010, organized by IMF Legal Department in collaboration with The Basel Institute of Governance and the Istituto Superiore Internazionale di Scienze Criminali

- IPA 2008- DET ILECU s 2

POLICE COOPERATION:FIGHT AGAINST ORGANIZED CRIMINAL, PARTICULARLY ILLICT DRUG TRAFICKING AND PREVENTION OF TERRORISM

- Police officers professional ethics and corruption prevention, held in Becici, Montenegro from 1st to -5th

November 2010.

- Human resources management in performing police duties, held in Danilovgrad, Montenegro, from 15th to 17th November 2010.
- Designing economical end financial strategy , held in Becici, 09-10.Decembar 2010,
- The Egmont Group/World Bank tactical Analysis Course, held in Paris, France, December 6 – 9, 2010.
- Training programme for the holders of judicial function on fight against corruption – Personal and institutional integrity, held in Kolašin, November 10, held in Budva, November 12, organized by the Centre for training the holders of judicial function, UNDP and OSCE offices to Montenegro , State Department, US Department of Justice.
- Values –gender relations and corruption, held in Budva, Montenegro, December 2 - 3, organized by Centre for training the holders of judicial function and UNDP.
- IPA 2008, Twinning Programme MN 08 IB FI 01, Strengthening the regulatory and supervisory capacity of the financial regulators referring to the prevention of money laundering and terrorism financing, performed through the Central banks of Netherlands and the Bulgarian National Bank and Montenegrin beneficiary institutions Central bank, Securities Commission, Insurance Supervision Agency and APMLTF .

**\* In 2010 FIU Montenegro created new web site and replacement of web server. IT Department is improving its capacities continuously.**

In the period December 2010 – April 2011, APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –“Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows :

- 18<sup>th</sup> - 19<sup>th</sup> January 2011 within Activity 4.3.3. was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions. The slogan and the text for the brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing.
- 25<sup>th</sup> - 26<sup>th</sup> January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions,
- 27<sup>th</sup> - 28<sup>th</sup> January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions,
- 1<sup>st</sup> -2<sup>nd</sup> March 2011.godine, training for law enforcement authorities related to AML/CFT
- **On 7<sup>th</sup> to 8<sup>th</sup> March Second Conference of the Parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198) held in Strasbourg.**
- On 21<sup>st</sup> and 23<sup>rd</sup> March 2011 Tax and Crime Conference: A whole of government approach in fighting financial crime was held in Oslo
- On 17<sup>th</sup> and 18<sup>th</sup> March 2011 a Workshop on Criminal Money Flows on the Internet was organized in Belgrade
- On 28<sup>th</sup> to 29<sup>th</sup> March 2011 Human Resources Management Authority in cooperation with Judicial Training Center of Montenegro and UNDP office in Podgorica organised training on

Personal and institutional integrity and Corruption-Related Crimes” in Bečići.

- In the period April – September 2011, the Central Bank of Montenegro continued to strengthen its role in the area of prevention of money laundering and terrorism financing through the realization of new activities in the Twinning project MN 08 IB FI 01 – “Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro” financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank.
- In the period from 19<sup>th</sup> to 21<sup>st</sup> April 2011, within ILECUS project, a workshop on “ Prevention of money laundering” was held in Becici, MNE .
- In the period from 26<sup>th</sup> to 29<sup>th</sup> April 2011, Human Resources Management Authority in cooperation with the Regional School of Public Administration(RESPA) organised workshop on “*Prevention of Corruption in State Administration*” in **Danilovgrad, MNE**
- On 21<sup>st</sup> April 2011.godine Human Resources Management Authority in cooperation with Directorate for Anti –corruption Initiative organised training on “Preparation and conducting Integrity Plans, in Podgorica, MNE
- On 18<sup>th</sup> April 2011 Within the Twinning project MN 08 IB FI 01 –“Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro” workshop for representatives of the competent state authorities included in the PML/CFT system in Montenegro, was held in Podgorica, MNE
- On 6<sup>th</sup> May 2011 Human Resources Management Authority in cooperation with the Government of Norway organised the conference on “Public Administration Reforms in the process of accessing EU”, in Podgorica, MNE
- On 9<sup>th</sup> and 10<sup>th</sup> May the Meeting of the South East European Co-operation Process Directors of National Institutions and Agencies for Combating Corruption and Organized Crime took place in Becici, MNE
- In the period from 9<sup>th</sup> to 13<sup>th</sup> May 2011 within the Twinning project IPA 2009 “Strengthening capacities of the Police Directorate Montenegro” workshop on “Conducting financial investigations with the view of combating money laundering and terrorist financing” was held in Danilovgrad, MNE
- In the period from 24<sup>th</sup> to 26<sup>th</sup> May 2011 within ILECUS 2 project, a workshop on “Investigations of the criminal offences related to narcotics and organized crime” was held in Budva, MNE
- In the period from 6<sup>th</sup> to 10<sup>th</sup> June 2011 Rule of Law Assessment mission: Fight against Organised Crime and Corruption (Reference code: JHA IND/EXP 45684) was carried out in Podgorica, MNE
- In the period from 14<sup>th</sup> to 17<sup>th</sup> EAG was held in Moscow, Russia,
- On 14<sup>th</sup> June 2011 within ILECUS 2 project, a workshop on “ Investigations of the corruptive criminal offences” was held in Kolasin, MNE
- In the period from 2<sup>nd</sup> to 7<sup>th</sup> July 2011 The Third The International Association of Anti-Corruption Authorities seminar was held in Shanghai, China,
- In the period from 11<sup>th</sup> to 15<sup>th</sup> July 2011 the 19<sup>th</sup> **Egmont Group Plenary Meeting was held in Armenia,**
- In the period from 5<sup>th</sup> to 9<sup>th</sup> September within the Twinning project IPA 2009 “Strengthening capacities of the Police Directorate Montenegro” workshop on “Money Laundering, Seizure

And Confiscation of the Proceeds From Crime” was held in Danilovgrad, MNE

- In the period September – December 2011, the Central Bank of Montenegro continued to strengthen its role in the area of prevention of money laundering and terrorism financing through the realization of new activities in the Twinning project MN 08 IB FI 01 –“Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro” financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. In this regard, APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency has, within the Component 4 Prevention of Money Laundering and Terrorism Financing, Subcomponent 4.3 Information material, prepared brochures which were distributed to financial institutions and citizens aimed at raising the public awareness on all activities performed in the area of prevention of money laundering and terrorism financing. These brochures were also published on the websites of the mentioned state authorities included in the Twinning program.

Additionally, APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency has, within the Component 4 Prevention of Money Laundering and Terrorism Financing, Subcomponent 4.4 Cooperation between authorities included into the system for PML/TF, prepared the Draft of Memorandum MOU on cooperation and exchange of information regarding prevention of money laundering and terrorist financing.

- a working meeting of Heads of FIU Montenegro, Serbia and Albania on preparation of the Cross border cooperation project (that should be carried out and financed through IPA Programs) was held in MNE.
- within ILECUS 2 project, a workshop on “Financial investigations and seizure of assets ” was held in MNE.
- In the period from 5<sup>th</sup> to 9<sup>th</sup> September within the Twinning project IPA 2009 “Strengthening capacities of the Police Directorate Montenegro” workshop on “Money Laundering, Seizure And Confiscation of the Proceeds From Crime” was held in Danilovgrad, MNE
- **except of events that are organized in Montenegro, representatives of various institutions in Montenegro also attended a number of international conferences and meetings, such as:**
  - Investigating and prosecuting the financing of terrorism - expert meeting on preventing and countering terrorist financing organized by OSCE in Chisinau, Moldova on 27<sup>th</sup> September 2011
  - The Fifth **Regional Heads of FIUs Conference** held in **Otočec, Slovenia, from 12<sup>th</sup> -14<sup>th</sup> October 2011**
  - Within IPA Project 2009 “ Strengthening capacities of the Police Directorate” - study visit to the State **criminal police** agency **Baden-Wuerttemberg, Germany, from 10<sup>th</sup> -14<sup>th</sup> October 2011**
  - 10th Typologies meeting was held in Tel Aviv, Israel from 30<sup>th</sup> October – 2<sup>nd</sup> November 2011
  - The 15th Plenary meeting of the Eurasian group on combating money laundering and financing of terrorism (EAG) was held in Xiamen, China on November 23-24, 2011

### **Criminal legislation of Montenegro**

**Criminal legislation of Montenegro** was further improved since the last Progress report. Namely, the new Criminal Procedure Code started to be applied. CPC establishes the normative basis for a more efficient and less expensive criminal procedure. Also it is aiming at providing a complete protection of human rights and fundamental freedoms, guaranteed by the Constitution and international documents, i.e.



to make a balance between two requirements in every procedure – the efficiency of a criminal procedure, on the one hand and a protection of human rights and fundamental freedoms, on the other hand. New Code introduced major changes in the criminal proceeding. The main novelties are: concept of prosecutor-led investigation, reversed burden of proof of legality of property (on the offender), Agreement on the admission of guilt and others. The implementation of the new CPC takes part of the overall judiciary reform which started few years ago in Montenegro (Strategy for the reform of The Judiciary 2007-2012 and The Action plan for the implementation of the Strategy 2007-2012).

Criminal code is also further improved by changes and amendments in 2010. and 2011. Changes and amendments encompassed the articles referring to criminal offences of Money laundering and Financing of terrorism. Also, criminal offences related to terrorism are much more widened, defining 4 additional forms of offence. Also, changes and amendments are referring to criminal offences Abuse of Position in Business Operations, Illegal influence and Instigation of illegal influence.

Besides, changes and amendments of the Law introduced changes in terms of articles referring to confiscation of proceeds of crime, in a way that in accordance with the art. 113 of The Criminal code, from the perpetrator of the criminal offence it is possible to confiscate material gain when there is a doubt that it was gained by criminal offence, unless the offender makes it probable that its origin is legal (expanded confiscation)). Expanded confiscation can be applied if the perpetrator is by final decision sentenced to: 1) some of the criminal offences perpetrated in the framework of the criminal organization (Art 401a); 2) some of the following criminal offences:

- against humanity and welfares protected by international law perpetrated for self-interest;
- money laundering;
- unauthorized production, keeping and releasing for circulation of narcotics;
- against payment operations and economic transactions and against official duty, perpetrated for self-interest for which prescribed punishment is 8-years of imprisonment ore more severe punishment.

Within the project, –IPA 2008 “Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro” **the Central Bank of Montenegro** has, within the activity in the *Component I.C.4. Assistance in implementation of best practice in money transfers pursuant to Directive 2005/60/EC and Regulation 1781/2006/EC*, passed the Decision on Mandatory Elements of Payer Transfer Order (OGM, 15/11), which implemented the requirements of the Regulation 1781/2006/EC.

### **Securities and Exchange Commission**

**Securities and Exchange Commission** concluded the Memorandum of Understanding on Mutual Cooperation and the Exchange of Information with Slovenian Securities Market agency on 12/04/2010

The Commission concluded the Memorandum of Understanding on exchange of information on international aid in the capital market regulation on 15/03/2011.

The Commission concluded Memorandum of Understanding on mutual assistance and the exchange of information concerning matters of securities and pension companies’ supervision with the Bulgarian Financial Control Agency on 12/05/2011.

Montenegro Securities and Exchange Commission concluded Declaration on cooperation on 30/11/2011 with regulators from the following regions: Slovenian Securities Market agency, Republic of Srpska Securities Commission, Securities Commission of the Federation of Bosnia and Herzegovina, Securities Commission of Brčko District, Securities and Exchange Commission of the Republic of Macedonia, the Croatian Agency for Supervision of Financial Services and Republic of Serbia Securities Commission.

The Declaration of Cooperation has a common goal - establishing and maintaining fair, efficient and orderly capital markets and investors protection. Regulators intend to provide mutual assistance in order to ensure consistency of business operations conditions and improvement of market, especially in the field of

faster international integration.

In order to achieve the above mentioned goals and principles the work groups will be established which will deal with relevant issues regarding capital market, such as the following: corporate governance development, regulations improvement, legal issues, education of regulators and capital market participants, information technology, etc. Their work shall be coordinated by Permanent National Regulators Conference within the region.

The Commission also concluded Memorandum of cooperation and exchange of information in the field of anti money laundering and terrorist financing with the Ministry of Finance, Administration for Prevention of Money Laundering and Terrorist Financing, the Central Bank of Montenegro and Insurance Supervision Agency in December 2011.

In cooperation with the Twinning project team, Montenegro Securities and Exchange Commission made Prevention of Money Laundering and Terrorist Financing Inspection Guide, which was adopted by the Commission in April 2011.

On 28 September 2011 the Commission adopted a Code of Ethics, as a general rule of conduct which contributes to elimination of the conditions for participation of the Commission's staff in money laundering and terrorist financing. The same was realized in Montenegrin and English languages and delivered to each employee, exposed in a visible place in the Commission's premises and put on the website of the Commission.

On 29 of December 2011, the Commission adopted the Master control plan for 2012 which directs the examiners to the principles, methods, methodology, terms and quality required in the performance of control by providing conditions for coverage, systematic and timely risk assessment, and primarily the application of uniform legislation, and therefore providing information on authorized participants' measures taken regarding anti-money laundering and terrorist financing.

Given the link between corruption and money laundering and terrorism financing, on December 23, 2011 in the premises of the Securities and Exchange Commission the representative of the Administration for Anti-Corruption Initiative held a lecture on the theme "What is corruption," where he got acquainted the employees of the Commission with the term, forms, substance and the negative effects of corruption. The issue of integrity was also discussed, that is, the integrity plan as a way of eliminating corruption, and the Commission, on 29 of December 2011, adopted the Integrity plan based on which procedures for all work will be done, within which the procedures related to anti-money laundering and terrorist financing will be included.

Securities and Exchange Commission opened a special page on its web site dedicated to the prevention of money laundering and terrorist financing.

On May 5, 2010 the Securities and Exchange Commission adopted the Decision by which it obliged authorized participants on the capital market to submit, in the forms of periodic report, under the item 5 and annual report on operations under the item 6, to the Securities and Exchange Commission the data on performance of obligation of reporting the Administration for Prevention of Money Laundering and Terrorist Financing stipulated in Article 33, paragraphs 1, 2 and 3 of the Law on Prevention of Money Laundering and Terrorist Financing and that for each of the authorized capital market participants four quarterly and one annual control has been conducted. The reports have not been accepted by the Commission if unless they contained also the Report on the prevention of money laundering.

Rules for capital market participants contains provisions that prescribe that the internal controls is responsible, among other things, for implementation of the Law on Prevention of Money Laundering and Terrorist Financing and for taking measures against those who act contrary to this legal obligation and business principle. These provisions were entered into the Rules by authorized capital market participants; that the Executive Director of the company is responsible for consistent compliance with the provisions of these rules and other laws of the company in the internal control system, respect for the established

standards in performing all operations of the company and full involvement of all employees of the company in their implementation: that employed within the company, among other things, are obliged to, when working with clients, adhere to internal procedures which are aimed at preventing money laundering and terrorist financing activities adopted by the competent authority of the company, and that, with no obligation to inform the client, report to internal control manager and Executive Director any suspicious transaction.

Provisions of Article 19 of the Law on Investment Funds ("Official Gazette of Montenegro", No. 54/11) prescribe that:

- "When the home Member State of the management company is not at the same time the home Member State of the mutual fund, the depositary must conclude an agreement in writing, on how to exchange information required in order to perform the depositary duties in accordance with the Law (paragraph 3);

- The agreement referred to in paragraph 3 of this Article shall specifically govern:

- 1) Name and registered office of the management company along with names of open-end funds for which the agreement is concluded;
- 2) the manner and procedure for exchanging information and data;
- 3) the manner of storage of confidential data and measures to be taken to prevent money laundering;
- 4) authorizations in relation to the appointment of third parties and transfer of authorities to third parties;
- 5) the manner of changing and amending the agreement concluded;
- 6) the manner of dispute resolution (paragraph 4).

Within the Twinning Project representatives of Securities and Exchange Commission " Strengthening regulatory and supervisory capacities of the financial regulators in Montenegro " which was realized between Bulgarian National Bank, Dutch Central bank, Bulgarian Commission for financial control and Ministry of Finance, Central bank of Montenegro, Securities and Exchange Commission and Insurance Supervision Agency:

- participated in activities of Diagnostic analysis of current regulatory framework (January 2010);

- participated in activities of Drafting amendments to the current AML/CFT guidelines for the obliged entities (April 2010);

- participated in activities Developing inspections programs (June 2010);

- participated in activities of Training supervisory staff in inspection techniques, during their study visit to Bulgarian National Bank and Financial Supervision Commission under the name Prevention of money laundering and measures against terrorist financing for the purpose of getting acquainted with local AMLTF system, procedures and supervisory practice (September 2010) and participated on seminar held in Podgorica (October 2010);

- participated in the workshop named Developing a training program for obliged institutions within which a Commission's representative had a presentation for capital market participants regarding Instruction on risk analysis of money laundering , „know your client” procedures and other procedures for recognizing suspicious transactions (January 2011);

- stayed in study visit in the Bank of Italy, in order to get acquainted with the practice of that institution regarding preparation of material intended for the public, aimed at promoting activities related to money laundering and terrorist financing (January 2011);

- participated in the workshop regarding preparation of Prevention of Money Laundering and Terrorist Financing Inspection Guide for the Commission's needs (21-22 February 2011) - (The Guide is, as it was

mentioned above, completed in April 2011);

- participated in activities under the name Meeting on domestic cooperation between AML/SFT authorities (April 2011) whose aim was a conclusion of Memorandum among supervisors in Montenegro (Memorandum is, as it has been mentioned above, concluded in December 2011);

- participated in activities under the name Communication Seminar Increasing public awareness on AML/CTF where brochures on prevention of money laundering and terrorist financing "Money from crime? No, thank you" were presented and distributed (May 2011). Regarding this issue The Commission adopted the Decision on distribution of brochures with notification of the purpose of the campaign and instructed them to handle the same and to put the brochures in a visible place. In this connection the Commission has distributed brochures to 113 addresses. Brochures were delivered to the following capital market participants: Montenegro Stock Exchange Jsc. Podgorica (1650 brochures), Central Depository Agency Jsc. Podgorica (1650 brochures), Investment funds' management companies and Pension funds' management companies (6570 brochures), authorized capital market participants (broker-dealers) – (7040 brochures) and custodian banks (4200 brochures). Furthermore, for the purpose of education the Commission delivered remaining brochures to all elementary (435 brochures) and secondary schools (720 brochures) within the territory of Montenegro. Likewise, the Commission has made the brochures available on the visible place in the Commission's premises and put the same on its website in order to be obtained by all interested parties.

Securities and Exchange Commission conducted 88 inspections of capital market authorized participants and 30 inspections of custodian banks, in 2010.

Securities and Exchange Commission conducted 90 inspections of capital market authorized participants and 36 inspections of custodian banks in 2011.

In 2011 Securities and Exchange Commission forwarded five charges to Administration for Prevention of Money Laundering and Terrorist Financing.

### **Insurance Supervision Agency**

During the previous period the most important activity related to AML / FT, carried out by **Insurance Supervision Agency**, was adoption of Guidelines for analysis of AML / FT risk in life insurance companies, which oblige only life insurance companies, according to article 8 para. 2 point 4) of the AML/CFT Law. After the adoption of the Guidelines, the document was sent to all obligors, and a seminar was held, introducing the new obligations brought by this act, for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising therefrom were shared.

As regards general regulatory activities of the ISA, during the previous period proposals for amendments to the Law on Insurance and Law on Compulsory Insurance in Transport were finalized. These two proposals were sent to the Ministry of Finance at the end of III quarter 2011, which shall conduct the further legal procedure.

In the part of supervisory activities during this period, Agency performed 8 inspections in 2010, and 23 inspections during 2011. Out of these, two of the inspections of insurance companies were aimed solely at checking achieved level of compliance with applicable regulation, and assessing procedures for minimizing risk of money laundering and terrorist financing.

Beside this, from 2010 till this year, international activities of Agency also comprised signing of two more Memoranda of Understanding – with Insurance Supervision Agency of Macedonia and Central Bank of Kosovo.

### **Customs Administration**

**During the reporting period Customs Administration** has continuously undertaken measures and

actions from its jurisdiction, aimed at prevention of money laundering and terrorism financing, in accordance with valid regulations. New development in the field of legislation, compared to previous period, is the adoption of the Decision on the amount of cash that can be brought in or out of Montenegro without declaring (Official Gazette of Montenegro 38/10), by which the Decision on the amount of cash that can be brought in or out of the Republic of Montenegro without declaring (Official Gazette of Montenegro 58/05) ceased to be valid. Consequently, resident or non-resident can, physically entry or exit in/out of Montenegro without declaring means of payment in the value up to 10.000 Euro or in that value converted from the currency other than euro. The new development is also the adoption of Rulebook on detailed evidence on performed controls of physical entry and exit of means of payment across state border (Official Gazette of Montenegro 35/11). This Rulebook closely defines the records on conducted controls of physical entry or exit of means of payment at the locations of entry or exit in/out of Montenegro. The records on conducted controls of physical entry or exit of means of payment in the value exceeding 10.000 Euro or in that value converted from the currency other than euro, during the entry or exit in Montenegro, on the reporting form, which makes the integral part of this Rulebook.

In accordance with the referred Rulebook, the Customs Administration of Montenegro has posted the Notification on method of declaring physical entry and exit of means of payment at visible location at border crossings.

During 2010 and 2011 the Customs Administration Montenegro detected 11 cases of non-declaring currency at the border crossings. Against all offenders were filed misdemeanour charges. In all cases the persons who failed to declare currency to the customs authority are sentenced with adequate pecuniary fines, in accordance with the Article 15, Paragraphs 1 and 3 of the Law on Foreign Current and Capital Operations. Customs administration is keeping records of all reports made by all customs officers on the territory of Montenegro, which is later forwarded to the Administration for the prevention of anti-laundering. In 2010 Customs Administration submitted to the APML 386 reports on cross border transfer of currency, payment instruments etc. In 2011 Customs Administration submitted to the APML 358 reports on cross border transfer of currency, payment instruments etc. In 2010 Customs Administration submitted to the APML 15 suspicious transaction reports and 11 suspicious transaction reports in 2011.

The Customs Administration has also continued with comprehensive training of customs offices in the field of money laundering and terrorism financing.

### **Ministry of Foreign Affairs and European Integrations**

Ministry of Foreign Affairs and European Integrations: Apart from already implemented national regulations, Law on the implementation of international restrictive measures will be adopted in 2012. The working group for the drafting of the above mentioned law has already prepared the text, which is at the moment sent to the relevant institution for consideration. This law will be the legal ground for the implementation and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced.

### **Training and awareness raising**

On 2nd February 2010, within IPA Twinning project, EU organized a seminar: "EU Coordination, tables for legal complying with a view to complying the European law with the national law of Montenegro. The seminar was held in the Ministry of Finance (three participants from the FIU).

10-11th June 2010, within TAIEX instruments, the EC Directorate General for Enlargement organized the seminar on combating terrorism, money laundering and terrorist financing. The seminar was held in Vienna (one participant from the FIU).

5-7th July 2010, The Human Resources Management Authority in cooperation with the Judicial Training Center, UNDP, OSCE and USA Embassy in Podgorica organized the seminar: "Improving trainings on investigating corruption and related issues – financial investigation." The seminar was held in Budva (one

participant from the FIU).

20-22nd September 2010, UNDP, OSCE, USA Embassy in Podgorica, the Government of Montenegro, the Human Resources Management Authority and the Judicial Training Center organized the seminar "Investigations on corruption and related issues – financial investigation." (two participants from the FIU).

4- 8th October 2010, the IMF, together with the Basel Institute on Governance and International Institute of Higher Studies in Criminal Sciences, organized a five-day workshop: Cooperation between FIU and Law Enforcement Authorities in fighting money laundering and recovering illicit assets. The workshop was held in Syracuse (one participant from the FIU).

Police officers professional ethics and corruption prevention, held in Becici, Montenegro from 1<sup>st</sup> to 5<sup>th</sup> November 2010.

10<sup>th</sup> November 2010 Training **programme** for the **holders of judicial function** on fight against corruption – Personal and institutional integrity, held in Kolašin, , held in Budva, November 12, organized by the Centre for training the **holders of judicial function**, UNDP and OSCE offices to Montenegro, State Department, US Department of Justice.

Human resources management in performing police duties, held in Danilovgrad, Montenegro, from 15<sup>th</sup> to 17<sup>th</sup> November 2010.

2 – 3<sup>rd</sup> December Values –gender relations and corruption, held in Budva, Montenegro, , organized by Centre for training the **holders of judicial function** and UNDP

6-9th December 2010, the World Bank and Egmont Group organized the Egmont Group Training – Tactical Analysis and Training for trainers. The training was held in Paris (two participants from the FIU).

- 9.-10th December 2010, within the ILECU's II project a two-day workshop: Development of economic-financial strategy", was held in Bečići (one participant from the FIU).

In the period December 2010 – April 2011, APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –"Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows :

11th -14th October 2010 Montenegro Twinning project – activity 4.2.3AML/CFT supervision workshop for MN supervisors

18th - 19th January 2011within Activity 4.3.3. was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions. The slogan and the text for the brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing.

25th - 26th January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions.

27th - 28th January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions

1st -2nd March 2011.godine, AMLCFT workshop for police and judicial institutions,

5-9th September 2011, the Police Academy in Montenegro, within the Twinning project IPA 2009 „Strengthening the capacities of the Police Directorate“, organized a seminar: „Money Laundering and recovering illicit assets“. The representatives from the APMLTF attended the seminar.

27-29th September 2011, in Moldova, the Government of Moldova, in cooperation with OSCE and UN Office, organized the Workshop on Prevention and Fight against Terrorist Financing (one representative of the FIU attended the workshop).

10 – 14th October 2011 within the Twining project IPA 2009 „Strengthening the capacities of the Police Directorate“ one representative of the FIU participated into study visit to the Criminal Police of the region Baden-Wurttemberg – in Germany.

1-3rd November 2011, Moneyval 10th Expert’s Meeting on Money Laundering and Terrorist Financing Typologies was held in Tel Aviv, Israel. Two representatives of the FIU participated in the workshops.

22-24th November 2011, within the ILECU’s II project, a workshop:” Financial investigations and recovering illicit assets” was organized in Bečići. Two participants of the FIU attended the workshop.

13-14th December 2011 UNODC and OSCE organized a workshop in Bucharest. The FIU representatives participated into this workshop for the purpose of training the employees and exchanging experience with other participants.

### New developments since the adoption of the second and third progress report

In accordance with MONEYVAL recommendations and upon the Government initiative, a working group, tasked with considering and introducing the necessary changes and amendments to the Criminal Code, was established. Since the establishment of the Group its members have work really hard and the working version of the Law on Amendments and Changes to the Criminal Code is drafted.

This is a complex process. The Secretariat for Legislation has insisted on introducing all of the necessary changes into the Code in order to avoid further amendments being required in the immediate future. Thus, although the MONEYVAL recommendations have already been implemented into the working version of the proposal, it still has to be completed by introducing the recommendations from the GRECO report, as well as some new criminal acts (such as child pornography, sexual conduct without consent, etc.).

Furthermore, it is necessary to follow the procedure of approving the Bill on Changes and Amendments, which is a time consuming process. Once the final draft version of the Bill is completed it has to be submitted for revision and approval to different institutions. The first step includes a public discussion on the Bill. Thereafter it will be presented to the Government for approval. Finally the Bill will then be submitted to the parliament for consideration and adoption

However, it is important to note that on 14th October 2012 there were extraordinary parliamentary elections in Montenegro. As follows, the beginning of the mentioned procedure has to wait for the establishment of the new Government and formation of the new Parliament. We hope that this procedure will be completed as soon as possible.

#### **APMLTF**

Amendments and changes of the Law on the Prevention of Money Laundering and Terrorist Financing was adopted in Parliament („**Official Gazette of Montenegro No. 14 of 07.03.2012**“)

Ministry of Finance has, upon the initiative of the APMLTF, started activities for preparing the new LPMLTF. The working group, formed by the Ministry of Finance (which proposes the law), consists of the representatives of the following institutions: Ministry of Finance, The Parliament of Montenegro, Administration for the Prevention of Money Laundering and Terrorist Financing, Ministry of Justice, Ministry of Interior Affairs and Public Administration, The Administration for Games on Chance, Department of Public Revenue, Central bank of Montenegro, Securities and Exchange Commission,

Insurance Supervision Agency, Supreme State Prosecutor, The Police, Agency for electronic communications and postal services. The working group prepared Draft of the Law. Draft of the Law is on public discussion. According a Government plan for 2013, the Law will be adopted until the end of this year, after what Proposal of Law will be send it to the Parliament, for adoption.

**In July 2013 the Government of Montenegro adopted the Action plan for the period 2013-2014 with a view to implementing the Strategy for Prevention and Suppression of Terrorism, Money Laundering and Terrorism Financing 2010 - 2014**

On 4<sup>th</sup> July 2013 the Government adopted new Rulebook on internal organization and systematization of APMLTF.

The Rulebook is in line with the new Law on civil servants and state employees (Official Gazette of Montenegro, No. 39/11 from 04.08.2011, 50/11 from 21.10.2011, 66/12 from 31.12.2012).

The proposed amendments to the Rulebook on systematization of workplaces are developed based on the new needs of the work process as a result of more demanding workload and wider APMLTF jurisdiction.

The Rulebook provides the establishment of three sectors in which the primary activities of the APMLTF are performed, as well as one Office as organizational unit for performing activities within the scope of the Administration.

Sector for Analytical Operations and Reporting Entities Control includes Analytics Department, Suspicious transactions Department and Reporting Entities Control Department

Sector for International and National Cooperation

Sector for Prevention, Integration and Information in the area of PMLTF

Office for General and Financial Affairs and Information Technologies

APMLTF signed MoUs on exchanging financial intelligence data with FIUs of Panama, Saudi Arabia and India.

#### TRAINING AND AWARENESS RAISING

1. 29<sup>th</sup> January 2013 - Seminar “SPS information day”, dedicated to the NATO program Science for Peace and Security (SPS) – organized by the Ministry of Foreign Affairs and European Integration, University of Montenegro and NATO program SPS – Podgorica, Montenegro

2. 13-15<sup>th</sup> 2013 Strategic priorities in the cooperation against cybercrime - Hosted by Minister of Interior and the Minister of Justice of Croatia – Dubrovnik, Croatia

3. 27<sup>th</sup> February 2013 - Presentation on the subject“ Suppression of organized financial crime“ - Ministry of Interior and UK General Prosecutor's Office- Podgorica, Montenegro

4. 7<sup>th</sup> March 2013- Sharing alternatives practices for the utilization of confiscated criminal assets – European Commission and Local Democracy Agency Montenegro – Podgorica, Montenegro

5. 14<sup>th</sup> and 15. March 2013 - The fight against organized crime and corruption - Strengthening the Prosecutors' Network – Judicial Training Centre in cooperation with German organization for the International Cooperation and Dutch Centre for International Cooperation – Podgorica, Montenegro

6. 13<sup>th</sup> March 2013 – Integrity Plan in State Administration , Podgorica, Montenegro

7. 21-22<sup>nd</sup> March 2013 - Financial investigations and confiscations - experiences of Croatia and Great Britain - Human Resources Administration, Judicial Training Centre, United Nations



Development Programme and OSCE– 2 officers

8. 27<sup>th</sup> -28<sup>th</sup> March 2013 – Implementation of the supervision of the Law on prevention of money laundering and terrorist financing by the Securities Commission and Insurance Supervision Agency – organized by the APMLTF – Budva, Montenegro

10. 1<sup>st</sup> -5<sup>th</sup> April 2013 - The five-day workshop in order to develop the Innovated Action Plan for the prevention of terrorism, money laundering and financing of terrorism for the period 2013-2014 - Police Administration in cooperation with OSCE Mission to Montenegro – Budva, Montenegro

11. 1<sup>st</sup> -3<sup>rd</sup> April 2013– FIU strategic analysis – World bank and Kazakhstan Ministry of Finance – Borovoe, Kazakhstan

12. 17<sup>th</sup> -19<sup>th</sup> April – Models of communication between citizens and public administration in the information society - Ministry for Information Society and Telecommunications - Podgorica, Montenegro

13. 29<sup>th</sup> -30<sup>th</sup> April – Cyber Crime @ IPA: “Closing Conference” – European Union and the Council of Europe -Budva, Montenegro

14. 8<sup>th</sup> May 2013- Constitutional System of Montenegro - Human Resources Administration – Podgorica, Montenegro

15. 8<sup>th</sup> May 2013–Prevention of Corruption - Human Resources Administration – Podgorica, Montenegro

16. 17<sup>th</sup> May 2013 - The system of state administration - Human Resources Administration – Podgorica, Montenegro

17. 24<sup>th</sup> May 2013– European Union - Human Resources Administration – Podgorica, Montenegro

18. 28<sup>th</sup> May 2013– Public Finance System - Human Resources Administration – Podgorica, Montenegro

19. 5<sup>th</sup> June 2013 - Free access to information correlated with personal and confidential data - Human Resources Administration – Podgorica, Montenegro

20. 20<sup>th</sup> June 2013– Business correspondence - Human Resources Administration – Podgorica, Montenegro

21. 22<sup>nd</sup> – 24<sup>th</sup> June 2013 –Fifth International Association of Anti-Corruption Authority (IAACA) Seminar - IAACA and the Supreme People’s Procuratorate of the People’s Republic of China (SPP), - Jinan, the capital of Shandong Province, China

22. 24<sup>th</sup> – 28<sup>th</sup> June 2013 - Seminar on financial investigations – British Embassy - Police Academy

– Danilovgrad, Montenegro

23. 4<sup>th</sup> June 2013 - Mobbing - Human Resources Administration – Podgorica, Montenegro

24. 5<sup>th</sup> July – Code of Ethics - Human Resources Administration – Podgorica, Montenegro

25. 8<sup>th</sup> June 2013 - Office Management - Human Resources Administration – Podgorica, Montenegro– 1 officer

26. 10<sup>th</sup> July - Conflict Management - Human Resources Administration – Podgorica, Montenegro

27. 4<sup>th</sup> -5<sup>th</sup> July 2013 – Multi-country Workshop on the implementation of international restrictive measures – European Commission's DG Enlargement – Podgorica, Montenegro

28. 26<sup>th</sup> -30<sup>th</sup> August - The sixth regional - Euro Atlantic Camp REACT 2013 (NGO ALFA CENTAR) – Plav, Montenegro

29. 4<sup>th</sup> and 5<sup>th</sup> September 2013 - Regional conference on money laundering and confiscation of property – Belgrade – USA Embassy in Belgrade, Office of the Legal Adviser of the Ministry of Justice USA and The OSCE Mission to Serbia

30. 24<sup>th</sup> and 25<sup>th</sup> September 2013 – Judicial cooperation in criminal matters - The Ministry of Public Administration and Justice, Department of International Criminal Law of Hungary and Ministry of Justice of Montenegro - Podgorica, Montenegro

31. 1<sup>st</sup> October Drafting and adoption of a law - Human Resources Administration – Podgorica, Montenegro

32. 3<sup>rd</sup> and 4<sup>th</sup> October 2013- Assessment of opportunities for developing skills in public administration - Human Resources Administration in cooperation with ENA (French school for public administration)

33. 8<sup>th</sup> -10<sup>th</sup> October 2013 - National workshop on the International Legal Framework against Terrorism and its Financing – Police Directorate and UNODC - Human Resources Administration – Podgorica, Montenegro

34. 9<sup>th</sup> -10<sup>th</sup> October 2013 - The position of organizations performing public powers - SIGMA/OECD and Ministry of Interior - RESPA Danilovgrad, Montenegro

35. 23<sup>rd</sup> -25<sup>th</sup> October 2013 – The role of FIU in the fight against money laundering linked with narco-traffic – institutional network and best practices – MILDT – Sofia, Bulgaria

### **Customs Administration**

In 2012 Customs Administration submitted to the APML 397 reports on cross border transfer of currency, payment instruments etc.

**Securities and Exchange Commission** conducted on 179 inspections of all its obligors in 2012.

Securities and Exchange Commission adopted Risk Guidelines for analysis of AML / FT in the capital

market on 09<sup>th</sup> of February 2012. All obligors adopted internal acts for analysis of AML / FT within six months time after the adoption of Risk Guidelines.

During 2012, Securities and Exchange Commission's employees regularly attended seminars organized by Human Resources Administration.

Securities and Exchange Commission and APMLTF organised training for all obligors in the capital market and its employees on 20/03/2013.

Securities and Exchange Commission's representatives participated in the workshop: "Supervision of the implementation of the Law on Prevention of Money Laundering and Terrorist Financing by the Securities and Exchange Commission and Insurance Supervision Agency", held in Budva from 27<sup>th</sup> to 28<sup>th</sup> of March and organized by APMLTF and OSCE Mission to Montenegro.

In the first half of 2013, Securities and Exchange Commission informed APMLTF about two transactions that can be treated as unusual transactions.

Securities and Exchange Commission concluded the Memorandum of Understanding on Mutual Cooperation and the Exchange of Information with: Ministry of finance, Ministry for internal affairs, Administration for the Prevention of Money Laundering and Terrorist Financing, Central Bank of Montenegro and Insurance Supervision Agency on 15/05/2013.

In May 2013, SEC signed Agreement on Cooperation with Commission on Prevention of Conflict of Interest.

In August 2013, SEC made amendment to the Custody operations rules. In the article 26 paragraph 2 new item d) was added which binds custodians to deliver informations about its clients when APMLTF requires it.

In October 2013, SEC made amendment to the Depository operations rules. In the article 24 paragraph 2 new item d) was added which binds depository to deliver information about its clients when APMLTF requires it.

### **Insurance Supervision Agency (ISA)**

In the period december 2012-october 2013, ISA has performed five inspections regarding compliance of insurance companies with the AMLTF activities. Out of these inspections:

- Three ofsite targeted inspections - with the aim of checking internal procedures and rules applicable in day-to-day work of the obligors
- Two onsite targeted inspections – as a part of larger inspections, comprising also other aspects of insurance business, with the aim of complying with the ISA's recommendations, keeping registers of PEP, completeness of documentation and complying with the internal audit findings.

As a result of these inspections, according to Agency's instructions, larger number of obligors has improved internal procedures systems in order to improve internal level of risk management in this respect.

Regarding trainings of Agency's employees, in this period two employees have participated at a workshop organized jointly by the Montenegrin FIU and OEBS, in March 2013.

Amendments and changes of the Law on Insurance („Official Gazette of Montenegro No. 45/12 of 17.08.2012) and Law On Compulsory Traffic Insurance (Official Gazette of Montenegro, NO. 44/12 of 9 August 2012) was adopted in Parliament.

### **Criminal legislation**

## **Ministry of Interior – Police Directorate**

In accordance with the article 37 paragraphs 2 and 3 of the Law on Public Administration ("Official Gazette of Montenegro", No. 38/03, 22/08 and 42/11), upon proposal of the Minister of Interior, the Government of Montenegro, on the session held on 17<sup>th</sup> May 2013, adopted the Rulebook on internal organization and systematization of the Ministry of Interior.

The mentioned Rulebook defines internal organisation and systematization of the Ministry of Interior and belonging administrative bodies – Police Directorate, organisational units, scope of their work, working positions, number of employees, job description and conditions for conducting working activities, as well as the manner of allocating civil servants and state employees and employment of trainees.

In relation to this Police Directorate is internally organized through a certain number of Sectors out of which, from the point of fight against money laundering and terrorist financing and conducting financial investigations, the most important is the Criminal Police Sector i.e. the Department for fight against organized crime and corruption and the Department for suppression of economic crime

At the Department for fight against organized crime and corruption within the Group for fight against organized crime and corruption there is designated a working position of Senior police commissioner for suppression of criminal offence of money laundering and conducting financial investigations. The mentioned officer coordinates with processing of cases in which there are a reasonable grounds for suspicion that criminal offence of money laundering has been committed and coordinates the procedures of conducting financial investigations. Besides the mentioned working position and position of the Chief of the Group there are two more working positions for which job description is fight against money laundering.

At the Department for fight against economic crimes, besides the position of Chief of the Group, there are 6 more working positions on which are designated officials whose job description is fight against all types of economic crimes and all types of corruptive criminal offences among which is money laundering. Also, their task is to coordinate and to participate in the process of conducting financial investigations.

In addition to the mentioned working positions and officials occupying it in fight against criminal offence of money laundering there can be engaged all officials from Local units that are engaged on the positions for fight against economic crime.

Due to recommendation of the European Commission, previous experience in this area and opinion of the Police Directorate there should be created a Unit for conducting financial investigations, within the Criminal Police Sector, whose officials would, according to assessment of the Chief of the Criminal Police Sector, provide support to other Departments. The support would be provided at the beginning of the criminal investigation and in the cases of detecting proceeds of crime and they would be able to conduct money laundering investigations independently. In this manner the employees of this Unit would be unloaded from work on other cases and their full attention would be focused on detecting criminal offence of money laundering and searching proceeds of crime. The Unit would have cooperation with all relevant (same or similar) units in the region and internationally. In this manner the way to detecting illegal property would be easier and faster and its freezing or seizing would be very useful for Montenegro and Police Directorate.

On 16<sup>th</sup> May 2013 the **Action Plan for the Fight against Corruption and Organized Crime for the period 2013-2014** was adopted. Adoption of the Action Plan will initiate the second phase of the implementation of the Strategy for the Fight against Corruption and Organized Crime 2010-2014. The Action Plan will operationalise the priorities of Montenegro at the national and international level in the fight against corruption and organized crime.

Drafting of the **new Strategy for the reform of Judiciary 2013-2018** is in progress. Adoption by Government is expected by the end of 2013.

In January 2013, the Government adopted an **Analysis of the implementation of the Criminal Procedure Code** and a Working group has been set up to draft amendments aimed at overcoming the legal and institutional shortcomings it identified. **Adoption of amendments to the Criminal Procedure Code is expected in October 2014.**

In July 2013 Parliament adopted **amendments to the Criminal Code** aiming to address MONEYVAL recommendations of December 2012, especially in the field of terrorism financing.

**By-laws to the Law on management of seized and confiscated assets** were adopted to improve the management of seized or confiscated proceeds of crime and provide the legal basis for their sale.

## 2.2 Core recommendations

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

<b>Recommendation 1 (Money Laundering offence)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The money laundering offence as defined by the Criminal Code is basically sound, but it lacks further refinement; the current formulation of criminalized behaviour (conversion/transfer and concealment/disguise) is narrower than the requirements in the Vienna and Palermo Conventions and should be clarified in the Criminal Code.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>At the moment of completing the Progress Report for Montenegro, the Law on Amendments of the Criminal Code of Montenegro is in the adoption procedure. Review of the criminal legislation is conducted within a comprehensive reform of the judicial system in Montenegro, in accordance with the Judicial Reform Strategy 2007-2012 and the Action Plan for Implementation of the Judicial Reform Strategy 2007-2012 which stipulates it as a measure of amendments to the Criminal Code in view of harmonisation with the international standards, primarily the European Union, the United Nations and the Council of Europe. Also, the National Program for Integration of Montenegro into the European Union stipulates as a short-term priority the harmonisation of the Criminal Code with international standards in the part of “Judiciary and Fundamental Rights“.</p> <p>In reviewing of the Criminal Code, special accent was placed at harmonisation with the standards in the field of fight against organised crime, corruption and terrorism, and specially through complex changes of the definition of these criminal offences and adoption of the instrument of expanded confiscation of material gain acquired through criminal offence and the reverse burden of proof of legality of property acquisition, which is stipulated also with the newly adopted Criminal Procedure Code.</p> <p>With the new solutions in the Criminal Code, in accordance with the recommendations of the MONEYVAL Committee, the definition “Money laundering“ offence from Article 268 was amended.</p> <p>With the aim of complete harmonisation with the solutions stipulated by the Vienna and Palermo Convention, the new definition in the Criminal Code abolishes the limitation of money laundering offence as business activity that included “banking, financial and other business operation“. Also, in accordance with the recommendations, every form of replacement (conversion) and transfer, as well as acquiring, keeping and use of money or other property acquired through criminal offence was incorporated in the definition of the money laundering offence. Concealment and false presentation of facts on the nature, origin, place of depositing, movement, disposal or possession of money or other property acquired through criminal offence was also incriminated.</p> <p>In accordance with the Vienna and Palermo Convention, with the amendments of the Criminal Code, this offence was incriminated in the following way:</p> <p style="text-align: center;"><b>„Money laundering Article 268</b></p> <p><i>(1) Anyone who conducts conversion or transfer of money or other property knowing it was obtained through a criminal act, with the intent to conceal or falsely</i></p>

	<p><i>present the origin of money or other property, or anyone who acquires, keeps or uses money or other property knowing at the moment of reception that it was obtained through a criminal act, or anyone who conceals or falsely presents facts on the nature, origin, place of depositing, movement, disposal or possession of money or other property knowing it was obtained through a criminal act, shall be punished by an imprisonment sentence of six months to five years</i></p> <p><i>(2) If the offender committing an act as of Paragraph 1 of this Article is at the same time a perpetrator or an accomplice in a criminal act through which money or property gain as of Paragraph 1 of this Article is obtained, s/he shall be punished by a sentence from paragraph 1 of this article.</i></p> <p><i>(3) If the amount of money or the value of property referred to in Paragraphs 1 and 2 of this Article exceeds forty thousand Euros, the offender shall be punished by an imprisonment sentence for a term of one to ten years</i></p> <p><i>(4) If an act referred to in Paragraphs 1 and 2 of this Article is committed by more persons who joined together to commit such acts, they shall be punished by an imprisonment sentence of three to twelve years.</i></p> <p><i>(5) Anyone who commits the act referred to in Paragraphs 1 and 2 of this Article and he could have known or ought to have known that money or property represent income gained by criminal activity, shall be punished by imprisonment for a term of up to three years.</i></p> <p><i>(6) Money and property as of Paragraphs 1, 2 and 3 of this Article shall be confiscated.”</i></p> <p>This definition of the criminal offence–money laundering has completely eliminated limitations that this criminal offence can only be committed by bank, financial or other type of business operation, and any type of conversion or money transfer was not incriminated.</p>
<p>(Other) changes reported as of 16 March 2010</p>	<p>Through amendments of the Criminal Code, in accordance with the tendency of complete harmonisation with the international standards and in the corpus of criminal offences against humanity and other goods protected by international law, several amendments were conducted, and the most significant are the ones that come from the new concept of terrorist offences. The basic terrorist criminal offence (regardless of whether the offence was directed against Montenegro, a foreign country or an international organisation) is stipulated in Article 447 with numerous forms of acts of commission. This criminal offence, as well as the new terrorist criminal offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism, and specially with the Convention of the Council of Europe on the Prevention of Terrorism from 2005 that was ratified by Montenegro in 2008.</p> <p>These amendments also expanded Article 447 of the Criminal Code „international terrorism“. In the old definition of this article the criminal offence of international terrorism would be performed by a person who with the intent to harm a foreign country or an international organisation, abducts a person or commits some other violence, causes explosion or fire or commits other generally dangerous acts or threatens to use nuclear, chemical, bacterial or other similar means.</p> <p>With the new definition in this article, with the aim of broader incrimination, from the title of this article the prefix “international“ was removed and terrorism against the interest of the citizens, Montenegro, other states and international organisations</p>

(thus both domestic and international) was included. The criminal offence upon adoption of the Law on amendments of the Criminal Code will be as follows:

***“Terrorism***

***Article 447***

*(1) Anyone who with the intent to seriously intimidate the citizens or to compel Montenegro, a foreign country or an international organisation to do/to abstain from doing, or to seriously endanger or harm the basic constitutional, political, economic or social structures of Montenegro, a foreign country or an international organisation, commits one of these acts:*

- 1) attack to life, body or freedom of another,*
- 2) abduction or hostage taking,*
- 3) destruction of state and public objects, transport systems, infrastructure including information systems, immovable platforms in the epicontinental area, general goods or private properties that can endanger lives of people or cause significant damage for economy,*
- 4) abduction of aircraft, ship, means of public transport or transport of goods that can endanger the life of people,*
- 5) production, possession, obtaining, transport, supply or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,*
- 6) research and development of nuclear, biological or chemical weapons,*
- 7) release of dangerous materials and causing fires, explosions or floods or committing other generally dangerous act that can endanger the life of people,*
- 8) obstruction or cessation of supplying water, electricity or other energy that can endanger the life of people,*

*shall be punished by an imprisonment sentence of minimum five years.*

*(2) Anyone who threatens to commit a criminal act referred to in Paragraph 1 of this Article,*

*shall be punished by an imprisonment sentence of six months to five years.*

*(3) If an offence referred to in Paragraph 1 of this Article resulted in death of one or more persons or caused great destructions, the offender shall be punished by an imprisonment sentence for a term of minimum ten years.*

*(4) If in the commission of crime referred to in Paragraph 1 of this Article the offender has committed a premeditated murder of one or more persons, the offender shall be punished by an imprisonment for a minimum term of twelve years or by an imprisonment of forty years.”*

Also, after Article 447 with the new Law four new articles are added Article 447 a, 447 b, 447 c i 447 d as follows:

***“Public calling to commit acts of terrorism***

***Article 447a***

*Anyone who publically calls or in other way incites to commit a criminal act referred to in Article 447*

*shall be punished by an imprisonment sentence for a term from one to ten years.*

***Incitement and training to commit acts of terrorism***

***Article 447b***

*(1) Anyone who with the intent of committing an act referred to in article 447 of this code, incites another person to commit or participate in commission of that act or to join a group of people or a criminal association in order to participate in commission of that criminal act,*

*shall be punished by an imprisonment sentence for a term of one to ten years.*

*(2) Anyone who with the intent of committing an act referred to in article 447 of this*



code, gives instructions on creation and use of explosive devices, fire or other arms or harmful or dangerous materials or trains another person to commit or participate in commission of that criminal act shall be punished by a sentence referred to in paragraph 1 of this article.

**Use of lethal device**

**Article 447c**

(1) Anyone who with the intent of murdering another person, inflicts a heavy bodily injury or destroys or significantly damages state or public facility, system of public transport or another facility that has greater significance for security or supplying of citizens or for economy or for functioning of public services, makes, transfers, keeps, gives to another person, puts up or activates a lethal device (explosive, chemical means, biological means or poisons or radioactive means) in a public place or in an facility or next to that facility,

shall be punished by an imprisonment sentence of one to eight years.

(2) If in the commission of crime referred to in Paragraph 1 of this Article, the offender has committed a premeditated severe bodily injury or destroyed or significantly damaged a facility,

he/she shall be punished by an imprisonment sentence of five to fifteen years.

(3) If in the commission of crime referred to in Paragraph 1 of this Article, the offender has committed a premeditated murder of one or more persons,

he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years.

**Destruction and damage of nuclear facility**

**Article 447d**

(1) Anyone who with the intent to murder another person, inflicts severe bodily injury, endangers environment or inflicts significant property damage, destroys or damages a nuclear facility in the manner that releases or there is a possibility to release radioactive material,

shall be punished by an imprisonment sentence of two to ten years.

(2) If in commission of an act referred to in paragraph 1 of this article, offender inflicts a premeditated severe bodily injury or destroys or significantly damages a nuclear facility,

he/she shall be punished by an imprisonment sentence of five to fifteen years.

(3) If in commission of an act referred to in paragraph 1 of this article, offender committed a premeditated murder of one or more persons,

he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years.”

And Article 448 „Hostage taking“ is changed and is as follows:

**” Endangering persons under international protection**

**Article 448**

(1) Anyone who conducts abduction or some other act of violence upon a person under international legal protection,

shall be punished by an imprisonment sentence of two to twelve years.

(2) Anyone who violates official premises, a private apartment or a means of transport of a person under international legal protection, in the manner that endangers his/her security and personal freedom,

shall be punished by an imprisonment sentence of one to eight years.

(3) If an act referred to in Paragraphs 1 and 2 of this Article resulted in death of one or more persons, the offender shall be punished by an imprisonment sentence of five to fifteen years.

	<p><i>(4) If in commission of an act referred to in Paragraphs 1 and 2 of this article, the offender committed a premeditated murder of a person, he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years</i></p> <p><i>(5) Anyone who endangers security of persons referred to in Paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a means of transport, shall be punished by an imprisonment sentence of six months to five years.”</i></p> <p>Amendments of Article 449 – ”Financing of terrorism”, will be described in the answer relating to implementation of the Special Recommendation II.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>Amended definition of criminal offence of money laundering is provided in Article 1 ( it refers to amendments of Article 2 of the LPMLTF)of the Bill on Changes and Amendments to the LPMLTF . The definition is fully harmonized with definition provided in Article 1 of the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Article 1 of the Bill on Changes and Amendments to the LPMLTF stipulates as follows:</p> <p>”For the purposes of this Law, the following conduct shall be regarded as money laundering:</p> <ul style="list-style-type: none"> <li>(a) the conversion or transfer of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or assisting any person involved in the commission of such activity to evade the legal consequences of his action;</li> <li>(b) the concealment or disguise of the true nature, source, location, movement, disposition or ownership of money or other property, knowing that they are derived from criminal activity or from an act of participation in such activity;</li> <li>(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;</li> <li>(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the actions mentioned in the points 1, 2 and 3.</li> </ul> <p>Money laundering shall be regarded as such even in cases when the activities from paragraph 1 of this Article were carried out in the territory of another country.”</p> <p>Since February 2010, when answers for Progress report 2010 were prepared, Criminal Code of Montenegro had been changed and amended two times. About the first changes and amendments there were explanations in replies to the previous Progress report, when planned changes and amendments were explained in detailed manner. These changes and amendments were adopted by The Parliament of Montenegro, Law on changes and amendments of The Criminal Code was published in „The Official Gazette of MNE“, no. 25/2010. Changes and amendments encompassed the articles referring to criminal offences of Money laundering and Financing of terrorism. Besides, this Law introduced changes in terms of articles referring to confiscation of proceeds of crime, in a way that in accordance with the art. 113 of The Criminal code, from the perpetrator of the criminal offence it is possible to confiscate material gain when there is a doubt that it was gained by criminal offence, unless the offender makes it probable that its origin is legal (expanded confiscation)). Expanded confiscation can be applied if the perpetrator is by final decision sentenced to:</p> <ol style="list-style-type: none"> <li>1) some of the criminal offences perpetrated in the framework of the criminal</li> </ol>

organization (Art 401a);

2) some of the following criminal offences:

- against humanity and welfares protected by international law perpetrated for self-interest;
- money laundering;
- unauthorized production, keeping and releasing for circulation of narcotics;
- against payment operations and economic transactions and against official duty, perpetrated for self-interest for which prescribed punishment is 8-years of imprisonment ore more severe punishment.

Also, with aim of further refining and improving of legislation, Criminal code has been changed and amended also in 2011. (Law on changes and amendments of The Criminal Code was published in „The Official Gazette of MNE“, no. 32/2011). Among the changes 32/2011 in the context of this Report it is important to mention that it defines two new criminal offences: Instigation to Illegal Influence (art. 422a) and Terrorist Conspiracy (art. 449a).

By the new solutions in The Criminal Code, in accordance with the MONEYVAL recommendations, definition of criminal offence Money laundering from art. 268 had been changed. With aim to completely harmonize with the Vienna and Palermo convention, the new definition on the Criminal removed the limitation of the criminal offence of money laundering which in old version encompassed „bank, financial and other business operation“. Also, in accordance with the recommendations, the new definition of criminal offence of Money laundering introduced every type of conversion or transfer, as well as acquiring, keeping and using of money or other property acquired through criminal offence. It incriminates also concealing and false representing of facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property gained by criminal offence.

In accordance with Vienna and Palermo conventions, adopted changes and amendments of The Criminal Code, definition of criminal offence Money laundering is improved. Below there is a text of the relevant article:

**„Money Laundering**

**Article 268**

*(1) Anyone who performs conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or fraudulently represent the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or whoever conceals or fraudulently represents facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence, shall be punished by an imprisonment sentence for a term of six months to five years.*

*(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the perpetrator of the offence referred to in paragraph 1 of this Article if s/he is at the same time the perpetrator or an accomplice in a criminal offence used to acquire the money or the assets referred to in paragraph 1 of this Article.*

*(3) If the amount of money or value of property referred to in paras. 1 and 2 of this Article exceed the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence of one to ten years.*

*(4) Where an offence referred to in paras. 1 and 2 of this Article was committed by several persons who were associated to commit such offences, they*

	<p><i>shall be punished by an imprisonment sentence of three to twelve years.</i></p> <p><i>(5) Whoever commits an offence referred in paras. 1 and 2 of this Article and could have and was obliged to be aware that the money or the property constitute revenue acquired through criminal activity, shall be punished by an imprisonment sentence not exceeding three years.</i></p> <p><i>(6) Money and property referred to in paras. 1, 2 and 3 of this Article shall be seized.”</i></p> <p>Act of perpetration of Money laundering offence can be perpetrated in 3 ways. Those three ways are fully in line and corresponding to actions encompassed by term Money laundering as stated in “Strasbourg” Convention (art.6) and in the AML/FT Law. First form of perpetration of action is conversion or transfer of possessions, second is acquiring, holding or using possessions, and the third is concealment or false representation of facts on possessions. It is necessary that such possessions are originating from criminal activities. It is irrelevant by which criminal offence – it can be any criminal offence by which perpetration possession was gained which is subject of money laundering criminal offence (predicate offence). Object of the action of perpetration is money or other possessions which originates from criminal activity. Such term in this criminal offence should be understood in widest possible sense. Although possession encompasses also money, here this term is individually mentioned because of significance that it has for this criminal offence. Beside money, “possession” also encompasses movable and immovable assets, property rights and other. Concept of “possession” in sense of this criminal offence, as it is done by the Strasbourg Convention, should be understood in widest possible sense, including money among other forms. It is also important to emphasize that money does not necessarily need to be materialised, it can be on bank accounts and other forms.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	<p>The definition of Money laundering provided in the Law on PMLTF is used for the purposes of implementation of this Law as well as for the necessities of the reporting entities and APMLTF. In accordance with Article 1 of the Law on PMLTF this Law shall regulate measures and actions undertaken for the purpose of detecting and preventing money laundering and terrorist financing. This definition is used for establishing misdemeanour responsibilities of reporting entities, and their authorized persons, for breaching the provisions of the Law on PMLTF.</p> <p>Additionally, the definition of Money laundering provided in the Criminal Code refers to establishing the criminal responsibilities of persons who commits criminal offence of money laundering, and also, this definition includes all elements prescribed by Palermo and Vienna Conventions.</p> <p>Due to mentioned there is only one definition of criminal offence of money laundering and it is provided in Criminal Code and used by prosecutors and judges, while in the Law on PMLTF the definition of money laundering defines money laundering as phenomenon and it is used for the purposes of establishing misdemeanour responsibility and for that reason is wider.</p>
Recommendation of the MONEYVAL Report	<i>The Criminal Code should be amended to clearly include insider trading and market manipulation offences as predicate offences for money laundering.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of	In accordance with the recommendations, the Criminal Code was amended by stipulating the insider trading and market manipulation as criminal offences, which in accordance with the „all crimes approach“ can now be predicate offences for money laundering offence.

the report	<p>The criminal act of “Negligent performance of business activities “ from Article 272, in accordance with the recommendations, is amended and shall be as follows:</p> <p style="text-align: center;"><b>“Abuse of authority in business activities</b></p> <p style="text-align: center;"><b>Article 272</b></p> <p><i>(1) A responsible person in a company, some other economic entity or other legal person who by abuse of his/her authority or trust in view of disposing of another persons property, exceeding the limits of his/her authorisation or non-performance of his/her duty obtains for him/herself or for another person unlawful property gain or causes property damage,</i></p> <p><i>shall be punished by an imprisonment sentence of three months to five years.</i></p> <p><i>(2) Anyone who obtains for him/herself or for another person unlawful property gain, appropriates money, securities or other movables entrusted to him/her for work in the company, other economic entity or another legal person shall be punished by a sentence referred to in Paragraph 1 of this Article.</i></p> <p><i>(3) If through an act referred to in Paragraphs 1 and 2 of this Article material gain exceeding the amount of forty thousand Euros is obtained, the perpetrator shall be punished by an imprisonment of two to ten years.”</i></p> <p>Criminal offence of „Illegal mediation“ from Article 422, in accordance with the recommendations, was amended and shall be as follows:</p> <p style="text-align: center;"><b>“Unlawful influence</b></p> <p style="text-align: center;"><b>Article 422</b></p> <p><i>(1) Anyone who demands or accepts a reward or any other material benefit or accepts promise of reward or other benefit for himself or another person by taking advantage of his official or social position or influence for interceding that an official act be or not be performed, shall be punished by imprisonment for a term of three months to three years.</i></p> <p><i>(2) Anyone who, by taking advantage of his official or social position or influence, intercedes that an official act that should not be performed be performed or that an official act that should be performed not be performed, shall be punished by imprisonment for a term of six months to five years</i></p> <p><i>(3) If a reward or any other benefit has been received for intercession referred to in Paragraph 2 of this Article,</i></p> <p><i>the offender shall be punished by imprisonment for a term of one to eight years.</i></p> <p><i>(4) The reward and material gain shall be confiscated.”</i></p> <p>The amendments stipulate adding of a new article 422<sup>a</sup> – where soliciting to unlawful influence, by giving, offering or promising reward is also stipulated as a criminal offence. This article is as follows:</p> <p style="text-align: center;"><b>“Incitement to unlawful influence</b></p> <p style="text-align: center;"><b>Article 422a</b></p> <p><i>(1) Anyone who offers or promises to a person acting in an official capacity or another person a reward or any other benefit for interceding that an official act be or not be performed by taking advantage of his official or social position or influence,</i></p> <p><i>shall be punished by imprisonment for a term of up to two years.</i></p> <p><i>(2) Anyone who offers or promises to a person acting in an official capacity or another person a reward or any other benefit for interceding that an official act that should not be performed be performed or that an official act that should be performed not be performed by taking advantage of his official or social position or influence,</i></p> <p><i>shall be punished by imprisonment for a term of three months to three years.</i></p> <p><i>(3) Perpetrator of an act referred to in Paragraphs 1 and 2 of this Article who</i></p>
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	<p><i>reported the act before he found out that it was revealed can be acquitted. (4) The reward and material gain shall be confiscated.”</i></p> <p>In both articles relating to the insider trade – unlawful influence from Art. 422 and incitement to unlawful influence from Art. 422<sup>a</sup>, a measure of mandatory confiscation of the reward and material gain is stipulated.</p> <p>Through entering into force of this Law, these two offences stated in the recommendations of the committee will also be predicate for money laundering offence, in accordance with the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and Financing of Terrorism.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>When it comes to predicate criminal offences to criminal offence Money laundering, in Montenegrin legal system „all crimes approach“ is applied. In accordance with the recommendations, since the last Progress report Criminal Code was amended by introducing of criminal offences insider trading and market manipulation, which in accordance with the „all crimes approach“ can now be predicate offences to criminal offence Money laundering.</p> <p>Additionally, through changes and amendments of The Criminal code in 2011. („Official Gazette of MNE“, no.32/2011) new criminal offence „Instigation to Illegal Influence was introduced (art 422a).</p> <p>Criminal offence „Negligent performance of business activities” from the art. 272, in accordance with the recommendations, was changed and amended and now is:</p> <p style="text-align: center;"><b>“Abuse of Position in Business Operations Article 272</b></p> <p><i>(1) The responsible person in a business organization, other <b>entity</b> engaged in an <b>economic activity</b> or other legal person who abuses his/her position or trust with regard to management of another’s property, exceeds the limits of his/her authorizations or fails to perform his/her duties and thus obtains for him/herself or for another unlawful material benefit or causes property damage, shall be punished by an imprisonment sentence for a term of three months to five years.</i></p> <p><i>(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on the one who, intending to obtain for him/herself or another material benefit, appropriates money, securities or other movables entrusted to him/her at work in a business organization, other <b>entity</b> engaged in an <b>economic activity</b> or other legal entity.</i></p> <p><i>(3) Where an offence referred to in paras. 1 and 2 of this Article has caused the acquisition of material benefit that exceeds the amount of forty thousand euro, the offender shall be punished by an imprisonment sentence for a term of two to ten years.”</i></p> <p>Criminal offence „Illegal mediation“ from the art. 422, in accordance with recommendations, is now changed into:</p> <p style="text-align: center;"><b>“Illegal Influence Article 422</b></p> <p><i>(1) A person who directly or through third persons requests or receives a gift or any other benefit, or who accepts a promise of gift or any benefit for himself/herself or another person for agreeing to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence of three months to three years.</i></p> <p><i>(2) A person who uses his/her official or social position or his/her actual or assumed influence for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of six months to five years.</i></p>

(3) *If a gift or any other benefit is received for mediation referred to in paragraph 2 of this Article, the perpetrator shall be punished by an imprisonment sentence of one to eight years.*

(4) *Received gift or other benefit shall be seized.*”  
New criminal offence Instigation to Illegal Influence (art 442a) is:

***“Instigation to Illegal Influence***

***Article 422a***

(1) *A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing to use his/her official or social position or his/her actual or assumed influence for mediation in acting or in failure to act shall be punished by an imprisonment sentence not exceeding two years.*

(2) *A person who directly or through third persons offers or promises a gift or any other benefit to a person in official capacity or another person for agreeing to mediate or promising to mediate in performing an official act that should not be performed, or failing to perform an official act that should otherwise be performed shall be punished by an imprisonment sentence of three months to three years.*

(3) *Perpetrator of the offence referred to in paragraphs 1 and 2 of this Article who reported the criminal offence before s/he found out that it was detected may be remitted of penalty.*

(4) *Received gift or other benefit shall be seized.*”

Both articles are referring to insider trading – Illegal influence art.422 and Instigation to illegal influence art.422a have a measure of obligatory seizure of gifts and other benefit.

In line with international understanding of offence of insider trading, on subject matter, it is important to emphasise that Criminal Code defines **Disclosing a Business secret** and **Disclosing and Using Stock-exchange Secrets** as criminal offences that also contain elements of these offence.

***“Disclosing a Business Secret***

***Article 280***

(1) *Anyone who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person, shall be punished by an imprisonment sentence of three months to five years.*

(2) *If the offence referred to in paragraph 1 of this Article was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years.*

(3) *Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years.*

(4) *Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other*

*business entity.*

### ***Disclosing and Using Stock-exchange Secrets***

#### ***Article 281***

*(1) Anyone who reveals stock-exchange or stock-exchange broker operations related data deemed to be a stock-exchange secret to an unauthorized person or who comes by such data and upon using them makes material benefit, shall be punished by an imprisonment sentence of three months to five years.*

*(2) Where through an offence referred to in paragraph 1 of this Article material benefit was obtained exceeding the amount of three thousand euro, the offender shall be punished by an imprisonment sentence of one to eight years.*

*(3) Where through an offence referred to in paragraph 1 of this Article material benefit was acquired exceeding the amount of thirty thousand euro, the offender shall be punished by an imprisonment sentence of two to ten years.”*

Also, in the scope of criminal offences against payment transactions and business operations, Criminal Code contains criminal offences **Violation of Equality in the Conduct of Business Activities** and **Abuse of Monopolistic Position** (art. 269 and 270), as follows:

#### ***“Violation of Equality in the Conduct of Business Activities***

##### ***Article 269***

*(1) Anyone who through abuse of his/her official position or authorizations limits free or independent connecting of business organisations or other business entities in conducting business activities, deprives it of the right or limits its right to conduct business activities in a particular territory, puts it into an unequal position in relation to other business entities with reference to conditions of doing business or limits free performance of business activities, shall be punished by an imprisonment sentence of three months to five years.*

*(2) Anyone who abuses his/her social position or influence in view of committing a criminal offence referred to in paragraph 1 of this Article shall be punished by a sentence referred to in paragraph 1 of this Article.*

#### ***Abuse of Monopolistic Position***

##### ***Article 270***

*A responsible person in a business organisation or other business entity who through abuse of monopolistic or dominant position in the market or by entering into monopolistic contracts causes market disruptions or brings that entity into a favoured position in relation to others, so as to make material benefit for that entity or for another entity or inflicts damage to other business entities, consumers or users of services, shall be punished by*



	<p><i>an imprisonment sentence of three months to five years.”</i></p> <p>Comparing to Progress report 2010., having in mind that the changes and amendments of the law entered into force, these two criminal offences stated in the recommendations of The Committee are predicate to the offence of Money laundering, in line with the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p><b>NOTE:</b> <i>In the aim of fulfilling the recommendations Montenegro is conducting procedures for the adoption of the Law on Capital Market. Within this Law two criminal offences (Insider trading and Market manipulations) will be prescribed in accordance with requirements of the relevant international standards, as follows:</i></p> <p><b><u>PENALTY PROVISIONS</u></b></p> <p style="text-align: center;">Criminal offences</p> <p style="text-align: center;">Prohibition of market manipulation</p> <p style="text-align: center;">Article 1</p> <p>Any person who undertakes market manipulation on which grounds he achieves material gain for himself or another person or causes damage to other parties in a manner that:</p> <ol style="list-style-type: none"> <li>1) concludes the transaction or issues trading orders which provide or are likely to provide false or misleading information on supply, demand or price of financial instruments or by which the person, or persons acting in concert, maintain the price of one or more financial instruments at unrealistic levels;</li> <li>2) concludes the transactions or issues trading orders in which fictitious proceedings or any other form of deception or fraud are used;</li> <li>3) disseminates information through the media, including internet or by any manner disseminates false news or misleading news about financial instruments, if he knew or should have known that such information is untrue or misleading,</li> </ol> <p>shall be punished with imprisonment from six months to five years and a fine.</p> <p>If, the offense referred to in paragraph 1of this Article has caused a significant disturbance on the stock exchange, i.e. on MTF, a perpetrator shall be punished with imprisonment from one to eight years and a fine.</p> <p style="text-align: center;">Use, disclosure and recommendation of inside information</p>

## Article 2

Whoever, with the intention of acquiring material gain to himself or to another person or to cause harm to other persons, uses inside information:

- 1) directly or indirectly in the acquisition, disposal or in an attempt for acquisition or disposal of financial instruments for own account or for account of another financial instrument to which that information relates;
- 2) for the detection and making available inside information to any other person;
- 3) to recommend or state another person to, on the basis of confidential information, acquire or dispose of financial instruments to which that information relates

shall be punished with a fine or imprisonment up to one year.

If by committing the offense referred to in paragraph 1 of this Article a material gain is acquired or other persons were inflicted property damage in the amount exceeding EUR 100,000, the perpetrator shall be sentenced to imprisonment of five years and a fine.

If the offense referred to in paragraph 1 of this Article was committed by the person who has inside information through the membership in the Board of Directors or supervisory bodies of the issuer, holding in the issuer's capital, or access to information which he provides during performance of his duties in the workplace, employment and through criminal offences that he committed, such a person shall be punished by a fine or imprisonment for up to three years.

If by committing the offense referred to in paragraph 3 of this Article a material gain is acquired or other persons were inflicted property damage in the amount exceeding EUR 100,000, the perpetrator shall be sentenced to imprisonment of six months to five years and a fine.

## Unauthorized provision of investment services

## Article 3

Whoever, without an authorization, provides investment services for acquiring material gain for himself or for another person shall be punished with a fine or imprisonment not exceeding one year.

If by committing the offense referred to in paragraph 1 of this Article a material gain is acquired or other persons were inflicted property damage in the amount exceeding EUR 100,000, the perpetrator shall be sentenced to imprisonment of three years and a fine.

Also, in report it is stated that the provisions of Articles 280 and 281 of the Criminal

Code does not include the criminal liability of a third party for the use of the obtained information. In regard to Article 280 of the Criminal Code, really, the liability of a third party for the use of the obtained information is not covered, and regards to Article 281 by the wider interpretation of Article 281, it could be concluded that there is a liability of a third party. In order to overcome these concerns, the Working Group on the Draft Law on Amendments to the Criminal Code in Art. 280 and 281 in a separate paragraph and introduced a third-party liability for obtained information.

Due to Working version of the Law on Amendments and Changes to the Criminal Code the following changes will be made in relation to Articles 280 and 281:

#### “Disclosing a Business Secret

##### Article 280

In Article 280 following paragraph 1 a new paragraph shall be added to read as follows:

"(2) The sentence as referred to in paragraph 1 shall also be imposed to an uninvited person who uses the data that are subject to the offence under paragraph 1 of this Article.

In para. 2 and 3 words "paragraph 1" shall be replaced with the words "para. 1 and 2".

The present para. 2, 3 and 4 shall become para. 3,4 and 5.

#### Disclosing and Using Stock-exchange Secrets

##### Article 281

In Article 281, paragraph 1, after the word: "makes/obtains" word: „undue“ shall be added.

Following paragraph 1 a new paragraph shall be added to read as follows:

"(2) The sentence as referred to in paragraph 1 shall also be imposed to an uninvited person who uses the data that are subject to the offence under paragraph 1 of this Article.

The present para. 2 and 3 shall become para. 3 and 4.

### **NEW DEVELOPMENTS SINCE THE ADOPTION OF THE THIRD PROGRESS REPORT**

In July 2013 Parliament adopted **Amendments to the Criminal Code**, which enter into force on 21<sup>st</sup> August 2013, and the following changes are made in relation to Articles 266, 280 and 281:

#### **Illegal economic, banking, stock-exchange, or insurance business**

##### **Article 266**

(1) Anyone who engages, without a registration, licence or in breach of the terms under which the licence was issued, in an economic or other activity or who registers a company or becomes registered for an economic activity as an entrepreneur in breach of the ban on the registration of a company or an entrepreneur, shall be punished by a prison term from three months to five years and a fine.

(2) Anyone who engages, without a licence or in violation of the terms under which the licence was issued, in an economic, stock-exchange or insurance activity, shall be punished by a prison term from three months to five years.

(3) For the offence referred to in paragraph 2 above the prescribed punishment shall also be imposed on a responsible officer in a legal entity where the entity illegally engages in any of the activities listed above provided that the responsible officer was aware, could have been aware or ought to have been aware of offence.

### **Revealing a Business Secret**

#### **Article 280**

(1) Anyone who without authorization communicates, hands over or otherwise makes accessible to another person the data classified as business secret or who obtains such data with the intention to hand them over to an unauthorized person shall be punished by a prison term from three months to five years.

(2) The punishment referred to in paragraph 1 above shall apply to an unauthorised person who uses data classified as business secret and obtained in the manner described in paragraph 1 above.

(3) Where the offence under paragraphs 1 and 2 above was committed out of greed or with respect to strictly confidential data or for the purpose of their publication or use abroad, the perpetrator shall be punished by a prison term from two to ten years.

(4) Anyone who commits the offence under paragraphs 1 and 2 above by negligence shall be punished by a prison term up to three years.

(5) A business secret is considered to include data and documents which were classified as such by a law, or a regulation or decision issued by a competent authority on the basis of a law, and revealing of which would or could cause harmful effects to the business entity or other business enterprise.

### **Misuse of insider information**

#### **Article 281**

(1) Anyone who with the intent to obtain for himself or another pecuniary gain or cause damage to another reveals or otherwise makes accessible insider information to an unauthorised person or who by using insider information buys or sells for himself or another directly or indirectly securities or other financial instruments that the insider information relates to, or who recommends to another or induces another to buy or sell securities or other financial instrument that the insider information relates to shall be punished by a fine or a prison term up to three years.

(2) The punishment under paragraph 1 above shall also apply to an unauthorised person for using the information obtained in the manner described in

	<p>paragraph 1 above.</p> <p>(3) Where the offence referred to in paragraph 1 above was committed by a person who is a member of the board of directors or of supervisory board of the issuance authority or a person who has a share in its capital, such person shall be punished by a prison term from six months to five years.</p> <p>(4) Where the offence under paragraphs 1, 2 and 3 above resulted in pecuniary gain exceeding three thousand euros, the perpetrator shall be punished by a prison term from one to eight years.</p> <p>(5) Where the offence under paragraphs 1, 2 and 3 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years.</p> <p>(6) An attempted offence under paragraph 1 shall be subject to punishment.</p> <p><b>Manipulation in the stock market and market in other financial instruments</b></p> <p><b>Article 281a</b></p> <p>(1) Anyone who with the intention to obtain for himself or another pecuniary gain or cause harm to another acts in violation of the regulations governing stock market by taking any of the following actions:</p> <p>1) effects any transaction or enters an order for a transaction which creates or may create a false or misleading appearance with respect to the supply, demand or the price of securities or other financial instruments, or by which either alone or with one or more other persons one fixes the price levels for one or more securities or for other financial instruments at an unrealistic level;</p> <p>2) when effecting or entering an order for a transaction, fixes, raises, depresses, or causes volatility of market prices for securities and other financial instruments by the use of purchase or sale or by effecting a fictitious transaction which involves no change in the beneficial ownership of such security or other financial instrument;</p> <p>3) disseminates or circulates, by the use of media, internet or otherwise, false or misleading information that is likely to create a misleading appearance with respect to the securities or other financial instruments knowing that such information is false or misleading and that it may mislead the party using such information, shall be punished by a prison term from six months to five years and by a fine.</p> <p>(2) Where the offence under paragraph 1 above resulted in pecuniary gain exceeding thirty thousand euros, the perpetrator shall be punished by a prison term from two to ten years and by a fine.</p> <p>According to the Work plan of the Government of Montenegro for 2014 adoption of the law on capital market is is planned for the fourth quarter of 2014 .</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of “all serious offences” in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.</i></p>

<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>We are in the process of the reform of the criminal material law, and this recommendation of MONEYVAL was presented to the working group in order to have complete compliance of our law with the international standards.</p> <p>With the Law on amendments to the Criminal Code which is in adoption procedure, provisions relating to the validity of the criminal legislation of Montenegro were also amended.</p> <p>In Article 135 relating to validity of the criminal legislation of Montenegro for perpetrators of certain criminal offences committed abroad, the validity of criminal legislation of Montenegro was expanded (apart from the committed criminal offences from the corpus of offences against constitutional order and safety of Montenegro and money forgery offences from Art. 258) and the persons who conduct criminal offences 447,448, and 449 abroad, which are in accordance with the amendments stipulated as terrorism, endangering of persons under international protection and financing of terrorism.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>In accordance with the art. 135 of The Criminal Code, referring to applicability of Criminal legislation of Montenegro to perpetrators of specific criminal offences committed abroad, applicability of Montenegrin criminal legislation for perpetrators of certain criminal offences committed abroad has been expanded – beside criminal offences against Constitutional order and security of Montenegro and of the criminal offence of Counterfeiting money (art.258), legislation is applied also to persons that committed criminal offences 447-449 (Terrorism, Endangering persons under international protection and Terrorism financing) abroad.</p> <p>Also, Criminal Code defines applicability of national criminal legislation on foreigners who commit criminal offence abroad, as follows:</p> <p><b><i>“Applicability of Criminal Legislation of Montenegro to Foreigners who Commit a Criminal Offence Abroad</i></b></p> <p style="text-align: center;"><b><i>Article 137</i></b></p> <p><i>(1) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits a criminal offence outside the territory of Montenegro against Montenegro or its national for criminal offences other than those referred to in Article 135 of this Code or performs criminal offence referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof, in commitment of which a national of Montenegro is involved in any manner, should s/he be caught in the territory of Montenegro or get extradited to it.</i></p> <p><i>(2) Criminal legislation of Montenegro shall also be applicable to a foreigner who commits abroad, against a foreign country or a foreigner, a criminal offence punishable under the law of the country it was committed in by an imprisonment sentence of five years or more, should s/he be caught in the territory of Montenegro but not surrendered to a foreign country. Unless otherwise provided by this Code, a court of law may not in such a case impose a sentence more severe than the one provided for under the law of the country in which the criminal offence was committed.”</i></p>
<p>Measures taken to implement the recommendations since the adoption of the second progress</p>	<p>Due to Working version of the Law on the Amendments and Changes to the Criminal Code In Article 137, paragraph 2, words: "five years" shall be replaced by words: "four years".</p> <p>This change is performed in accordance to the United Nations Convention Against</p>

report	<p>Transnational Organized Crime - Palermo Convention Article 2 item b.</p> <p>In the working version of the Law on Amendments to the Criminal Code, the application of "active personality principle" (Article 135) has been extended to the money laundering offence. When it comes to the principle of universality (Article 137, paragraph 2) Montenegrin criminal legislation also applies to foreign nationals who commit a criminal offence abroad against a foreign country or a foreign national where such offence is punishable under the law of the country where it was committed by a prison term of five years or longer. This rule should not be interpreted as stated in the report, i.e. that it applies to criminal offences punishable under the law of a foreign country by a minimum five years imprisonment, since it does not refer to a minimum sentence but to a possibility to sentence the offender to five years imprisonment, which therefore also includes those criminal offences punishable by imprisonment sentence of 6 months to 5 years, from 2 to 8 years, from 2 to 12 years, and so on. The working version of the Law on Amendments the Criminal Code has shortened the five years imprisonment sentence to four years, complying thereby with the United Nations Convention against Transnational Organized Crime (Article 2, paragraph 1, item b and Article 6, paragraph 2, item b). In addition to that, application of Article 138, paragraph 4 has also been extended to the money laundering offence.</p>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	<p>In July 2013 Parliament adopted <b>Amendments to the Criminal Code</b>, which enter into force on 21<sup>st</sup> August 2013, and the following changes are made in relation to Article 137:</p> <p style="text-align: center;"><b>Applicability of Criminal Legislation of Montenegro to Foreign Nationals who Commit Criminal Offence Abroad</b></p> <p style="text-align: center;"><b>Article 137</b></p> <p>(1) Criminal legislation of Montenegro shall also be applicable to a person who is not a national of Montenegro who commits outside the territory of Montenegro against Montenegro or its national a criminal offence other than those referred to in Art.135 hereof or who commits a criminal offence referred to in Articles 276a, 276b, 422, 422a, 423 and 424 hereof, in the commission of which a national of Montenegro is involved in any way, provided that he is caught in the territory of Montenegro or gets extradited to Montenegro.</p> <p>(2) Criminal legislation of Montenegro shall also be applicable to a person who is not a national of Montenegro who commits a criminal offence abroad against a foreign country or a foreign national where such offence is punishable under the law of the country where it was committed by a prison term of four years or longer, provided that he is caught in the territory of Montenegro but not extradited to a foreign country. Unless otherwise provided for by this Code, in such a case a court may pronounce punishment which is more severe than the punishment provided for by the law of the country where the criminal offence was committed.</p>

<b>Recommendation 5 (Customer due diligence)</b>	
<b>I. Regarding financial institutions</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>It is the view of the evaluators that the wording of the second point under Article 9 is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. The evaluators consider that "<u>or more</u>" should be added in Article 9, Paragraph 1 number 2 in the LPMLTF.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Upon the APMLTF initiative, the Ministry of Finance has started the activities on preparing the Bill on Changes and Amendments to the LPMLTF in accordance with this and other recommendations from the MONEYVAL's Recommended action plan, in order to make the changes and amendments of the LPMLTF fully complied with the international standards, so that the Law would completely satisfy all the needed criteria from FATF Recommendations. The Minister of Finance has formed a working group responsible for preparing the Bill on Changes and Amendments to the LPMLTF. Members of the working group are the representatives of the relevant state authorities: Ministry of Finance, APMLTF, legislative authorities, Ministry of Justice, Ministry of Interior Affairs and Administration for Games on Chance.</p> <p>The Securities and Exchange Commission, for the purpose of implementation of its obligations under LPMLTF considers that the wording of the second point of the article 9 implies that the 15.000€ requirement is the lowest amount required for notification, and that each transaction that overcomes the 15.000€ threshold should be reported. In that aim, the Securities and Exchange Commission in Article 4 of the <i>Instruction on risk analysis of money laundering, „know your client” procedures and other procedures for recognising suspicious transactions</i> prescribed:</p> <p>“Capital market participant is obliged to verify the identity of the client, gather data about customer and transaction (hereinafter: identification) according to the regulation on combating money laundering, especially in following cases:</p> <ol style="list-style-type: none"> <li>a) opening owners securities account securities or establishing of some other kind of business relations with the client;</li> <li>b) of one or more linked transactions amounting to € 15. 000 <i>or the higher amount</i>;</li> <li>c) with every transaction, irrespective of value of such transaction when there are reasonable grounds for suspicion of money laundering in regard to transaction or a client”. </li></ol>
(Other) changes reported as of 16 March 2010	This Recommendation was implemented by the Instruction of the Securities and Exchange Commission even prior the last evaluation.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The mentioned recommendations are adopted and due to that implemented in Article 7 of the Bill on Amendments (it refer to changes of Article 9 of the current Law).</p> <p><b><u>In the Article 7</u></b> ( Article 9 of the current Law on PMLTF) of the Bill on amendments and changes of the Law on PMLTF (adopted by the Government of Montenegro and The Board for Economy, Finance and Budget of the Parliament of Montenegro, finance and budget ), prescribes the following:</p> <p>Article 9 shall be changed as follows:</p> <p>“Cases in which CDD measures shall be conducted”</p> <p>A reporting entity shall conduct the appropriate measures from Article 10 of this Law and particularly in the following cases:</p> <ol style="list-style-type: none"> <li>1. when establishing a business relationship with a client;</li> <li>2. of one or more linked transactions amounting to €15 000 or more;</li> </ol>



	<p>3. when there is a suspicion about the accuracy or veracity of the obtained client identification data, and</p> <p>4. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or client.</p> <p>If the transactions from paragraph 1 items 2 and 4 of this Article are based on an already established business relationship, a reporting entity shall:</p> <ol style="list-style-type: none"> <li>1. verify the identity of the client that carries out the transaction and gather additional data in pursuant to this Law;</li> <li>2. obtain evidence on the source of funds and check the consistence of the sources of funds with the business activity of the client, if the client is a legal person, or with the profession of the client if the client is a natural person.</li> </ol> <p>An organizer of special games of chances shall in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law.</p> <p>In the context of this Law, the following shall also be considered as establishing a business relationship:</p> <ol style="list-style-type: none"> <li>1. client registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and</li> <li>2. client's access to the rules of managing a mutual fund at managing companies. “</li> </ol> <p><b><u>In the Article 27</u></b> ( changes of Article 33 of the current Law) the following is prescribed:  In Article 33 paragraph 1 the words: “in the amount of €15.000 or more” are replaced by the words: <b>”in the amount of at least €15,000”</b>.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>In the Risk Guidelines for analysis of AML / FT in the capital market that Securities and Exchange Commission adopted in February 2012, the following is prescribed: Capital market participant is obliged, in addition to client's identification, to take measures of inspection and monitoring of the client set out in Article 9 of the law, and especially:</p> <ol style="list-style-type: none"> <li>a) to open a securities account securities or establish other forms of business cooperation with the client;</li> <li>b) take into account any transactions or several interrelated transactions in the total amount of € 15. 000 <i>or more</i>;</li> <li>c) when there is a doubt about the accuracy or validity of obtained data on customer identification;</li> </ol> <p>on each transaction, regardless the value of the transaction, there is a suspicion of money laundering or terrorist financing in connection with transaction or the client.</p> <p>The mentioned recommendations are adopted in the current version of the Law on PMLTF (Article 9) and it will be amended in the Proposal on the Law on the PMLTF (Article 8).</p> <p style="text-align: center;"><b>Cases in which CDD measures shall be conducted</b></p> <p style="text-align: center;"><b>Article 8</b></p> <p>A reporting entity shall conduct the appropriate measures from Article 9 of this Law and particularly in the following cases:</p>

	<ol style="list-style-type: none"> <li>1. when establishing a business relationship with a customer;</li> <li>2. when executing one or more linked transactions amounting to €15, 000 or more;</li> <li>3. when there is a suspicion about the accuracy or veracity of the obtained customer identification data;</li> <li>4. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or customer;</li> <li>5. for natural or legal persons trading in goods, when executing cash transactions in the amount of EUR 7 500 or more, regardless of whether the transaction is executed as a single transaction or a number of mutually connected transactions.</li> </ol> <p>A reporting entity shall apply measures from Article 9 of this Law also on customers with whom it has already established business relationship (existing customers) and to obtain all data in accordance with this Law.</p> <p>When carrying out the transaction in the amount of at least € 2, 000 an organizer of special games of chances shall verify the identity of a customer and obtain the data from the Article 78 item 6 of this Law.</p> <p>In the context of this Law, the following shall also be considered as establishing a business relationship:</p> <ol style="list-style-type: none"> <li>1. customer registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and</li> <li>2. customer's access to the rules of managing a mutual fund at managing companies.</li> </ol>
Recommendation of the MONEYVAL Report	<i>The LPMLTF should be amended to require CDD to be conducted on wire transactions of €1,000 or more.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The members of the Working Group will be presented with all the MONEYVAL expert's recommendations for changing and amending the LPMLTF. Securities brokers do not conduct cash transactions, but only transactions where money is transferred from client's account within the bank to brokers account specified for keeping client's money. However, the securities brokers are required to perform CDD even though they are not receiving money for performing transactions in cash from the clients. The specific obligations of the securities brokers regarding CDD are imposed by the Securities and Exchange Commission Instruction.
(Other) changes reported as of 16 March 2010	This Recommendation was implemented by the Instruction of the Securities and Exchange Commission even prior the last evaluation
Measures taken to implement the recommendations since the adoption of the first progress report	<p>Article 11 of the Bill on Amendments and Changes to the Law on PMLTF prescribes that a new Article <b>12a</b> shall be inserted after Article 12 of the current LPMLTF. A new article <b>12a</b> is added, as follows:</p> <p style="text-align: center;">Wire transfers</p> <p>“Wire transfers</p> <p>Article 12a</p>

	<p>A reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer.</p> <p>The data from paragraph 1 of this Article shall remain with the funds transfer through the payment chain.</p> <p>A provider of payment operations or money transfer services, that is an intermediary or beneficiary person of the funds, shall refuse to transfer the funds unless the originator data are complete or shall require the originator data to be completed within the shortest time possible.</p> <p>In the process of gathering the data from paragraph 1 of this Article, providers of payment operations or money transfer services shall identify the originator by checking a personal identification document issued by a competent authority.</p> <p><u>The content and type of the data from paragraph 1 of this Article, and other obligations of the providers of payment operations or money transfer services, as well as the exceptions from data gathering requirement when transferring funds that present insignificant risk of money laundering and terrorist financing, shall be more specifically regulated by a regulation of the Ministry.</u>“</p> <p>Pursuant to Article 16 of the Law on National Payment Operations, (OGM 61/08), The performing institution shall be obliged to archive and keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>The above mentioned obligations are also prescribed in Securities and Exchange Commission’s Risk Guidelines for analysis of AML / FT.</p> <p>In accordance with the article 12 a paragraph 5 of the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of the Republic of Montenegro ", No. 14/07 and 14/12), The Ministry of Finance adopted  <b>RULEBOOK ON CONTENT AND TYPE OF PAYER’S DATA ACCOMPANYING ELECTRONIC FUNDS TRANSFER</b></p> <p>On 11<sup>th</sup> July 2013 the Proposal of the Law of Payment System is adopted by the Government of Montenegro and forwarded to the Parliament on 26<sup>th</sup> July 2013. The mentioned Law is in parliament procedure for adoption.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The LPMLTF should be amended to require reporting entities to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>The response is the same as the one given to the previous question.</p> <p>The Securities and Exchange Commission adopted Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09) that precisely prescribe the obligation of the licensed market participants to verify identity of persons acting of behalf of clients and to obtain originals or certified copies of the documents authorising them to act on their behalf.</p> <p>The article 4 paragraph 3 of the Rules explicitly states:  “Licensee may conclude the contract on providing securities services and/or accept an order for buying or selling of securities on the basis of power of attorney, if a power of attorney was issued and verified in accordance with the Law.”</p> <p>Furthermore, the article 5, paragraphs 2,3, and 4 explicitly state:</p>

	<p>“Identity verification of a legal entity presupposes verification of the identity of a person authorised for its representation. If a client is represented by a proxy, his/her power of attorney must be certified by a competent authority. Original power of attorney or documentation proving status of a legal proxy or guardian, shall remain in a file at licensee’s office.” Also, the abovementioned is included in the article 11 paragraph 2 of <i>Instruction on risk analysis of money laundering, „know your client” procedures and other procedures for recognising suspicious transactions</i> which is adopted by the Securities and Exchange Commission and prescribes: When establishing business relationship or executing transaction by proxy or authorised person (agent) on client’s behalf, capital market participants are obliged to identify authorised person, (agent, attorney) and a client on whose behalf the account has been opened or transaction executed, solely on the basis of personal and another public certificate such as:</p> <ul style="list-style-type: none"> <li>– Certificate properly issued by state body within their own competence, or institution or other legal entity within legally entrusted public authority and</li> <li>– Written authorisation- power of attorney, certified by notary, consulate, court or state administration body.</li> </ul>
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).
Measures taken to implement the recommendations since the adoption of the first progress report	The mentioned recommendations are adopted and Bill on Amendments and Changes of the Law on PMLTF is amended with the obligation for all reporting entities to keep, in its documentation, the original or verified copy of the document based on which they will identify and verify client’s identity. The <b>Article 13</b> (Article 15 of the current Law) prescribes the following: <b>„A reporting entity shall keep the original or verified copy of the document in his/her documentation“.</b>
Measures taken to implement the recommendations since the adoption of the second progress report	Correction of translation :  Article 15 paragraph 5 of the Law on PMLTF defines the following:  A reporting entity shall keep, in its documentation, the original or verified copy of the costumer’s documents.  Article 17 of the Law on PMLTF defines Establishing and verifying the identity of an authorized person and in paragraph as follows:  If an authorized person establishes a business relationship on behalf of a customer that is a legal person, a reporting entity shall establish and verify the identity of an authorized person and obtain data from Article 71 item 2 of this Law by checking the personal identification document of an authorized person and 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 authorized person.  A reporting entity shall obtain data from paragraph 1 of this Article on the agent on whose behalf the authorized person acts, from a certified written power of authorization, issued by the agent.

If the transaction from Article 9 paragraph 1 item 2 of this Law is executed by an authorized person on customer's behalf, a reporting entity shall verify the identity of the authorized person and obtain data from Article 71 item 3 of this Law on a customer that is a natural person, entrepreneurship or natural person, performing an activity.

If a reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of an agent, he/she/it shall obtain agent's written statement.

Note: The Central Bank of Montenegro enacted the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing which, among other issues, defines that, with the meaning of Article 17 of the Law, the bank shall require, if the transaction is performed by an authorized person, that person has to submit a verified written authorization issued by the legal representative. The bank shall file the written authorization issued by the legal representative or a client's authorized person.

(3.1.2 Establishing and verifying the identity of a client – legal person, Paragraph 8 )

### **NEW DEVELOPMENTS SINCE THE ADOPTION OF THE THIRD PROGRESS REPORT**

Securities and Exchange Commission

The abovementioned is included under the item 3.1.3. of the Risk Guidelines for analysis of AML / FT. *for recognising suspicious transactions* which were adopted by the Securities and Exchange Commission in February 2012.

The Article 17 of the current Law is amended in the Proposal on the PMLTF is defined as follows:

#### **Establishing and verifying the identity of an authorized person Article 17**

If instead of a legal representative an authorized person on behalf of a customer that is a legal person establishes a business relationship or executes a transaction, a reporting entity shall establish and verify the identity of an authorized person and obtain data from Article 78 item 2 of this Law by checking the personal identification document of an authorized person in his 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 authorized person.

A reporting entity shall obtain data from paragraph 1 of this Article, on the legal representative on whose behalf the authorized person acts, from a certified written power of attorney, issued by a legal representative or its certified copy in accordance with law. A reporting entity shall obtain power of attorney issued by a legal representative from authorized person and keep it in accordance with this Law.

	<p>If a reporting entity doubts the accuracy of the obtained data when establishing and verifying the identity of a legal representative and authorized person that acts on behalf of the legal representative, it shall obtain their written statements.</p> <p>A reporting entity shall, when establishing identity of legal representative of a legal person, obtain photocopy of personal identification documents of that person (e.g. Personal identification card, passport, driving license or similar documents containing a photo of a person whose identity a reporting entity is establishing) and enter date, time and personal name of the person that performed the check on that photocopy.</p> <p>A reporting entity shall keep the photocopy of a personal document from this paragraph in accordance with this Law.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>The Securities and Exchange Commission does not authorise licensed market participants to rely on the electronic version of Commercial Register for CDD purposes due to fact that the such verification is not updated on real time basis.</p> <p>The Securities and Exchange Commission prescribes in the article 6 paragraph 4 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09) that legal entity should be indentified on the basis of original statement from the registry of Commercial court.</p> <p>The Securities and Exchange Commission Rules prescribe obligation of the licensed market participant to make a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD.</p> <p>Also, the Rules authorise securities participants to withdraw from the contract and to reject acceptance of the client's order if they have any suspicion about money laundering (Article 19par.6 item 4).</p> <p>Furthermore, the Instruction in the article 6 par. 5 and 6 prescribe: " If an reporting entity, when establishing and verifying the identity of a customer, doubts the accuracy of obtained data or veracity of documents and other business files from which the data have been obtained, he shall request a written statement from the agent or authorised person before establishing business relationship or executing a transaction.</p> <p>Capital market participant may refuse to establish business relationship with the client or executing of such transaction, if regardless of taking measures from this article, there are still serious doubts about identity of the beneficial customer."</p> <p>Separate clause is inserted into the Instruction of Securities and Exchange Commission requiring capital market participant to specifically deal with the issue of CDD on existing customers.</p> <p>The Article 7 of the abovementioned Instruction explicitly states obligation of the licensed market participants to take following procedures:</p> <p>a) before establishing business relationship or executing transaction determine and verify the identity of a client and identity of beneficial owner on the basis of documents, data and information enabling determination of the identity in doubtless and assertive way;</p>

	<p>b) taking measures enabling checking and determining ownership structure of the client and real control over the client in order to determine identity of the beneficial owner client;</p> <p>c) obtain and keep data and documents in order to establish identity and risk factor of a customer;</p> <p>d) constantly monitor business relationship with the client, including transaction during that relationship (are they adjusted to the kind of business and risks regarding client and information about that customer) keeping records on monitoring business relationship;</p> <p>e) If possible, before establishing business relationship with the client, establish reasons for terminating contracts with other participant on the capital market;</p> <p>f) During executions transactions of customer who is identified with technology help that not include direct contact, enforce procedures that enable previous authenticity checks verity of instruction transaction and authenticity of their applicators.</p>
(Other) changes reported as of 16 March 2010	<p>Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p><b>The Central Bank of Montenegro</b> enacted the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing which, among other issues, defines that, with the meaning of Article 15 of the Law, the bank shall establish and verify the identity of a client who is a legal person by inspecting the original or a certified copy of a personal document (that cannot be older than three months) from the Central Register of the Commercial Court (hereinafter: CRCC) or other suitable public register, which on behalf of the legal person is submitted by the legal representative.</p> <p>Section 3.1.2 of the abovementioned Guidelines describes in details the establishing and verifying the identity of a client – legal person and the establishing the beneficiary owner of the legal person.</p> <p>If the data required by the Law (Article 71 paragraphs 2, 7, 9, 10, 11, 12, 13 and 14) cannot be determined by inspecting the original or certified copies of personal documents, the missing data shall be gathered directly from the representative or the authorised person.</p> <p>If the bank, during establishing and verifying the identity of a legal person, is suspicious about the validity of given data or validity of documents and other business documentation used for obtaining data, the bank is obliged to receive a written statement from the representative or authorised person before establishing the business relationship or the transaction.</p> <p>If the client is a foreign legal person performing activities in Montenegro through a business office, the bank shall determine and verify the identity of a foreign legal person and its business office.</p> <p>The information that the bank collects about a client who is a legal person, are given in Article 71 of the Law on the Prevention of Money Laundering and Terrorist Financing.</p> <p>In 2010 and 2011, the CBCG performed on-site examinations of banks, thus inspecting the implementation of the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing. During these inspections, special attention was paid to classification of clients according to risk level, as well as the compliance to legal obligation of determining the beneficiary owner of legal persons. In one case, it was determined that the bank did not identify the beneficiary owner of legal person, but this irregularity was removed during the inspection in the</p>

	bank.
Measures taken to implement the recommendations since the adoption of the second progress report	<p>The Risk Guidelines that SEC adopted in February 2012 include the abovementioned.</p> <p>The Article 15 of the current Law is amended with a new paragraph(6) and Article 15 of the Bill on the PMLTF is defined as follows:</p> <p style="text-align: center;"><b>Establishing and verifying the identity of a legal person</b></p> <p style="text-align: center;"><b>Article 15</b> <b>( paragraphs 5 and 6)</b></p> <p>A reporting entity shall keep the original or certified copy of the customer's document in its documents.</p> <p>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/it shall obtain a written statement from a legal representative or authorized person before establishing a business relationship or executing a transaction.</p>
Recommendation of the MONEYVAL Report	<i>Article 29.4 of the LPMLTF appears to go further than intended by Criteria 5.9 in that it permits simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related" which could include a broader range of customers than those envisaged in Criteria 5.9. Article 29.4 should be amended to bring it into line with the essential criteria.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Securities and Exchange Commission adopted abovementioned Instruction prior to enactment of the Rulebook on making Guidelines for risk analysis with the aim of combating money laundering and terrorist financing ("Official Gazette of Montenegro", No. 20/09). The Instruction of the Securities and Exchange Commission thus does not provide for any exceptions of the general rule that customers and clients are subject to complete CDD procedures nor provide for reduced or simplified CDD measures to be applied.</p> <p>Also, this Rulebook does not provide for any exceptions and Securities and Exchange Commission is not required to provide for it by Instruction that it adopts.</p> <p>The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The proposed changes of Article 29 of LPMLTF are adopted and included in the Bill on Amendments and Changes to the Law on PMLTF. Namely, provisions of <b>Article 24 of</b> the Bill on Changes and Amendments to the LPMLTF ( Article 29 of the current Law) paragraph 4 where is <i>permitted simplified customer verification in respect of customers to "whom an insignificant risk of money laundering or terrorist financing is related"</i> shall be deleted.</p> <p>In Article 29 paragraph 1 item 1 the word „organization” is replaced by the word: „institution“, and after the word ‘lists’ the words ‘countries applying the international AML/CFT standards that are at the same level as the EU standards or higher’ are added.</p> <p>In Item 3 of this Article after the words: „organized market“ the words: „or stock exchange market” are added, and the words “EU standards” are replaced by the words “international standards that are at the same level of European Union standards or</p>



	higher. “
Measures taken to implement the recommendations since the adoption of the second progress report	<p>The Article 29 of the current Law is changed and in the Bill on the PMLTF is defined as follows:</p> <p style="text-align: center;"><b>Simplified customer due diligence</b> <b>Article 36</b></p> <p>If there is insignificant risk of money laundering and terrorist financing in relation a costumer, transaction from Article 8 paragraph 1 items 2 and 5 of this Law, a business relationship or product, and if there are no grounds for suspicion of money laundering or terrorist financing a reporting entity can apply simplified customer due diligence.</p> <p>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 previously establishes that they belong to a category with insignificant risk of money laundering and terrorist financing, based on risk factors defined by bylaws from Article 7 of this Law.</p> <p>The Ministry shall define the risk factors of money laundering and terrorist financing from paragraph 2 of this Article in the bylaws from Article 7 paragraph 3 of this Law.</p> <p>A reporting entity shall enable monitoring of customers business activities with a view to detecting and preventing unusual or suspicious transactions.</p>
Recommendation of the MONEYVAL Report	<p><i>The FATF definition (“Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.”) should be incorporated into the LPMLTF and a requirement to identify and verify the “ultimate” beneficial owner should be included.</i></p>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Article 19 of the LPMLTF defines a beneficial owner:</p> <p>“In the context of this Law the following shall be considered as a beneficial owner of a business organisation or legal person:</p> <ol style="list-style-type: none"> <li>1. a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and</li> <li>2. a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made.</li> </ol> <p>Also, a business organisation, legal person, as well as an institution or other foreign legal person that is directly or indirectly a holder of at least €500,000 of shares, or capital share, shall be considered a foreign owner.</p> <p>As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered:</p> <ol style="list-style-type: none"> <li>1. a natural person, that indirectly or directly controls more than 25% of a legal person’s asset or of a similar foreign legal entity, and</li> </ol>

2. a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages.”

Article 10 of the LPMLTF defines that a reporting entity, when establishing a business relationship with a customer shall:

1. identify a customer and beneficial owner if the customer is a legal person;
2. obtain and verify data on a customer, or beneficial owner, if the customer is a legal person, on the purpose and nature of a business relationship or transaction and other data pursuant to this Law, and
3. monitor regularly the business activities that a customer undertakes with the reporting entity and verify their compliance with the nature of a business relationship and the usual scope and type of customer's affairs.

Under Article 20 of the LPMLTF a reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law (name, address of permanent residence or temporary residence, date and place of birth of the beneficiary owner- legal person or in case from the Article 19 paragraph 2 item 2 of this Law, data on the category of the person, on whose behalf is establishing and operating of the legal person or similar foreign legal person).

A reporting entity shall obtain these data by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CRCC or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law.

If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an reporting entity shall obtain the missing data from a written statement of an agent or authorised person.

Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment. Moreover, under Art. 21 of the LPMLTF, within the customer due diligence, a reporting entity shall,

- when establishing business relationship, obtain the data from Art. 71 items 1, 2, 4, 5, 7, 8 and 15 (name, address of permanent residence or temporary residence and the birth date and birth place of the beneficial owner of a legal person,

or in the case from Art. 19 paragraph 3 item 2 of the Law, obtain the data on the category of the person, on whose behalf is the establishing and operating of the legal person or similar foreign legal person) of this Law.

- when one or several linked transactions in the amount of €15.000 are executed, obtain data from Art. 71 items 1, 2, 3, 4, 5, 9, 10, 11, 12 and 15 (name, address of permanent residence or temporary residence and the birth date and birth place of the beneficial owner of a legal person,

or in the case from Art. 19 paragraph 3 item 2 of the Law, obtain the data on the category of the person, on whose behalf is the establishing and operating of the legal person or similar foreign legal person) of this Law.

- from Art. 9 paragraph 1 items 3 and 4 of the Law/(3) when there is a suspicion about the accuracy or veracity of the obtained customer identification data;

4) when there are reasonable grounds to suspect that a transaction or customer are related to ML and TF, obtain data from Art. 71 of this Law (which includes item 15 referring to beneficial owner).

Art. 22 /Monitoring business activities/, defines the following:

“An reporting entity shall monitor customer's business activities, including the

	<p>sources of funds the customer uses for business, in order to identify the customer more easily.</p> <p>Monitoring business activities from paragraph 1 of this Article at an reporting entity shall particularly include the following:</p> <ol style="list-style-type: none"> <li>1. verifying the compliance of customer’s business with nature and purpose of contractual relationship;</li> <li>2. monitoring and verifying the compliance of customer’s business with usual scope of her/his affairs, and</li> <li>3. monitoring and regular updating of documents and data on a customer, which includes conducting repeated annual control of a customer in the cases from Article 24 of this Law.</li> </ol> <p>An reporting entity shall ensure and adjust the dynamics of undertaking measures from paragraph 1 of this Article to the risk of money laundering and terrorist financing, to which an reporting entity is exposed when performing certain work or when dealing with a customer.”</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The proposed changes of Article 19 of LPMLTF are adopted and incorporated in Article 14 of the Bill on Amendments and Changes to the Law on PMLTF Due to that the new definition of the beneficial owner is compliant with the definition stated in Directive2006/60 and also with the FATF definition.</p> <p><b>Article 14 ( the Bill on Changes and Amendments to the LPMLTF)</b></p> <p>Article 19 is changed as follows:</p> <p>"Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement.</p> <p>A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be:</p> <ol style="list-style-type: none"> <li>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 at least 25% share of the capital or has a dominating influence in the assets management of the business organization;</li> <li>2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made.</li> </ol> <p>As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered</p> <ol style="list-style-type: none"> <li>1) a natural person, that indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity;</li> <li>2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.” </li></ol>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal</i></p>

	<p><i>assets holding vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>In Montenegro trusts may not be formed. The legal persons or practitioners may just register companies, but may not as a way of business form companies or other legal persons, act or arrange for another person to act as a director or secretary of a company; as a partner of a partnership; in a similar position in relation to other legal persons; provide a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement, act or arrange for another person to act as:</p> <ul style="list-style-type: none"> <li>(i) a trustee of an express trust or similar legal arrangement</li> <li>(ii) a nominee shareholder for another person other than a company listed on a regulated market which is subject to disclosure requirements consistent with Community legislation or equivalent international standards;</li> </ul> <p>The Working Group that will prepare the changes and amendments to the LPMLTF will be presented with this MONEYVAL recommendation as well.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>In Montenegro, trusts may not be formed as a model of performing a business activity but the the changes are made and incorporated in <b>Article 19</b> of the Bill on Changes and Amendments to the LPMLTF (<b>Article 25 of the current Law</b>), as follows:</p> <p>“Enhanced customer due diligence</p> <p><b>Article 25</b></p> <p>A reporting entity shall conduct enhanced customer due diligence in cases when a reporting entity estimates that there is high risk on money laundering or terrorist financing.</p> <p>Reporting entity shall conduct enhanced CDD measures in the following cases as well:</p> <ol style="list-style-type: none"> <li>1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list;</li> <li>2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law,</li> <li>3. when a customer is not present during the verification process of establishing and verifying the identity.</li> </ol> <p>A reporting entity shall apply enhanced customer due diligence measures in cases when, in accordance with the Article 8 of this Law, a reporting entity estimates that regarding the nature of a business relationship, the form and manner of executing a transaction, business profile of the client or other circumstances related to the client, there is or there could be a high risk of money laundering or terrorist financing.”</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation establishing trusts as a model of performing business activity.</p> <p>The Article 25 of the current Law is amended and in the Bill on the PMLTF Article 29 Enhanced Customer Due Diligence is defined as follows:</p> <p style="text-align: center;"><b>Enhanced customer due diligence</b> <b>Article 29</b></p> <p>A reporting entity shall conduct enhanced customer due diligence in the following cases:</p>

	<ol style="list-style-type: none"> <li>1. on entering into correspondent relationship with a bank or other credit institution, with registered office outside the European Union or it 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;</li> <li>2. on entering into business relationship or executing a transaction from Article 8 paragraph 1 item 2 of this Law with a customer that is a politically exposed person or the beneficial owner of a customer is a politically exposed person from Article 31 of this Law;</li> <li>3. in cases of unusual transactions.</li> </ol> <p>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.</p> <p>Ministry shall, by the regulation from Article 7 paragraph 3, define the high risk factors of money laundering and terrorist financing from paragraph 2 of this Article</p>
Recommendation of the MONEYVAL Report	<i>Risk guidelines in accordance with Criteria 5.12 should be completed and published.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Ministry of Finance adopted, “The Rulebook on Developing Risk Analysis Guidelines with a view to Preventing Money Laundering and Terrorist Financing” (Official Gazette of Montenegro No. 20/09 of 17.03.2009).</p> <p>APMLTF has determined the Guidelines on Developing Risk Analysis with a view to Preventing Money Laundering and Terrorist Financing for the reporting entities that are supervised by APMLTF.</p> <p>The Guidelines define specific risk factors used as basis for establishing the degree of risk of customers, group of customers, business relationship, transaction or product.</p> <p>The Guidelines are applicable since 25<sup>th</sup> September 2009.</p> <p>On the basis of the Guidelines, the reporting entities from Art. 4 paragraph 2 it. 14 and 15 of the LPMLTF, will, according to the provisions of Art. 8 paragraph 1 of the LPMLTF, make risk analysis in order to determine the risk assessment of groups of customers or of an individual customer, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing.</p> <p>The APMLTF Guidelines are given in the ANEX of this Report.</p> <p>The Securities and Exchange Commission has issued Instruction of the Securities and Exchange Commission of on risk analysis of money laundering, „know your client” procedures and other procedures for recognising suspicious transactions of November 28, 2008. This Instruction has been adopted before last evaluation. The Instruction implements the Rulebook on developing risk analysis guidelines with a view to preventing money laundering and terrorist financing.</p> <p>The Administration for the games on chance adopted on 25<sup>th</sup> December 2009, the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing and forwarded it to the organisers of the games of chance that are supervised by the Administration. The Guidelines are given in the Annex of this Report.</p>

	<p>Pursuant to Article 86 of the LPMLTF (OGM 14/07 4/08) the Central Bank of Montenegro supervises the enforcement of this law by the reporting entities specified under Article 4 paragraph 1 points 1, 2, 3, 10 and 13, these being banks and foreign bank branches, savings banks and savings credit organisations, payment system organisations, exchange offices, and electronic money institutions.</p> <p>In line with Article 8 paragraph 3 of the LPMLTF, the Ministry of Finance passed the Rulebook on the development of guidelines on risk analysis with a view to preventing money laundering and terrorism financing (OGM 20/09) providing for detailed criteria for drafting the guidelines by the authorities specified under Article 86 of the LPMLTF.</p> <p>The Central Bank of Montenegro has prepared the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing to be adopted by the Council of the Central Bank of Montenegro.</p> <p>The Draft Guidelines above are attached hereof.</p> <p>We underline that the 5.12 criteria standards are covered in the Draft Guidelines.</p> <p>At the beginning of 2010, the ISA has started with the activities concerning preparation of risk analysis Guidelines regarding prevention of money laundering and terrorist financing, based on which reporting entities defined by the Law on PML/CFT and which are under the scope of ISA, will be obliged to make their internal procedures in this field. This work will be finished, at latest, by the end of the 6th month of 2010.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>There were no changes since the Bill on Changes and Amendments has not been adopted by the Parliament and due to that no changes in by laws can be performed.</p> <p>After the adoption of the Bill all guidelines, rulebooks and bylaws (currently in force) will be amended and changed , and the new ones will be adopted in accordance with the Law on PMLTF</p> <p><b>Guidelines</b> on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing Were Enacted by the Central Bank Of Montenegro Council on 09 March 2009, and they are published at the CBCG website. We would like to note that they fully correspond to the draft guidelines presented in the corresponding segments in the columns of this questionnaire titled “Measures reported as of 16 March 2010 to implement the Recommendation of the report”.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>The Ministry of Finance adopted the Amendments and Changes to the Rulebook on Indicators for recognising suspicious clients and transactions ("Official Gazette of Montenegro ",No. 26/12 from 24<sup>th</sup> May 2012). The current list is amended for 16 new indicators for recognizing suspicious transactions in the area of real-estate trade and construction industry. In addition to that the list is amended for 11 new indicators that refer to the lawyers and notaries.</p> <p>Also, the Bill on the Rulebook on wire transfers is designed and its adoption is expected following establishment of a new government after the parliamentary elections.</p> <p>After the adoption of the Law on Amendments and Changes to the Law on PMLTF the current Guidelines, Rulebooks and bylaws remain into force and due to changes of the Law there is an obligation to draft two new Rulebooks (Rule book on wire transfers-previously explained and Rulebook on unusual transactions).</p> <p style="text-align: center;"><b>NEW DEVELOPMENTS SINCE THE ADOPTION OF THE THIRD PROGRESS REPORT</b></p>

	<p>The Securities and Exchange Commission adopted on 09<sup>th</sup> February 2012, the “Guidelines for risk analysis aimed at preventing money laundering and terrorist financing for capital market participants” (that replaced Instruction) and forwarded it to obligors that are supervised by the Securities and Exchange Commission. The Guidelines are given in the Annex of this Report.</p> <p><b>In accordance with the article 12 a paragraph 5 of the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of Montenegro ", No. 14/07 and 14/12), The Ministry of Finance adopted</b></p> <p><b>RULEBOOK ON CONTENT AND TYPE OF PAYER’S DATA ACCOMPANYING ELECTRONIC FUNDS TRANSFER</b></p>
Recommendation of the MONEYVAL Report	<p><i>A specific clause should be inserted into the LPMLTF requiring reporting entities to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring reporting entities to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc..</i></p>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The above clauses are inserted into Securities and Exchange Commission Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)</p> <p>The Securities and Exchange Commission Rules prescribe obligation of the licensed market participant to make a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD.</p> <p>Also, the Rules authorise securities participants to withdraw from the contract and to reject acceptance of the client’s order if they have any suspicion about money laundering (Article 19 par.6 item 4).</p> <p>Furthermore, the Instruction in the article 6 par. 5 and 6 prescribe: " If an reporting entity, when establishing and verifying the identity of a customer, doubts the accuracy of obtained data or veracity of documents and other business files from which the data have been obtained, he shall request a written statement from the agent or authorised person before establishing business relationship or executing a transaction.</p> <p>Capital market participant may refuse to establish business relationship with the client or executing of such transaction, if regardless of taking measures from this article, there are still serious doubts about identity of the beneficial customer."</p> <p>The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.</p>
(Other) changes reported as of 16 March 2010	<p>Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)</p>
Measures taken to implement the recommendations since the adoption of the first progress	<p>The recommendations are accepted and due to that Articles 11 and 12 of the current Law are changed and introduced into the Bill on Changes and Amendments to the LPMLTF. Namely, the Article 9 of the Changes and Amendments to the LPMLTF ( Article 11 of the current Law) defines that a business relationship shall not to establish when the evidence on the client’s</p>

<p>report</p>	<p>identity cannot be obtained, and in case that a business relationship has already been established it can be terminated, is introduced</p> <p>Article 11 is changed as follows:</p> <p>„A reporting entity shall apply the measures from Article 10 items 1 and 2 of this Law prior to establishing a business relationship.</p> <p>By way of exception from paragraph 1 of this Article, a reporting entity can apply the measures from Article 10 items 1 and 2 of this Law during the establishment of a business relationship with a client when a reporting entity estimates it is necessary and when there is insignificant risk of money laundering or terrorist financing.</p> <p>When concluding a life insurance contract the reporting entity from Article 4 paragraph 2 item 8 of this Law can exert control over 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.</p> <p>If the evidence on the client’s identity, from paragraph 3 of this Article, cannot be obtained the business relationship shall not be established, and if the business relationship has already been established it can be terminated. “</p> <p><b>In the Article 10 of the Law on Changes and Amendments to the LPMLT (Article 12 of the current Law) defines that that the business relationship shall not be established and transactions shall not be executed if the evidence on client’s identity cannot be obtained.</b></p> <p>Article 10 (of the current Law)</p> <p>In Article 12 paragraph 1 words “Article 7 and” are deleted.</p> <p>After paragraph 1, a new paragraph is added, as follows:</p> <p><b><u>If the evidence on the client’s identity cannot be obtained the business relationship shall not be established and transactions shall not be executed.</u></b></p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>The Risk Guidelines that SEC adopted in February 2012, prescribe:</p> <p>„When establishing a business relationship or undertaking transaction by a legal representative or authorized person (proxy), capital market participants are required to carry out identification of the authorized person (agents, proxies) and the client on whose behalf and for whose account the account is opened or transaction is executed exclusively based on personal or other public documents, such as:</p> <ul style="list-style-type: none"> <li>• Documents issued in a prescribed form by a public authority within its competences, i.e. by an institution or other legal person within public authorization entrusted by law, as well as written authorization - power of attorney, certified by a notary, consulate, court or public administration bodies.</li> </ul> <p>If the obliged entity, when establishing and verifying identity of an agent, doubts the accuracy of the obtained data, especially in cases when:</p> <ul style="list-style-type: none"> <li>• there is a written authorization (authorization) was granted to a person who obviously does not have very close ties (e.g. kinship, business, etc.) with the client to perform transactions using the client's account;</li> <li>• the client's financial situation is already known and funds in the account of the client or funds in connection with that account do not match its financial status;</li> <li>• in the course of business relationship with the client, notices any unusual transactions, it is obliged to obtain his/her written statement.</li> </ul> <p>A capital market participant may refuse the establishment of a business relationship with a client or execution of a certain transactions if, despite taking the above</p>



measures, there are still serious doubts about the identity of the actual client.”

The recommendations are accepted and due to that Articles 9 to 12 of the current Law are amended and changed and introduced into the Bill on PMLTF (Articles 8-12).

### **Cases in which CDD measures shall be conducted**

#### **Article 8**

A reporting entity shall conduct the appropriate measures from Article 9 of this Law and particularly in the following cases:

6. when establishing a business relationship with a customer;
7. when executing one or more linked transactions amounting to €15, 000 or more;
8. when there is a suspicion about the accuracy or veracity of the obtained customer identification data;
9. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or customer;
10. for natural or legal persons trading in goods, when executing cash transactions in the amount of EUR 7 500 or more, regardless of whether the transaction is executed as a single transaction or a number of mutually connected transactions.

A reporting entity shall apply measures from Article 9 of this Law also on customers with whom it has already established business relationship (existing customers) and to obtain all data in accordance with this Law.

When carrying out the transaction in the amount of at least € 2, 000 an organizer of special games of chances shall verify the identity of a customer and obtain the data from the Article 78 item 6 of this Law.

In the context of this Law, the following shall also be considered as establishing a business relationship:

3. customer registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and
4. customer’s access to the rules of managing a mutual fund at managing companies.

### **Customer Due Diligence Measures**

#### **Article 9**

A reporting entity shall conduct customer due diligence measures (hereinafter: CDD 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;
2. to identify a beneficial owner of customer and verify its identity in the cases defined in this Law;

3. to obtain data on the purpose and nature of a business relationship or transaction and other data in accordance with this Law;
4. to monitor regularly the business activities that a customer undertakes with the reporting entity and verify their compliance with the nature of a business relationship and the usual scope and type of customer's affairs.

A reporting entity from Article 4 paragraph 2 items 9 and 10 of this Law, shall, when concluding a contract on life insurance, conduct identification of the user of a life insurance policy, as follows:

- a) if a natural or legal person is named as a beneficiary– by taking data on the personal name, or the name of a beneficiary;
- b) if a user is designated by characteristics, class or in other manner- obtaining information on those beneficiaries, to the extent sufficient for establishing the identity of the beneficiary at the time of payout.

Verification of the identity of the beneficiary from paragraph 1 of this Article shall be conducted at the time of payout.

In case of assignment, in whole or in part, of rights under insurance policy to a third party, a reporting entity shall identify a new beneficial owner at the time of carrying out the assignment of rights under insurance policy.

A reporting entity shall, in its internal acts, establish procedures for conducting measures from paragraphs 1 and 2 of this Article.

### **Identification and verification of customer's identity before establishing a business relationship**

#### **Article 10**

A reporting entity shall apply the measures from Article 9 items 1, 2 and 3 of this Law prior to establishing a business relationship.

By way of exception from paragraph 1 of this Article, a reporting entity can apply the measures from Article 9 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.

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.

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

### **Identification and verification of customer's identity when establishing a business relationship**

	<p style="text-align: center;"><b>Article 11</b></p> <p>When executing transactions from Article 8 paragraph 1 item 2 of this Law a reporting entity shall apply the measures from Article 9 items 1, 2 and 3 of this Law prior to establishing a business relationship.</p> <p>If the reporting entity cannot undertake the measures from paragraph 1 of this Article the transactions must not be executed.</p> <p style="text-align: center;"><b>Refusing the request for establishing a business relationship and executing a transaction</b></p> <p style="text-align: center;"><b>Article 12</b></p> <p><b>A reporting entity that cannot conduct measures from Article 9 items 1, 2 and 3 of this Law shall act in accordance with Article 10 paragraph 4 and Article 11 paragraph 2 of this Law and based on the already obtained information and data on a customer or transaction prepare a report on suspicious customer or transaction and submit it to the Administration in accordance with Article 40 of this Law.</b></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>There needs to be a specific requirement for reporting entities to assess and consider the risks of technological developments as part of their risk analysis. This should also be introduced in the guidelines to be produced by the supervisory bodies.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Banks are obliged to assess and consider the risk of technology development which should be an integral part of a comprehensive analysis of the risk that could arise from money laundering and terrorism financing.</p> <p>Therefore, in its Draft Guidelines on bank risk analysis, chapter 3 paragraph 4, the Central Bank of Montenegro has defined the following:</p> <p>“With a view to ensuring a proper risk management in the area of preventing money laundering and terrorism financing, a bank shall reduce its exposure to risk arising from new technologies providing anonymity (electronic or internet banking, electronic money, etc.), i.e. the bank is obliged to define in its policies and procedures in particular, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• identification of the party using electronic banking services;</li> <li>• authenticity of the signed electronic document;</li> <li>• reliable measures against the forgery of documents and signatures;</li> <li>• systems ensuring and enabling safe electronic banking;</li> <li>• other requirements in accordance with positive regulations governing the aforesaid business area.“</li> </ul> <p>The Securities and Exchange Commission implemented this recommendation by the article 22 par. 6-9 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).</p> <p>These Rules specifically regulate the procedures to be followed by the licensed market participants if the client uses electronic means of communication to submit an order or conclude a contract.</p> <p>"Client, who gives orders by phone, fax or electronically, may give the same with authorisation by identity code which licensee shall assign to a client when signing a contract. A client is obliged to keep his/her identity code as a secret, and may not</p>

	<p>make it available to third persons.</p> <p>Licensee is obliged to check client's identity through identity code, contained in any contract prescribing possibility of submitting orders by phone, fax or electronically or in any other manner which does not imply client's face to face transaction.</p> <p>When prescribing possibility of electronic submitting of client's orders, licensee is obliged to provide:</p> <ul style="list-style-type: none"> <li>- reliable manner of client identification;</li> <li>- that all necessary elements of an order are stated in the electronic message;</li> <li>- a record of exact time when the order arrived to an e-mail and time of its entry in the order book;</li> <li>- sending of reply to a received order, where the original message of order sender is clearly visible;</li> </ul> <p>When prescribing possibility of electronic submitting of client's orders, licensee shall retain the right to refuse order execution, if the order is unclear and/or ambiguous, and he/she shall inform a client on that in the same way it accepted an order."</p> <p>This condition will be an integral part of already mentioned risk analysis Guidelines.</p>
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The recommendations are accepted and due to that in Article 23 of the Bill on Changes and Amendments to the LPMLTF a new Article 28a defining obligation, primary for the banks, and then for other reporting entities to adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing, is added.</p> <p>After Article 28, a new article is added as follows:</p> <p>"New technologies"</p> <p><u>Article 28a</u></p> <p>Banks and other financial institutions shall take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.).</p> <p>Banks and other financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing."</p> <p>Refer to the abovementioned Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing Were Enacted by the Central Bank of Montenegro</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to above stated.
Recommendation of the MONEYVAL Report	<i>It is the view of the evaluators that the requirements of Criteria 5.17 are essentially met although the wording of the first point above is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Furthermore, the requirement is for CDD to be conducted when "a transaction of significance takes place." and in the context of Criteria 5.17 it is considered that this is more appropriate wording. Overall the evaluators consider that a separate clause should be inserted into the LPMLTF to specifically deal with the issue of</i>

	<i>CDD on existing customers.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.</p> <p>Art. 23 of the applicable LPMLTF determines the repeated annual control:</p> <p>“If a foreign legal person executes transactions from Article 9 paragraph 1 of this Law at an reporting entity, the reporting entity shall, in addition to monitoring business activities from Article 22 of this Law, conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one year period since the last control of a customer.</p> <p>By the way of exception to paragraph 1 of this Article an reporting entity shall, at least once a year, and not later than after the expiry of one year period since the last control of a customer, also conduct repeated control when the customer executing transactions from Article 9 paragraph 1 of this Law is a legal person with a registered office in Montenegro, if the foreign capital share in that legal person is at least 25%.</p> <p>Repeated annual control of a customer from paragraphs 1 and 2 of this Article shall include:</p> <ol style="list-style-type: none"> <li>1. obtaining or verifying data on the company, address and registered office;</li> <li>2. obtaining data on personal name and permanent and temporary residence of an agent;</li> <li>3. obtaining data on a beneficial owner, and</li> <li>4. obtaining a new power of authorisation from Article 17 paragraph 2 of this Law.</li> </ol> <p>If the business unit of a foreign legal person executes transactions from Article 9 paragraph 1 of this Law on behalf and for the account of a foreign legal person, an reporting entity, when conducting repeated control of a foreign legal person, in addition to data from paragraph 3 of this Article, shall also obtain:</p> <ol style="list-style-type: none"> <li>1. data on the address and registered office of the business unit of a foreign legal person, and</li> <li>2. data on personal name and permanent residence of the agent of the foreign legal person business unit .</li> </ol> <p>An reporting entity shall obtain the data from paragraph 3 items 1, 2 and 3 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date, or by checking the CRCC or other appropriate public register. If the required data cannot be obtained by checking the documentation, the missing data shall be obtained from the original or certified copy of documents and other business files, forwarded by a legal person upon an reporting entity’s request, or directly from a written statement of the agent of a legal person from paragraphs 1 and 2 of this Article.</p> <p>By the way of exception to paragraphs 1, 2, 3, 4 and 5 of this Article an reporting entity shall conduct repeated control of a foreign person from Article 29 item 1 of this Law.”</p>
Measures taken to implement the recommendations since the adoption of the first progress report	The mentioned change is introduced in the current Law on PMLTF ( see Article 23).
Measures taken to implement the recommendations	The mentioned recommendation is accepted and Articles 23, 9 and 17 of the current Law are amended and changed. Namely, Article 27 of the Bill on PMLTF defines

since the adoption of the second progress report

## **Repeated annual control of a foreign legal person**

### **Article 27**

If a foreign legal person executes transactions from Article 8 paragraph 1 of this Law at a reporting entity, the reporting entity shall, in addition to monitoring business activities from Article 26 of this Law, conduct repeated annual control of a foreign legal person at least once a year, and not later than after the expiry of one-year period since the last control of a customer.

By the way of exception to paragraph 1 of this Article a reporting entity shall, at least once a year, and not later than after the expiry of one-year period since the last control of a customer, also conduct repeated control when the customer executing transactions from Article 8 paragraph 1 of this Law is a legal person with a registered office in Montenegro, if the foreign capital share in that legal person is at least 25%.

Repeated annual control of a customer from paragraphs 1 and 2 of this Article shall include:

1. obtaining or verifying data on the company, address and registered office;
2. obtaining data on personal name and permanent and temporary residence of a legal representative;
3. obtaining data on a beneficial owner, and
4. obtaining a new power of attorney from Article 17 paragraph 2 of this Law.

If the business unit of a foreign legal person executes transactions from Article 8 paragraph 1 of this Law on behalf and for the account of a foreign legal person, a reporting entity, when conducting repeated control of a foreign legal person, in addition to data from paragraph 3 of this Article, shall also obtain:

1. data on the address and registered office of the business unit of a foreign legal person, and
2. data on personal name and permanent residence of the legal representative of the foreign legal person business unit.

A reporting entity shall obtain the data from paragraph 3 items 1, 2 and 3 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 its issue date, or by checking the CBR or other appropriate public register. If the required data cannot be obtained by checking the documents, the missing data shall be obtained from the original or certified copy of documents and other business files, forwarded by a legal person upon a reporting entity's request, or directly from a written statement of the legal representative of a legal person from paragraphs 1 and 2 of this Article.

By the way of exception to paragraphs 1, 2, 3, 4 and 5 of this Article a reporting entity shall conduct repeated control of a foreign person from Article 36 item 1 of this Law.

**Also in accordance with given recommendations Article 17(Establishing and verifying the identity of an authorized person) is amended (provided above).**

	<p><b>Also, Article 8 (Cases in which CDD measures shall be conducted) is amended with a new paragraph 2 as follows:</b></p> <p><b>A reporting entity shall apply measures from Article 9 of this Law also on customers with whom it has already established business relationship (existing customers) and to obtain all data in accordance with this Law.</b></p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p><b>Article 7</b> of the Bill of the Law on Changes and Amendments to the Law on PMLTF defines that the title above Article 9, as well as the article itself, is amended as follows</p> <p>“Cases in which CDD measures shall be conducted”</p> <p>A reporting entity shall conduct the appropriate measures from Article 10 of this Law and particularly in the following cases:</p> <ol style="list-style-type: none"> <li>1. when establishing a business relationship with a client;</li> <li>2. of one or more linked transactions amounting to €15 000 or more;</li> <li>3. when there is a suspicion about the accuracy or veracity of the obtained client identification data, and</li> <li>4. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or client.</li> </ol> <p>If the transactions from paragraph 1 items 2 and 4 of this Article are based on an already established business relationship, a reporting entity shall:</p> <ol style="list-style-type: none"> <li>1. verify the identity of the client that carries out the transaction and gather additional data in pursuant to this Law;</li> <li>2. obtain evidence on the source of funds and check the consistence of the sources of funds with the business activity of the client, if the client is a legal person, or with the profession of the client if the client is a natural person.</li> </ol> <p>An organizer of special games of chances shall in carrying out the transaction in the amount of at least € 2.000 verify the identity of a client and obtain the data from the Article 71 item 6 of this Law.</p> <p>In the context of this Law, the following shall also be considered as establishing a business relationship:</p> <ol style="list-style-type: none"> <li>1. client registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and</li> <li>2. client’s access to the rules of managing a mutual fund at managing companies. “ </li></ol>
<p>(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p><b>The current Article 9 (Cases in which CDD measures shall be conducted) is amended and in the Proposal on the PMLTF it is defined in Article 8 as follows:</b></p> <p style="text-align: center;"><b>Cases in which CDD measures shall be conducted</b></p> <p style="text-align: center;"><b>Article 8</b></p> <p>A reporting entity shall conduct the appropriate measures from Article 9 of this Law and particularly in the following cases:</p> <ol style="list-style-type: none"> <li>11. when establishing a business relationship with a customer;</li> <li>12. when executing one or more linked transactions amounting to €15, 000 or more;</li> <li>13. when there is a suspicion about the accuracy or veracity of the obtained</li> </ol>

	<p>customer identification data;</p> <p>14. when there are reasonable grounds for suspicion of money laundering or terrorist financing related to the transaction or customer;</p> <p>15. for natural or legal persons trading in goods, when executing cash transactions in the amount of EUR 7 500 or more, regardless of whether the transaction is executed as a single transaction or a number of mutually connected transactions.</p> <p>A reporting entity shall apply measures from Article 9 of this Law also on customers with whom it has already established business relationship (existing customers) and to obtain all data in accordance with this Law.</p> <p>When carrying out the transaction in the amount of at least € 2, 000 an organizer of special games of chances shall verify the identity of a customer and obtain the data from the Article 78 item 6 of this Law.</p> <p>In the context of this Law, the following shall also be considered as establishing a business relationship:</p> <p>5. customer registration for participating in the system of organizing games of chances at the organizers that organize games of chances on the Internet or by other telecommunication means, and customer's access to the rules of managing a mutual fund at managing companies</p>
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<b>Recommendation 5 (Customer due diligence)</b>	
<b>II. Regarding DNFBP<sup>8</sup></b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>Trust and Company Service Providers should be designated as obliged parties.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>In Montenegro trusts may not be formed. The legal persons or practitioners may just register companies, but may not as a way of business form companies or other legal persons, act or arrange for another person to act as a director or secretary of a company; as a partner of a partnership; in a similar position in relation to other legal persons; provide a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement, act or arrange for another person to act as: (i) a trustee of an express trust or similar legal arrangement(ii) a nominee shareholder for another person other than a company listed on a regulated market which is subject to disclosure requirements consistent with Community legislation or equivalent international standards;</p> <p>Art. 4 paragraph 3 of the LPMLTF defines that in addition to the reporting entities listed in Art 4 paragraph 2, the regulation of the Government of MNE can define other reporting entities that shall undertake AML/CFT measures if, considering the nature and manner of carrying out activities or business, there is a more significant risk of money laundering or terrorist financing.</p>
Measures taken to implement the recommendations since the adoption of	There were no changes in relation to this response.

<sup>8</sup> i.e. part of Recommendation 12.



the first progress report	
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>For casinos, CDD should be required above the €3,000 threshold.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Further Amendments on Law on the Prevention of Money Laundering and Terrorist Financing will include that provision.
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that in Article 7 of the Law on Changes and Amendments to the LPMLTF obligation that An organizer of special games of chances shall, in carrying out the transaction in the amount of at least € 2.000, verify the identity of a client and obtain the data from the Article 71 item 6 of this Law. The mentioned provision is in compliance with Article 10, paragraph 1 of the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>There should be a clear requirement for casinos to link the incoming customers to individual transactions.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	According to the article 45 paragraph 4 of Law on Games of Chance („Official Gazette of Montenegro“, No. 52/04 and 13/07) the concessionaire must provide non stop audio-video surveillance of the casino with recording, this ensuring an on-going direct supervision and that means clients and their transaction can be monitored while watching recorded tapes.
Measures taken to implement the recommendations since the adoption of the first progress report	In Article 6 of the Rules on spatial and technical requirements to be met by casinos and on the forms of daily statements per gaming table are defines that Ongoing audio-video surveillance in the casino shall supervise the space where transactions take place and must be able to establish their contents. Also, one camera shall oversee the space in front of the cashier's desk and exchange office, as well as the player for whom the transaction is carried out;
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL	<i>Effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors need to be developed.</i>

Report	
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Art. 86 of the LPMLTF defines that the supervision of implementation of this Law and regulations passed on the basis of this Law, within the established jurisdiction, is carried out by:</p> <ol style="list-style-type: none"> <li>1) <u>The Central Bank of Montenegro</u> over the following reporting entities: banks and foreign banks' branches and other financial institutions; savings-banks, and savings and loan institutions; organisations performing payment transactions; exchange offices; institutions for issuing electronic money;</li> <li>2) <u>The Agency for Telecommunication and Postal Services</u> over post- offices;</li> <li>3) <u>Securities Commission</u> over: companies for managing investment funds and branches of foreign companies for managing investment funds; companies for managing pension funds and branches of foreign companies for managing pension funds; stock brokers and branches of foreign stock brokers;</li> <li>4) <u>Insurance Supervision Agency</u> over: insurance companies and branches of foreign insurance companies dealing with life assurance;</li> <li>5) <u>Administration for Games on Chance</u>, through compliance officer, under the law regulating inspection, over organisers of lottery and special games of chance;</li> <li>6) <u>Department of Public Revenues</u> over pawnshops;</li> <li>7) <u>Ministry of Finance</u> over: audit companies, independent auditor and legal or natural persons providing accounting and tax advice services;</li> <li>8) <u>Administration for the Prevention of Money Laundering and Terrorist Financing</u>, through an authorised person, under the law regulating inspection, over: humanitarian, nongovernmental and other non-profit organisations;</li> </ol> <p>15) other business organisations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:</p> <ul style="list-style-type: none"> <li>- sale and purchase of claims;</li> <li>- factoring;</li> <li>- third persons' property management;</li> <li>- issuing and performing operations with payment and credit cards;</li> <li>- financial leasing;</li> <li>- travel organisation;</li> <li>- real estate trade;</li> <li>- motor vehicles trade;</li> <li>- vessels and aircrafts trade;</li> <li>- safekeeping;</li> <li>- issuing warranties and other guarantees;</li> <li>- crediting and credit agencies;</li> <li>- granting loans and brokerage in loan negotiation affairs;</li> <li>- brokerage or representation in life insurance affairs, and</li> <li>- organising and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, <i>as well as other goods</i>, when the payment is made in cash in the amount of € 15.000 or more, in one or more interconnected transactions.</li> </ul> <p>According to the LPMLTF and new APMLTF Job Positions Systematization and Organisation Act, the Reporting Entities Control Department was established, with a view to ensuring consistent implementation of LPMLTF by the reporting entities ( Art. 4 paragraph 2 it. 14 and 15 LPMLTF). The measures undertaken by this Department are, besides the LPMLTF, as the basic Law, also defined by the Law on Inspection and the Law on Misdemeanors.</p> <p>The APMLTF signed the agreement on mutual co-operation with the following national institutions</p>

	<ul style="list-style-type: none"> <li>• Ministry of Internal Affairs – 23 July 2004</li> <li>• Department of Public Revenues – 5<sup>th</sup> October 2004</li> <li>• Customs Administration – 20<sup>th</sup> October .2004</li> <li>• Basic Court in Podgorica -19<sup>th</sup> July 2005</li> <li>• The Central Bank of Montenegro - 13<sup>th</sup> April 2006</li> <li>• The Central Bank of Montenegro ;</li> <li>• Securities Commission -21<sup>st</sup> June 2006.</li> </ul> <p>MoUs signed with the competent state authorities enclose details and special conditions referring to the manner of mutual co-operation and exchanging data between APMLTF and the competent state authorities. Also, the MoUs include data that are usually exchanged in accordance with the LPMLTF, bylaws and internal acts of the signatories. Depending on the competencies of the particular state authority MoUs are composed in accordance with its competencies.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The Law on Changes and Amendments to the LPMLTF in the Article 42 expands the list of the supervising authorities designated to <i>monitor and supervise the implementation of the Law and its by laws</i>. Due to that Bar Association of Montenegro and Notary Chamber are introduced as supervisors for lawyers and notaries. Also, the list of reporting entities, supervised by APMLTF, is expanded to sports organizations and legal persons that are involved in investing (construction companies), and agency in real estate trade. In addition, Article 42 of the Law on Changes and Amendments to the LPMLT defines that the supervisory authorities are obliged, before conducting control, to inform the competent state authority on planned supervisory activities and when it is necessary to coordinate and harmonise their activities when conducting control over the implementation of this Law.</p> <p><b>Article 42</b> (the Law on Changes and Amendments to the LPMLT Article 42</p> <p>In Article 86 paragraph 1 Item 4 the words: “The Insurance Agency “are replaced with the words: “the Insurance Supervision Agency “.</p> <p>After item 7 two new items are added, as follows:</p> <p>7a) „Bar Association of Montenegro in relation to lawyers and law offices“</p> <p>7b) „Notary Chamber in relation to notaries “</p> <p>After paragraph 1 a new paragraph is added, as follows:</p> <p>„The authorities from paragraph 1 items 1-8 of this Article shall, prior to conducting the inspection, inform and consult with the competent administration body on activities of supervision they plan to carry out and, if necessary, to coordinate and harmonize its activities in performing supervision over the implementation of this Law.’</p> <p>APMLTF Signed MoUs with the following counterparts:</p> <p>In June 2010 Montenegro was granted the observer status with the Eurasian group on combating money laundering and financing of terrorism (EAG)</p> <ul style="list-style-type: none"> <li>- In September 2010, APMLTF has signed MOUs with the financial intelligence units of Moldova, San Marino and Israel</li> <li>- In March 2011, APMLTF has signed MOUs with the financial intelligence units of Aruba and Estonia ,</li> <li>- In July 2011, APMLTF has signed MOUs with the financial intelligence units of Armenia, United Kingdom and British Virgin Islands</li> <li>- In January 2012, APMLTF has signed MOUs with the financial intelligence units of Japan and Canada</li> </ul> <p>Within the Twinning project MN 08 IB FI 01 –“Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro” financed by the</p>

	<p>European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank Montenegrin authorities included into the system for PML/TF : APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency has, within the Component 4 Prevention of Money Laundering and Terrorism Financing, Subcomponent 4.4 Cooperation between national authorities signed in December 2011 the MOU on cooperation and exchange of information regarding prevention of money laundering and terrorist financing.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>Article 86 of the current LPMLTF is amended and in the Proposal on the LPMLTF Article 93 defines competences of the supervising bodies:</p> <p style="text-align: center;"><b>IX SUPERVISION</b></p> <p style="text-align: center;"><b>Article 93</b></p> <p>Supervision of implementation of this Law and regulations passed on the basis of this Law, within the defined competencies, is conducted by:</p> <p>The Central bank of Montenegro in relation to reporting entities from Article 4 paragraph 2 items 1, 2, 3, 12 and 14;</p> <p>The Agency for Electronic Communications and Postal Services in relation to reporting entities from Article 4 paragraph 2 item 4;</p> <p>The Securities Commission in relation to reporting entities from Article 4 paragraph 2 items 5, 6, 7, 8 and legal person from the Article 76;</p> <p>The Insurance Supervision Agency in relation to reporting entities from Article 4 paragraph 2 items 9 and 10;</p> <p>The Administration for Inspection Affairs through authorized official in accordance with the law regulating the inspection, in relation to reporting entities from Article 4 paragraph 2 items 11, and for the part related to the adoption of regulations in the field regulated by this Law the competent authority is Administration for Games of Chance.</p> <p>The Tax Administration in relation to reporting entities from Article 4 paragraph 2 item 13;</p> <p>Bar Association of Montenegro in relation to lawyers and law offices;</p> <p>Notary Chamber in relation to notaries;</p> <p>The Administration for the Prevention of Money Laundering and Terrorist Financing through authorized official, in accordance with the Law that regulates inspection control in relation to reporting entities from Article 4 paragraph 2 items 15, 16 and 17.</p> <p>The supervisory authorities from paragraph 1 items 1-9 of this Article shall, prior to conducting the inspection, inform the Administration on the activities of supervision they plan to carry out and, if necessary, to coordinate and harmonize their activities in performing supervision over the implementation of this Law.</p>

The authorities from paragraph 1 items 1-9 of this Article shall, prior to conducting the inspection, inform and consult with the Administration on activities of supervision they plan to carry out and, if necessary, to coordinate and harmonize its activities in performing supervision over the implementation of this Law.

In May 2013 Police Directorate is joined as a signatory to the MoU on cooperation and exchange of information regarding prevention of money laundering and terrorist financing previously signed between APMLTF, Central Bank of Montenegro, Securities Commission, and Insurance Supervision Agency in December 2011.

Also Article 4 of the current Law on PMLTF is amended and the list of reporting entities supervised and controlled by the competent state authorities is changed as follows:

**Reporting entities**  
**Article 4**

Measures for detecting and preventing money laundering and terrorist financing shall be taken before, during and after the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or any transactions for which there are reasonable grounds of suspicion of money laundering or terrorist financing.

Measures from paragraph 1 of this Article shall be undertaken by business organizations, other legal persons, entrepreneurs and natural persons conducting activities (hereinafter referred to as: reporting entities), as follows:

- 2) banks and other credit institutions, and foreign banks' branches;
- 3) financial institutions;
- 4) payment service providers
- 5) post offices,
- 6) companies for managing investment funds and branches of foreign companies for managing investment funds;
- 7) companies for managing pension funds and branches of foreign companies for managing pension funds;
- 8) stock brokers and branches of foreign stock brokers;
- 9) legal persons licenced by Securities and Exchange Commission for providing custody and depository services, except banks,
- 10) insurance companies and branches of foreign insurance companies dealing with life insurance,
- 11) insurance intermediaries and companies providing services in respect of the activities of insurance agents when they act in respect of life insurance;
- 12) organizers of lottery and special games of chance;
- 13) exchange offices;
- 14) pawnshops;
- 15) companies issuers of electronic money;
- 16) humanitarian, non-governmental and other non-profit organizations;
- 17) sport organizations;
- 18) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:
  - sale and purchase of claims;

	<ul style="list-style-type: none"> <li>- factoring and forfeiting ;</li> <li>- audit companies, independent auditor and legal or natural persons providing accounting and tax advice services and also services of establishing new companies;</li> <li>- third persons' property management;</li> <li>- issuing and performing operations with payment and credit cards;</li> <li>- financial leasing;</li> <li>- investment, trade and intermediation in real estate trade;</li> <li>- performing construction works;</li> <li>- elaborating construction projects;</li> <li>- motor vehicles trade;</li> <li>- vessels and aircrafts trade;</li> <li>- safekeeping;</li> <li>- issuing warranties and other guarantees;</li> <li>- crediting and credit agencies;</li> <li>- granting loans and brokerage in loan negotiation affairs;</li> <li>- marketing and consulting activities related to business activities and other managing activities</li> <li>- catering and tourism services;</li> <li>- purchase and trade with secondary raw materials;</li> <li>- multi-level sale</li> <li>- organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of at least € 7.500, in one or more interconnected transactions.</li> </ul> <p>By way of exception to item 2 of this Article a regulation of the Government of Montenegro (hereinafter: the Government) can define the other reporting entities that shall take the measures from item 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a risk of money laundering or terrorist financing.</p> <p>By way of exception to item 2 of this Article, the Government may, in accordance with special conditions prescribed by the international standards, define that the reporting entities performing activities on an occasional or very limited basis are not obliged to undertake the measures and actions prescribed by this Law when performing certain part of business or activity.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>DNFBPs need to be made aware of their obligations regarding PEPs. Specific guidelines, aimed at DNFBPs should be developed. It is also recommended that a training programme be undertaken concerning the risks and controls necessary concerning dealings with politically exposed persons.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>On the basis of the Guidelines, determined by APMLTF, the reporting entities from Art. 4 paragraph 2 it. 14 and 15 of the LPMLTF, will, according to the provisions of Art. 8 paragraph 1 of the LPMLTF, make risk analysis in order to determine the risk assessment of groups of customers or of an individual customer, business relationship, transaction or product related to the possibility of misuse for the purpose of money laundering or terrorist financing.</p> <p>The APMLTF Guidelines are given in the ANNEX of this Report.</p> <p>APMLTF organised a two-day Workshop for reporting entities' compliance officers on the subject „Preventing money laundering and terrorist financing in the financial and non-financial sector“. The participants were representatives of various categories of reporting entities: commercial banks, brokers, car dealers, leasing</p>

	<p>companies, casinos, real estate agencies...</p> <p>The Guidelines for developing risk analysis, determined by the APMLTF, together with the Questionnaire for Identifying PEPs were presented at the Workshop. The Guidelines were also published on the APMLTF web site.</p> <p>In order to strengthen its institutional capacity, the Agency has recently started with the activities in this field. Within the IPA 2007 twinning project "Fight against organised crime and corruption", employees of the Agency have participated in training in the period from 30.08 to 04.09.2009, which was provided by the representatives of the administration of the United Kingdom and Northern Ireland, and dedicated to representatives of the supervisory authority under the Law of AML/CFT.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The recommendations are accepted and due to that Article 21 of the Bill on Changes and Amendments to the LPMLTF defines that PEP is not only a natural person that is acting or has been acting on a distinguished public position in Montenegro but also in another country or on the international level.</p> <p>The definition of the close associate of PEP is in compliance with the definition provided in Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Also, a novelty that APMLTF shall, on its website, publish and update the list of politically exposed persons is introduced. Banks and other reporting entities shall have access to the list of PEPs and its associates, and will be enabled to download it from the APMLTF official site. In this manner the possibility that some PEPs are not recognized by banks or other reporting entities is avoided.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p><b>Article 27 of the current Law on PMLTF is changed and in the Proposal on the LPMLTF the following Articles cover the definition of PEP and CDD measures in respect business relationship with politically exposed persons</b></p> <p style="text-align: center;"><b>Politically exposed persons</b></p> <p style="text-align: center;"><b>Article 31</b></p> <p>Politically exposed person is a foreign politically exposed person entrusted with prominent public functions by another country, a domestic politically exposed person entrusted with prominent public function in Montenegro and a person entrusted with a prominent function by an international organisation and it includes a director, deputy director and members of the board or equivalent function with an international organisation, their family members and associates.</p> <p>A person from paragraph 1 of this Article shall be considered as a politically exposed person including period of time not less than 18 months since the date of ceasing to hold the office.</p> <p>Politically exposed persons from paragraph are:</p> <ol style="list-style-type: none"> <li>1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authorities and authorities of local governance units, as well as their deputies or assistants and other officials;</li> <li>2. elected representatives of legislative authorities;</li> <li>3. holders of the highest juridical and constitutionally judicial office;</li> <li>4. members of State Auditors Institution or supreme audit institutions and central banks councils;</li> </ol>

	<p>5. consuls, ambassadors and high officers of armed forces, and</p> <p>6. members of managing and supervisory bodies of enterprises with majority state ownership;</p> <p>7. directors, deputy directors and members of the board or equivalent function of an international organisation;</p> <p>Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article.</p> <p>Close associates of the person from paragraph 1 shall be deemed the following:</p> <p>1. any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;</p> <p>2. any natural person who has sole beneficial ownership of a legal entity or has established business relations for the benefit of the politically exposed person.</p> <p style="text-align: center;"><b>CDD measures in relation to politically exposed persons</b> <b>Article 32</b></p> <p>Within enhanced customer due diligence from Article 31 paragraph 1, in addition to the measures from Article 9 of this Law, a reporting entity shall:</p> <p>1. obtain data on funds and property sources, 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 identification documents, the data shall be obtained directly from a customer's written statement;</p> <p>2. 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,</p> <p>3. establish whether the person from Article 31 is the beneficial owner of a legal person or a foreign legal person, or a natural person on whose behalf the business relationship is established, transaction is executed or other activity performed;</p> <p>4. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person or the customer whose beneficial owner is a politically exposed person.</p> <p>A reporting entity shall by an internal act, in accordance with the guidelines of a competent supervisory authority from Article 93 of this Law, determine the procedure of identifying a politically exposed person.</p> <p>The list of politically exposed persons from Article 31 of this Law shall be published on the website of the Administration.</p>
Recommendation of	<i>A requirement should be introduced for DNFBPs to have policies in place to</i>



the MONEYVAL Report	<i>prevent the misuse of technological developments in ML/TF.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Further Amendments on Law on the Prevention of Money Laundering and Terrorist Financing will include that provision
Measures taken to implement the recommendations since the adoption of the first progress report	The recommendations are accepted and due to that in Article 23 of the Bill on Changes and Amendments to the LPMLTF a new Article 28a defining obligation, primary for the banks, and then for other reporting entities to adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing, shall be added.
Measures taken to implement the recommendations since the adoption of the second progress report	<b>Article 28a of the current law is not changed in the Proposal of the LPMLTF and it is now Article 35.</b>
Recommendation of the MONEYVAL Report	<i>More attention need to be given to raising awareness and enforcing compliance in casinos</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Guidelines on risk analysis are written and forwarded to all operators of the games of chance on the territory of Montenegro
Measures taken to implement the recommendations since the adoption of the first progress report	Following adoption of the Bill on Changes and Amendments to the Law on Games of Chance all required Guidelines on risk analysis will be harmonized with the amendments and changes and after adoption forwarded to all operators of the games of chance on the territory of Montenegro
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.

<b>Recommendation 10 (Record keeping)</b>	
<b>I. Regarding Financial Institutions</b>	
<b>Rating: LC</b>	
Recommendation of the MONEYVAL Report	<i>There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. The LPMLTF should be amended to take this requirement into account.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Securities and Exchange Commission prescribes this requirement explicitly. This requirement is imposed by the article 38 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09). The article states: "This information shall be entered in a manner that all transactions can be easily identified at any time, as well as a manner to easily track transaction from the time of initial order entry to final transaction;"
(Other) changes reported as of 16 March 2010	Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).
Measures taken to implement the recommendations since the adoption of the second progress report	<b>The mentioned recommendation is accepted and Article 70 of the current Law is amended and Article 77 in the Proposal on LPMLTF defines Reporting entity's record keeping, as follows:</b>  <b>70. Keeping records and its contents</b>  <b>Reporting entity's record keeping</b>  <b>Article 77</b>  Reporting entities shall:  1. keep records on customers, business relationships and transactions (carried out in the country and abroad) from article 8 of this law;  2. keep records from Article 40 of this Law.  <b>The reporting entity shall keep records referred to in paragraph 1 items 1 and 2 of this Article in a manner that will ensure the reconstruction of individual transactions (including the amounts and currency) that would serve as evidence in the process of detecting customer's criminal activities.</b>
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	On the basis of performed on-site control in banks, it was determined that Banks in Montenegro have up-to-date IT equipment enabling the reconstruction of individual transactions (including the amount and currency), as well as identification data on clients which are, pursuant to authorization, available to competent authorities. The aforementioned is regulated by banks' policies and procedures.

(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.
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**Recommendation 13 (Suspicious transaction reporting)**  
**I. Regarding Financial Institutions**

**Rating: PC**

Recommendation of the MONEYVAL Report	<i>The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed.</i>
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Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Central Bank of Montenegro, by applying good practices, demands from banks to inform the Administration for the Prevention of Money Laundering and Terrorism Financing on any suspicious transaction (regardless of the amount and type) also after its execution.</p> <p>The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well.</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>The recommendations are accepted and due to that <b>Article 27</b> of the Law on Changes and Amendments to the LPMLTF (Article 33 of the current Law) defines that reporting entity is obliged to submit a suspicious transaction report to APMLTF even after the execution of the transaction.</p> <p>The manner and requirements of providing the data defined in this Article shall be more specifically defined by the Ministry.</p> <p><b>Article 27 of the Bill on Changes and Amendments to the LPMLTF is defined as follows:</b></p> <p>In Article 33 paragraph 1 the words: “in the amount of €15.000 or more” are replaced by the words: “in the amount of at least € 15,000”.</p> <p>After paragraph 2 two new paragraphs are added, as follows:  “A reporting entity shall provide to the competent administration body data from Article 71 of this Law <b>after the executed transaction</b> when there is suspicion of money laundering or terrorist financing related to the transaction (regardless of the amount or type) or client.</p> <p>Where a transaction is considered to represent money laundering or terrorist financing and when it is not possible to suspend such transaction, or when there is probability that the efforts of monitoring a client engaged into activities suspected to be related to money laundering or terrorist financing could be frustrated, reporting entities shall notify the competent administration body immediately afterwards.</p> <p>Paragraph 4 is changed as follows:  The manner and requirements of providing the data from paragraphs 1 to 5 of this Article shall be more specifically defined by the Ministry.”</p> <p>The existing paragraphs 3 and 4 now become paragraphs 5 and 6.</p>
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Measures taken to implement the recommendations since the adoption of the second progress report	<p>Article 33 of the current Law on PMLTF is amended and changed and it is now Article 40 of the Proposal of the LPML.</p> <p style="text-align: center;"><b>7. Reporting obligation</b></p>
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	<p style="text-align: center;"><b>Article 40</b></p> <p>A reporting entity shall provide to the Administration a report that contains accurate and complete data from Article 78 items 1, 2, 3, 4, 5, 9, 10, 11 and 12 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.</p> <p>A reporting entity shall, without delay, provide data from Article 78 of this Law to the Administration in all cases when in relation to the transaction (regardless of the amount and type) or customer there are reasonable grounds for suspicion of money laundering or terrorist financing. A reporting entity shall provide data before the execution of the transaction, and state the deadline within which the transaction is to be executed. The statement could also be provided via telephone, but it has to be sent to the Administration in a written form as well, not later than the following working day from the day of providing the statement.</p> <p>A reporting entity shall immediately provide to the Administration data from Article 78 of this Law also in the cases after the transaction has been executed, when in relation to the transaction (regardless of the amount or type) or customer there are reasonable grounds for suspicion of money laundering or terrorist financing.</p> <p>When there are reasonable grounds for suspicion of money laundering or terrorist financing related to a transaction and when it is not possible to suspend such transaction, or when there is probability that the efforts of monitoring a customer engaged into activities suspected to be related to money laundering or terrorist financing could be frustrated, reporting entities shall immediately notify the Administration.</p> <p>The obligation from paragraph 2 of this Article shall refer to the announced transaction as well, regardless of whether it is executed later or not.</p> <p>The manner and requirements of providing the data from paragraphs 1 to 5 of this Article shall be more specifically defined by the Ministry.</p>
Recommendation of the MONEYVAL Report	<i>The Book of Rules should be endorsed in law with sanctions for breaches in order to become "other enforceable means".</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Law prescribes that the implementing regulations (rulebooks, decrees..) shall be adopted six months after the date the Law entered into force.</p> <p><b>Drafting Regulations Rules (Official Gazette MNE, No.02/10 from 18.01.2010)</b> define the legal and technical rules for drafting laws and other regulations, as well as other enactments whose preparation, proposal and adoption are within the competence of the Government of Montenegro and Ministries, in order to ensure the uniformity in drafting regulations, to avoid legal and technical omissions and to accelerate the adoption procedure.</p> <p>1.1. When drafting a law and determining its contents and scope, and elaborating the constitutional principles, it is important to distinguish between the issues that can be regulated only by law and those that can be regulated by other regulations and general enactments.</p>

	<p>1.2. The contents of a law are classified by systematization of provisions according to what they are related to:</p> <ol style="list-style-type: none"> <li>a. General Provisions</li> <li>b. Main provisions</li> <li>c. Penalty provisions</li> <li>d. Transitional provisions</li> <li>e. Final provisions</li> </ol> <p>If the law prescribes that certain questions shall be regulated by several different bylaws and other laws (ex. Decrees and rulebooks...), special attention has to be paid to defining the issues that should be regulated by a single enactment, in order to ensure the harmonisation of these enactments according to their hierarchy and to avoid repetitions.</p> <p><b>B. Drafting bylaws</b></p> <p>A bylaw cannot contain the same provisions as law.</p> <p>A bylaw is composed of:</p> <ol style="list-style-type: none"> <li>a. Preamble</li> <li>b. Title</li> <li>c. Contents of the enactment</li> <li>d. Signature of the responsible person</li> <li>e. The number under which the enactment is recorded at the authority that adopted it and the date of adoption.</li> </ol> <p>Consequently, only law includes penalty provisions.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.

<b>Recommendation 13 (Suspicious transaction reporting)</b>	
<b>II. Regarding DNFBP<sup>9</sup></b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>The obligation to report suspicious transactions that have been performed should be explicitly provided for in either law or regulation.</i>
Measures reported as of 16 March 2010 to	The Bill on Changes and Amendments to the LPMLTF will include this recommendation as well

<sup>9</sup> i.e. part of Recommendation 16.

implement the Recommendation of the report	
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The recommendations are accepted and due to that <b>Article 27</b> of the Law on Changes and Amendments to the LPMLTF (<b>Article 33 of the current Law</b>) is defined as follows:</p> <p>Article 27</p> <p>In Article 33 paragraph 1 the words: “in the amount of €15.000 or more” are replaced by the words: “in the amount of at least € 15,000”.</p> <p>After paragraph 2 two new paragraphs are added, as follows:</p> <p>“A reporting entity shall provide to the competent administration body data from Article 71 of this Law after the executed transaction when there is suspicion of money laundering or terrorist financing related to the transaction (regardless of the amount or type) or client.</p> <p>Where a transaction is considered to represent money laundering or terrorist financing and when it is not possible to suspend such transaction, or when there is probability that the efforts of monitoring a client engaged into activities suspected to be related to money laundering or terrorist financing could be frustrated, reporting entities shall notify the competent administration body immediately afterwards.</p> <p>Paragraph 4 is changed as follows:</p> <p>The manner and requirements of providing the data from paragraphs 1 to 5 of this Article shall be more specifically defined by the Ministry.”</p> <p>The existing paragraphs 3 and 4 now become paragraphs 5 and 6.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	Following the adoption of the Bill on Changes and Amendments to the LPMLTF all required by laws will be adopted and forwarded to reporting entities
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>There were no changes in relation to the above mentioned text. The only change refers to numeration of the Article 33 of the Current Law which is now Article 40 of the Proposal on LPMLTF.</p> <p>On 27<sup>th</sup> November 2012, in accordance with the article 12 a paragraph 5 of the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of the Republic of Montenegro ", No. 14/07 and 14/12), The Ministry of Finance adopted</p> <p>RULEBOOK ON CONTENT AND TYPE OF PAYER’S DATA ACCOMPANYING ELECTRONIC FUNDS TRANSFER</p>

<b>Special Recommendation II (Criminalisation of terrorist financing)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>A definition of “funds”, which includes “assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.” should be laid down in the Criminal Code.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>In compliance with the Special Recommendation II of the Financial Action Task Force (FATF), “financing of terrorism“ is defined as a separate criminal offence in the current Criminal Code of Montenegro (“Official Gazette of the RMNE“ 70/03, 13/04, 47/06 and “Official Gazette of Montenegro“ 40/08). The criminal offence of “Financing of Terrorism“ (Article 449) is done by a person who provides or collects funds intended for financing execution of criminal offences of terrorism, international terrorism and taking of hostages. All the forms of criminal activity mentioned above are defined as separate criminal offences (Articles 365, 447 and 448 of the Criminal Code). Imprisonment for the period of one to ten years is prescribed for this offence. The Criminal Code prescribes mandatory confiscation of resources intended for financing of terrorism.</p> <p>A draft law amending the Criminal Code is currently in Parliament and hence the incrimination of the offence “Financing of terrorism” will be considerably extended. The new definition of offence of financing of terrorism, amended states as follows:</p> <p style="text-align: center;"><b>”Financing of Terrorism</b> <b>Article 449</b></p> <p><i>(1) Anyone who in any way provides or raises money, securities, other funds or property intended entirely for financing the commission of criminal offences referred to in Articles 447, 447a, 447b, 447c, 447d and 448 of the present Code, or for financing organisations that have the aim of committing those offences, or members of those organisations, shall be punished to imprisonment for a term of one to ten years.</i></p> <p><i>(2) Funds referred to in Paragraph 1 of this Article shall be confiscated.”</i></p> <p>Such definition clearly states the funds intended for financing terrorist offences – money, securities, other assets or property whose purpose is for complete or partial use for financing terrorist offences, public callings to commit acts of terrorism, incitement and training to commit acts of terrorism, use of lethal device, damage and destruction of nuclear facility and endangering persons under international protection.</p> <p>Incrimination of the offence of “Financing of Terrorism“ will be considerably extended by adoption of the Law on Amendments to the Criminal Code, which is in the parliamentary procedure. In pursuance with the new definition of the criminal offence of financing of terrorism, this offence is done by a person who in any way provides or collects money, securities, other resources or assets intended to be fully or partially used for financing of execution of the criminal offences as under Article 447, 447a, 447b, 447c, 447d and 448 of the Criminal Code (terrorism, public invitation to execution of terrorist activities, recruiting and training for execution of terrorist activities, use of a lethal device, damage to and destruction of a nuclear facility and endangering of persons under international protection) or for financing of organisations whose aim is to execute such activities, or for financing of members of such organisations. Imprisonment for the period of one to ten years remains the</p>

	<p>prescribed punishment, along with mandatory confiscation of resources intended for financing of terrorism.</p> <p>In accordance with the recommendation made following the evaluation of Montenegro before the MONEYVAL Committee on 17 March 2009, the new definition will clearly specify resources intended for financing of criminal offences of terrorism - money, securities, other resources or assets intended to be fully or partially used for financing execution of criminal offences. The legal definition will be extended with the term “and other resources or assets“, in compliance with the recommendation, the Convention on the Suppression of Terrorism and the Palermo Convention. Thus, the innovated definition of the offence of “Financing of Terrorism“ also includes such activities which contribute to financing of terrorism and which are not strictly speaking collection of money and securities – therefore, provision of any resources or assets in the aim of financing of terrorism. The terms “resources“ and "assets“ shall be construed in accordance with the ratified international conventions.</p> <p>Furthermore, Montenegro has ratified the Convention on Prevention of Financing of Terrorism (“Official Gazette of the Federal Republic of Yugoslavia / International agreements“ 7/02), as well as Palermo, Strasbourg and Warsaw convention. Having in mind the hierarchy of normative acts stipulated by the Constitution, the terms “funds“, “properties“, “confiscations“, “seizing“, „predicate part“ and other stipulated by this convention are a constituent part of the legal order – therefore applicable in case law.</p>
(Other) changes reported as of 16 March 2010	<p>The innovated definition of terrorist financing offence includes activities that contribute to financing of terrorism and that are not strictly raising money and securities. This definition includes also providing funds or property for the purposes of financing of terrorism. The terms “Funds“ and “Property“ are interpreted broadly, in accordance with the ratified international conventions</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The recommendations are accepted and due to that Article 4 of the Law on Changes and Amendments to the LPMLTF (it refers to changes of Article 5 of the current Law) provides the definition of property, as follows:</p> <p>9) "property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets;</p> <p>In accordance with the tendency to fully harmonize legislation with relevant international standards, changes and amendments of Criminal Code had impact on group of criminal offences against humanity and other welfares protected by international law. The most significant innovations are the ones introducing new concept of criminal offences of terrorism. The basic criminal offence Terrorism (regardless of whether it is directed against Montenegro, foreign state or international organization) is defined in the art.447 with many forms of perpetration.</p> <p style="text-align: center;"><b>„Terrorism Article 447</b></p> <p><i>(1) Anyone who, with the intention to seriously intimidate the citizens or to coerce Montenegro, a foreign state or international organization to do or not to do something, or to seriously endanger or violate the basic constitutional, political, economic or social structures of Montenegro, foreign state or international organization, commits one of the following offences:</i></p> <p><i>1) attack the life, body or freedom of another,</i></p> <p><i>2) abduction or hostage taking,</i></p> <p><i>3) destruction of state or public facilities, traffic systems, infrastructure, including</i></p>



information systems, fixed platforms in the epicontinental shelf, public good or private property that may endanger the lives of people or cause considerable damage to the economy,

4) abduction of aircraft, vessel, means of public transport or transport of goods that may endanger the lives of people,

5) development, possession, procurement, transport, provision or use of weapons, explosives, nuclear or radioactive material or devices, nuclear, biological or chemical weapons,

6) research and development of nuclear, biological and chemical weapons,

7) emission of dangerous substances or causing fires, explosions or floods or taking other generally dangerous actions that might harm the lives of people,

8) obstruction or discontinuation of water supply, electric energy or another energy generating product supply that might endanger the lives of people shall be punished by an imprisonment sentence for a minimum term of five years.

(2) Anyone who threatens to commit the criminal offence referred to in paragraph 1 of this Article, shall be punished by an imprisonment sentence for a term of six months to five years.

(3) Where an offence referred to in paragraph 1 of this Article has caused death of one or a number of persons or large-scale destruction, the offender shall be punished by imprisonment for a minimum term of ten years.

(4) Where during the commission of the offence referred to in paragraph 1 of this Article the offender deprived one or several persons of life with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of twelve years or by an imprisonment sentence of forty years.”

In the previous Progress report we informed about future changes and amendments which introduce new criminal offences of terrorism. It is adopted in 2010. and now Criminal Code beside criminal offence Terrorism defines criminal offences: public invitation to execution of terrorist activities (art. 447a), recruiting and training for execution of terrorist activities (art. 447b), use of a lethal device (art.447c), damage to and destruction of a nuclear facility (art. 447d) and endangering of persons under international protection (art. 448).

Changes and amendments in 2010. advanced incrimination of the criminal offence Terrorist financing (art.449) –in line with conventions aiming to prevent acts of terrorism, especially CoE Convention 2008., which was ratified by Montenegro in 2008. New definition of criminal offence Terrorist financing, advanced, encompasses term „funds“ in accordance with the recommendation, and is as follows:

**“Terrorism Financing  
Article 449**

(1) Whoever provides in any manner or raises funds, securities, other resources or property intended for financing entirely or partially, of criminal offences referred to in Art. 447, 447a, 447b, 447c, 447d and 448 of this Code, or for the funding of organizations which have the commission of those offences as their aim or members of such organizations, shall be punished by an imprisonment sentence for a term of one to ten years.

(2) The resources referred to in paragraph 1 of this Article shall be confiscated.”

Such definition in The Criminal Code clearly states the means intended to be finance criminal offences of terrorism - funds, securities, other resources or property intended for financing entirely or partially be used for financing of criminal offences Terrorism, Public invitation to execution of terrorist activities, Recruiting and training for execution of terrorist activities, Use of a lethal device, Damage to and

	<p>destruction of a nuclear facility and Endangering of persons under international protection.</p> <p>This definition, expanded by term „other resources or property” is comprehensive and in line with the requests of Convention on suppression of Terrorism.</p> <p>Montenegro ratified Convention on The Suppression of Terrorism Financing (»Official Gazette of FRY – International agreements» no.7/02), as well as Palermo, Strasbourg and Warsaw Convention.</p> <p>It is important to stress out that The Constitution of Montenegro defines that ratified and published international agreements and generally accepted rules of International law are integral part of internal legal order, that they have primacy over domestic legislation and that they are applied directly when they regulate relations differently than internal legislation. Having that in mind, terms „funds“, „property“, „confiscation“, „seizure“, „Predicate offence“ and other defined by conventions are integral part of legal order – thus applicable in practice.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>Due to Working version of the Law on Amendments and Changes to the Criminal Code Article 449 shall be amended as follows:</p> <p>"(1) Anyone who procures in any manner or raises resources with the intention to use them wholly or partly for financing of the criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or for the financing of organizations, members of such organizations or individuals acting alone which have set the commission of these offences as their aim, shall be punished by a prison term from one to ten years.</p> <p>(2) The resources referred to in paragraph 1 of this Article shall include all means, both tangible and intangible, movable or immovable, regardless of the way in which they are obtained, as well as legal documents or instruments in any form, including those electronic or digital, evidencing the ownership or interest with regards to such resources, including, but not limited to, bank loans, travel checks, money orders, securities and letters of credit.</p> <p>(3) The resources referred to in paragraph 1 of this Article shall be seized.”</p> <p style="text-align: center;"><b>NEW DEVELOPMENTS SINCE THE ADOPTION OF THE SECOND PROGRESS REPORT</b></p> <p>In July 2013 Parliament adopted <b>Amendments to the Criminal Code</b>, which enter into force on 21<sup>st</sup> August 2013, and the following changes are made in relation to Article 449:</p> <p style="text-align: center;"><b>Terrorism Financing Article 449</b></p> <p>(1) Anyone who procures in any manner or raises funds for the purpose of using them partly or wholly to finance criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or to finance organizations which have set the commission of these offences as their aim, or the members of such organizations or an individual whose aim is to commit such offences shall be punished by a prison term from one to ten years.</p> <p>(2) The funds referred to in paragraph 1 above shall be understood to mean all funds, material or non-material, movable or immovable, irrespective of the way in which they were obtained or the form of the document or certificate, including electronic or digital forms, by which one proves ownership or a share in such funds,</p>

	<p>including bank loans, travellers cheques, securities, letters of credit and other funds.</p> <p>(3) The funds referred to in paragraph 1 above shall be confiscated.</p>
Recommendation of the MONEYVAL Report	<p><i>The reference to specific criminal offences (terrorism, international terrorism and hostage taking) in Article 449 should be brought into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR II, as the scope which constitutes the criminal offence becomes narrower. Under Articles 365 and 447, only the acts, intended to cause harm (to the constitutional order of Montenegro, or the foreign state/international organisation) are criminalized, while the convention requires the incrimination of any acts of violence which purpose is to intimidate a population or compel a government or international institution (to do/to abstain from doing).</i></p>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>With amendments to the Criminal Code that are in progress, the concept of terrorism is amended and closer defined through introduction of new terrorist offences (public calling to commit acts of terrorism, incitement and training to commit acts of terrorism, use of lethal device and destruction and damaging of a nuclear facility. Terrorism offences from Article 365 and international terrorism are unified in a unique act – terrorism. Through this the citizens, the state of Montenegro, a foreign country and international organisations – and their constitutional, political, economic and social structures are protected in a unique way.</p> <p>Through amendments to this Article it is harmonised with the recommendations to incriminate any acts of violence whose purpose is to intimidate a population or compel a government or international institution (to do/to abstain from doing). Apart from these and incorporating new acts, any act directed against these values shall be considered financing of terrorism.</p> <p>The innovated definition of terrorist financing offence includes activities that contribute to financing of terrorism and that are not strictly raising money and securities.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The concept of terrorism has been advanced introducing changes and amendments of the Criminal Code, concept of terrorism was amended and defined in detailed manner through introducing criminal offences Public invitation to execution of terrorist activities, Recruiting and training for execution of terrorist activities, Use of a lethal device, Damage to and destruction of a nuclear facility and Endangering of persons under international protection. Criminal offences Terrorism art. 365 and International terrorism are encompassed by single offence – terrorism. In this way there is a unified protection mechanism for citizens, State of Montenegro, foreign state and internal organizations – and their constitutional, political, economical and social structures.</p> <p>These changes and amendments made the definition in line with the recommendation that every act of violence aiming to intimidate population or force government to do/abstain from doing). With these and introducing new offences, every action against these values is considered as terrorist financing.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	<p>There were no changes in relation to this response.</p>
Recommendation of the MONEYVAL Report	<p><i>The Criminal Code should be amended to incorporate the incrimination of funding of terrorist organisations and individual terrorists.</i></p>

<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>This recommendation was adopted through amendments of the Criminal Code and incrimination of the act of financing of terrorism planned and conducted both by individual terrorists and by a terrorist organisation is clearly stated. The new definition is as follows:</p> <p style="text-align: center;"><b>”Financing of terrorism Article 449</b></p> <p><i>(1) Anyone who in any way provides or raises money, securities, other funds or property intended entirely for financing commission of criminal offences referred to in Articles 447, 447a, 447b, 447c, 447d and 448 of the present Code, or for financing organisations that have the aim to commit those offences, or members of those organisations, shall be punished to imprisonment for a term of one to ten years.</i></p> <p><i>(2) Funds referred to in Paragraph 1 of this Article shall be confiscated.”</i></p> <p>It is clear that this definition includes financing terrorist organisations and individual terrorists as separate categories. Apart from that, terrorist association is also stipulated as a new criminal offence - when two or more persons associate for a longer time period in order to commit terrorist offences, endangering persons under international protection and financing of terrorism:</p> <p style="text-align: center;"><b>“Terrorist association Article 450</b></p> <p><i>(1) If two or more persons associate for a longer period to commit criminal acts referred to in Articles 447 to 449 of this code (terrorism offences, endangering persons under international protection and financing of terrorism), they shall be punished by a sentence stipulated for the act for whose commission the association was organised.</i></p> <p><i>(2) A perpetrator of an offence referred to in Paragraph 1 of this Article who prevents commission of criminal acts referred to in Paragraph 1 of this Article by revealing association or in any other way, or who contributes to its revealing, shall be punished by an imprisonment sentence of up to three years, and may also be acquitted”.</i></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>This recommendation was adopted since the last Progress report, and through changes of The Criminal Code this recommendation was implemented, and incrimination of the criminal offence Terrorist financing planned or perpetrated by individual terrorist or by terrorist organization was specified. New definition is as follows:</p> <p style="text-align: center;"><b>” Terrorism Financing Article 449</b></p> <p><i>(1) Whoever provides in any manner or raises funds, securities, other resources or property intended for financing entirely or partially, of criminal offences referred to in Art. 447, 447a, 447b, 447c, 447d and 448 of this Code, or for the funding of organizations which have the commission of those offences as their aim or members of such organizations, shall be punished by an imprisonment sentence for a term of one to ten years.</i></p> <p><i>(2) The resources referred to in paragraph 1 of this Article shall be confiscated.”</i></p> <p>It is clear that new definition includes as separate categories financing of terrorist organizations and individual terrorists. Additionally, Terrorist conspiracy is also defined as new criminal offence – if two or more persons associate for longer time with the aim of committing criminal offences</p>

	<p>of Terrorism, Endangering persons under international protection and Terrorist financing:</p> <p style="text-align: center;"><b>“Terrorist Conspiracy</b></p> <p style="text-align: center;"><b>Article 449a</b></p> <p><i>(1) If two or more persons conspire for a longer period to commit criminal offences referred to in Art. 447, 448 and 449 of this Code, they shall be punished by a sentence provided for the offence for the exercise of which the association has been organized.</i></p> <p><i>(2) The perpetrator of the offence referred to in paragraph 1 of this Article who prevents the commission of criminal offences referred to in paragraph 1 of this Article by revealing the association or otherwise, or contributes to its revelation, shall be punished by an imprisonment sentence not exceeding three years, and may be released from the penalty.”</i></p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>Due to Working version of the Law on Amendments and Changes to the Criminal Code Articles 449 and 449a shall be amended as follows:</p> <p>Article 449</p> <p>"(1) Anyone who procures in any manner or raises resources with the intention to use them wholly or partly for financing of the criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or for the financing of organizations, members of such organizations <b>or individuals acting alone</b> which have set the commission of these offences as their aim, shall be punished by a prison term from one to ten years.</p> <p>(2) The resources referred to in paragraph 1 of this Article shall include all means, both tangible and intangible, movable or immovable, regardless of the way in which they are obtained, as well as legal documents or instruments in any form, including those electronic or digital, evidencing the ownership or interest with regards to such resources, including, but not limited to, bank loans, travel checks, money orders, securities and letters of credit.</p> <p>(3) The resources referred to in paragraph 1 of this Article shall be seized.“</p> <p>In Article 449a, paragraph 1, the words: "Articles 447, 448 and 449" shall be replaced by words: "Articles 447 to 449".</p> <p><i>Note: The existing provision of the Criminal Code includes the financing of terrorists acting alone, since criminal offences referred to in Article 449, paragraph 1, may also be committed by individuals acting alone. Wrong interpretation of this provision was most probably caused by a translation error, since it left out the phrase "the commission of these offences". Nevertheless, aiming to ensure a more precise criminalization, the Working Group has amended Article 449 and singled out terrorists acting alone.</i></p> <p style="text-align: center;"><b>NEW DEVELOPMENTS SINCE THE ADOPTION OF THE THIRD PROGRESS REPORT</b></p> <p>In July 2013 Parliament adopted <b>Amendments to the Criminal Code</b>, which</p>

	<p>enter into force on 21<sup>st</sup> August 2013, and the following changes are made in relation to Article 449:</p> <p style="text-align: center;"><b>Terrorism Financing</b> <b>Article 449</b></p> <p>(1) Anyone who procures in any manner or raises funds for the purpose of using them partly or wholly to finance criminal offences under Articles 447, 447a, 447b, 447c, 447d and 448 hereof, or to finance organizations which have set the commission of these offences as their aim, or the members of such organizations or an individual whose aim is to commit such offences shall be punished by a prison term from one to ten years.</p> <p>(2) The funds referred to in paragraph 1 above shall be understood to mean all funds, material or non-material, movable or immovable, irrespective of the way in which they were obtained or the form of the document or certificate, including electronic or digital forms, by which one proves ownership or a share in such funds, including bank loans, travellers cheques, securities, letters of credit and other funds.</p> <p>(3) The funds referred to in paragraph 1 above shall be confiscated.</p> <p style="text-align: center;"><b>Terrorist Association</b> <b>Article 449a</b></p> <p>(1) Where two or more persons mutually associate for a longer period to commit the criminal offences under <b>Articles 447, 447a, 447b, 447c, 447d, 448 and 449</b> hereof, they shall be punished by the punishment prescribed for the offence for the exercise of which the association has been organized.</p> <p>(2) The perpetrator of the offence under para. 1 above prevents the commission of the criminal offences under para. 1 above by revealing the association or otherwise, or who contributes to its revelation shall be punished by a prison term up to three years, and his punishment may be remitted.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The solution of relating the existence of the terrorist financing offence to specific criminal offences, found under other Articles of the CC is also appropriate (IN 6). Under current legislation, terrorist financing is only considered to be a criminal offence if funds are intended for one of three specific criminal offences (Terrorism, Article 365, International Terrorism, Article 447 and Hostage Taking, Article 448). A more flexible definition which would incriminate financing. Furthermore, there needs to be an offence introduced to cover cases when funds are not linked with a specific terrorist.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Amendments to the Criminal Code introduced a completely new concept of terrorist criminal offences. Basic terrorist offence (regardless whether the act is directed against Montenegro, a foreign state or an international organisation) is stipulated in Article 447 with many forms of act of commission. This criminal offence, as well as new terrorist offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear facility (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism. In compliance with the recommendation made after the evaluation, amendments will eliminate the narrow framework within which the existence of this criminal offence</p>

	<p>is established (the present solution defines financing of three types of this criminal offence) – namely, the framework within which the existence of such criminal offence is established will be extended to all criminal offences in the area of terrorism, whose scope will be widened by amendments to the law. Thus, the framework for existence of this offence will not include only criminal offences of terrorism, international terrorism and taking of hostages; in addition to these offences, it will also include public invitation to execution of terrorist activities, recruiting and training for execution of terrorist activities, use of a lethal device, damage to and destruction of a nuclear facility and endangering of persons under international protection. In this way the deficiencies of the definition which has been assessed as narrow are eliminated and a more flexible and clearer definition of this offence is created.</p> <p>Apart from adding new articles as afore mentioned, the criminal offence of hostage taking was changed and is as follows:</p> <p style="text-align: center;"><b><i>”Endangering persons under international protection</i></b> <b>Article 448</b></p> <p><i>(1) Anyone who conducts abduction or some other act of violence upon a person under international legal protection, shall be punished by an imprisonment sentence of two to twelve years.</i></p> <p><i>(2) Anyone who violates official premises, a private apartment or a means of transport of a person under international legal protection, in the manner that endangers his/her security and personal freedom, shall be punished by an imprisonment sentence of one to eight years.</i></p> <p><i>(3) If an act referred to in Paragraphs 1 and 2 of this Article results in death of one or more persons, the offender shall be punished by an imprisonment sentence of five to fifteen years.</i></p> <p><i>(4) If in commission of an act referred to in Paragraphs 1 and 2 of this article, the offender committed a premeditated murder of a person, he/she shall be punished by an imprisonment sentence of minimum ten years or an imprisonment sentence of fourteen years</i></p> <p><i>(5) Anyone who endangers security of persons referred to in Paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a means of transport, shall be punished by an imprisonment sentence of six months to five years.”</i></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>As stated earlier, changes and amendments of The Criminal Code introduced new concept of criminal offences of terrorism. Basic criminal offence Terrorism (regardless of whether it is against Montenegro, foreign state or international organization) is defined in the art. 447 with many forms of perpetration. This criminal offence, as well as the new terrorist criminal offences such as public calling to commit acts of terrorism (Article 447a CC), incitement and training to commit acts of terrorism (Article 447b CC), use of lethal device (Article 447c CC), destruction and damage of nuclear object (Article 447d CC), endangering of persons under international protection (Article 448), as well as financing of terrorism (Article 449) were included and brought in line with a number of conventions aiming at prevention of acts of terrorism.</p> <p>In accordance with the recommendation, criminal offence of hostage taking was also amended by changes and amendments of the Criminal Code., and is as follows:</p> <p style="text-align: center;"><b><i>” Endangering Persons under International Protection</i></b> <b>Article 448</b></p>

	<p>(1) Whoever commits abduction or another type of violence against a person under international legal protection, shall be punished by an imprisonment sentence for a term of two to twelve years.</p> <p>(2) Anyone who attacks the official premises, private apartment or vehicle of a person under international legal protection in a manner that endangers his/her safety and personal freedom, shall be punished by an imprisonment sentence for a term of one to eight years.</p> <p>(3) Where an offence referred to in paras. 1 and 2 of this Article has caused death of one person or more, the offender shall be punished by an imprisonment sentence for a term of five to fifteen years.</p> <p>(4) Where on the occasion of committing offences referred to in paras. 1 and 2 of this Article the offender deprived a person of life with guilty mind, s/he shall be punished by an imprisonment sentence for a minimum term of ten years or by an imprisonment sentence for a term of forty years.</p> <p>(5) Whoever endangers the safety of a person referred to in paragraph 1 of this Article by a serious threat to attack him/her, his/her official premises, private apartment or a vehicle, shall be punished by an imprisonment sentence for a term of six months to five years.”</p> <p>Criminal offence Terrorism financing is defined in a way that it encompasses financing of all forms – criminal offences with elements of terrorism and endangering of persons under international protection. Criminal code by its definition encompasses offence regardless of whether it is committed by organization with aim of committing such offences, or a member of such organization.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes since the last reporting.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Article 449 of the Criminal Code should be brought into line with international standards.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>In accordance with the recommendations, apart from the changes of the Article itself relating to financing of terrorism, the Law on Amendments of the Criminal Code introduces a new article – terrorist association. This act stipulates as a criminal offence the association of two or more persons for a longer time period in order to commit acts of terrorism.</p> <p>Article 449 of the Criminal Code, as it is stated in the proposal of the Amendments of Criminal Code, is in compliance with the international standards. Indeed, in accordance with the recommendation made after the evaluation, the definition of this criminal offence, namely financing of terrorism, has been improved also in terms of defining in a clearer manner financing of both individual terrorists and terrorist organisations. This has eliminated the perceived deficiency in the current definition, namely it does not make clear difference between financing of an individual terrorist and financing of a terrorist organisation. Additionally, through adoption of amendments, the Criminal Code will define another criminal offence – terrorist association – when two or more persons associate for a longer period of time in order to execute criminal offences in the area of terrorism.</p> <p>In accordance with the recommendation stating that this Article (449) of the Criminal Code should be harmonised with international standards, from the viewpoint of everything mentioned above, we deem that all the perceived</p>



	deficiencies have been defined, that all the recommendations have been accepted and incorporated in the planned amendments, and that the new definition of this criminal offence, after the Law on Amendments to the Criminal Code has been adopted, which is currently in the parliamentary procedure, will be even more efficient and provide better quality concerning its implementation in practice.
Measures taken to implement the recommendations since the adoption of the first progress report	MONEYVAL recommendations and standards from international conventions were accepted by changes of law in 2010.- definition of criminal offence Terrorism financing was improved. The law states that any manner of providing or raising funds, securities, other resources or property intended for financing entirely or partially, of criminal offences of terrorism or endangering of persons under international protection will undergo a sanction. The definition contains the term “funds”. Additionally, recommendation to distinguish terrorist organisation from individual terrorist was also implemented by changes of law. In accordance with the recommendations, beside changes of the offence of terrorism financing, Law on changes and amendments of The Criminal Code introduced new offence – terrorist conspiracy. This offence defines as criminal offence if two or more persons conspire for a longer period to commit criminal offences of terrorism.
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	Innovated definition of terrorist financing encompasses activities which are contribute to terrorism financing but which are not strictly gathering of money and securities. Definition also encompasses providing funds or property for the purpose of terrorism financing. Terms „funds“ and „property“ are interpreted widely, in accordance with ratified international conventions. Since last reporting, Criminal code contains new criminal offence Terrorist conspiracy“, as follows:  <b>„Terrorist Conspiracy</b> <b>Article 449a</b>  <i>(1) If two or more persons conspire for a longer period to commit criminal offences referred to in Art. 447, 448 and 449 of this Code, they shall be punished by a sentence provided for the offence for the exercise of which the association has been organized.</i> <i>(2) The perpetrator of the offence referred to in paragraph 1 of this Article who prevents the commission of criminal offences referred to in paragraph 1 of this Article by revealing the association or otherwise, or contributes to its revelation, shall be punished by an imprisonment sentence not exceeding three years, and may be released from the penalty.”</i>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	The mentioned recommendations are accepted and through the Working version of the Law on Amendments and Changes to the Criminal Code it will be implemented in the new version of the Criminal Code and in accordance with that fully in line with the relevant international standards.  In July 2013 Parliament adopted <b>Amendments to the Criminal Code</b> , which enter into force on 21 <sup>st</sup> August 2013.

## 2.3 Other Recommendations

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

<b>Recommendation 6 (Politically exposed persons),</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The lack of awareness as regards PEPS and the consequent lack of proper procedures to address the risk should be addressed through proper training to be followed by the establishment of adequate procedures to address this risk.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>In its internal acts on risk analysis, a bank is obliged to assess and consider client risk, including clients who are politically exposed persons pursuant to the rules defined in the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing, chapter 2 section 1.2.5.1.2, prescribing the following:</p> <p><u>“Procedure of persons to be listed as politically exposed persons</u></p> <p>Pursuant to the provisions of the LPMLTF, a politically exposed person is `a natural person that is acting or has been acting in the last year on a distinguished public position in a state, including his/her immediate family members and close associates` (Article 27). In order to determine the politically exposed persons and his/her immediate family members and close associates within the meaning of the LPMLTF, a bank may act in one of the following manners:</p> <ul style="list-style-type: none"> <li>• offer a client to fill in a form (enclosed to these Guidelines and making an integral part hereof, the Form PEP);</li> <li>• obtain the information from public available sources;</li> <li>• obtain the information based on the review of databases covering the lists of politically exposed persons (World Check PEP List, internet inquiry, etc).</li> </ul> <p>The procedure of identifying close associates to politically exposed persons is applied if a bank estimates that such a relationship exists, based on the indisputable facts.</p> <p>A bank is obliged to perform client identification in line with the LPMLTF and the procedure shall include one of the manners for determining politically exposed persons as specified under paragraph 2 of this section.</p> <p>Upon determining that the client is a politically exposed person, the employee of the bank shall perform the enhanced customer verification (Article 25 of the LPMLTF ) that shall cover additional measures in the following cases:</p> <ul style="list-style-type: none"> <li>▪ entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law (one or more transactions of or exceeding EUR 15,000),</li> <li>▪ when it estimates, due to the nature of the business relationship, the client’s business profile and/or other circumstances connected with the client, that there is or could exist the risk of money laundering or terrorism financing.</li> </ul> <p>In addition, as a part of the enhanced client verification – the politically exposed person – in line with the LPMLTF, the employee of the bank shall:</p> <ul style="list-style-type: none"> <li>• obtain a written consent from the responsible person in the bank before the establishing of a business relationship with such a client;</li> <li>• acquire information on the source of funds and property which are the subject of the business relationship and/or transaction, from personal and other identification documents submitted by the client; if the specified information is not possible to obtain from the submitted documents, the required information shall be acquired directly from</li> </ul>

the client's written statement;

- after the establishment of the business relationship, closely monitor transactions and other business activities of the politically exposed person with the bank, particularly considering the purpose of the transaction, as well as comparing it with his/her standard business operations.

**Additional measures to be taken by bank within the enhanced client verification procedure**

Case prescribed in the Law ↓	1) Consent from the responsible person in the bank ↓	2) Acquiring additional documents and information ↓	3) Additional examination and monitoring of the client's business operations ↓	4) Additional measures ↓
<b>Politically exposed person</b>	Yes	Set of data defined under Art. 27 of LPMLTF	Yes	As estimated by the bank

A bank is obliged to determine the list of politically exposed persons which shall be available to the employees of the bank in direct contact with clients.

Procedure of cancellation of obligation of treating persons as politically exposed persons

A bank shall, by way of internal act, prescribe the procedure of cancellation of obligation of treating a client as politically exposed person. This implies the obligation on the bank to exclude a person from the list of politically exposed persons, as well as members of his/her immediate family and close associates, one year following the termination of activity of the politically exposed person at a prominent position in a country.

After the establishment of a business relationship with the politically exposed person, members of his/her family and close associates in accordance with the LPMLTF, the bank shall keep separate records on these persons and transactions.

The bank is obliged to regularly update its list of politically exposed persons in order to conduct customer due diligence in line with the LPMLTF for those clients who were not politically exposed persons within the meaning of the LPMLTF at the time of establishing the business relationship with the bank.“

On 8th February 2010, at the Bank Association of Montenegro, representatives of the Central Bank of Montenegro held the meeting with the Committee for the prevention of money laundering and terrorism financing, where they discussed the draft Guidelines on Developing Risk Analysis with a view to Preventing of Money Laundering and Terrorist Financing for Banks. Also, in this meeting, detailed explanations were given, to the representatives of the banks, related to the identification of PEPs, with special emphasis on the form and content of the Questionnaire for identifying politically exposed persons.

After adopting the Guidelines on developing risk analysis with a view to preventing money laundering and terrorist financing the APMLTF, in co-operation with OSCE, organised a two-day workshop for compliance officers, on 3<sup>rd</sup> and 4<sup>th</sup> November 2009, in Podgorica. The subject of the workshop was “Preventing money laundering and terrorist financing in financial and non-financial sector. The participants were employees from different commercial banks, participants at the capital market, car dealers, leasing

companies, casinos.

The Guidelines on risk analysis were presented at this workshop.

The Guidelines for developing risk analysis, determined by the APMLTF, together with the Questionnaire for Identifying PEPs were presented at the Workshop.

The Securities and Exchange Commission prescribed specific procedures to be followed in case of PEPs and these are very precisely defined in the article 12 of the Instruction of the Securities and Exchange Commission.

Obligated entities are obliged to determine if the client is politically exposed person in accordance with the article 12 of the Instruction of the Securities and Exchange Commission of on risk analysis of money laundering, „know your client” procedures and other procedures for recognising suspicious transactions of November 28, 2008.

To determine politically exposed persons and members of their close family and close associates by Law, Capital market participants may act on some of the following ways:

- a) By filing the written form by the customer;
- b) Collecting information from public sources;
- c) Collecting information based on insight on data bases that includes the lists of politically exposed persons (*World Check PEP List*, etc).
- d)

Procedure of determining close associate of politically exposed persons is followed if the relationship with associate is publicly known or if capital market participant has reason to think that relationship exists. Therefore, during determining the persons who are considered as a close associates of politically exposed persons, capital market participants are not expected to take active researching about this.

Before establishing business relationship with politically exposed person, participant of securities market is obliged to:

- Collect data about founding sources and property which are object of business relationship, transactions, from personal and another identification of customer, and if it is not possible to obtain such a data from the statements submitted, there are collected directly from written statement of the client;
- Obtain written approval of responsible person according to internal acts of the participant before establishing business relationship with customer.

Approval of responsible person has to be given in written, in printed or in electronic form.

After establishing business relationship with politically exposed person, members of his close family and close associates by Law, Capital market participants is obliged to keep records about this persons and transactions which are taken on behalf and for the account of those persons.

After obtaining the approval from authorised person there is no need for approval of executing each transaction on behalf and for the account of the client, but capital market participant is obliged to follow transaction with special attention and other business activities by a politically exposed person within organisation and, if needed, notify authorised person in the shortest possible deadline about those transactions.

It is considered that a need determined in the Article 6 exists if transaction is not adjusted to the sources of funds on client’s account.

The capital market participant are obliged to ordinarily update their lists of politically exposed persons in order to implement procedures of enhanced customer verification according to Law for the client who, in time of establishing business relationship were not politically exposed persons according to Law.

The capital market participants are obliged to keep the data about politically exposed persons in electronic form.

The form for PEPs is prescribed by the Guidelines on risk analysis with the view to

	<p>prevent money laundering and terrorist financing, and the Guidelines are forwarded to all operators of the games of chance on the territory of Montenegro and also in informal communication certain instructions were given to all operators of the games of chance. By its risk analysis Guidelines concerning prevention of money laundering and terrorist financing, ISA will also cover PEPs issue, and will prescribe a Form intended for the insurance companies especially regarding this issue.</p> <p>According to the competence of the APMLTF from the Article 64, item 5 to prepare and issue recommendations or guidelines for uniform implementation of the Law on AML/CTF, in July 2009 representatives of APMLTF participated at one- day workshop organised for employees from one commercial bank and its subsidiaries (14 participants). At this workshop representatives of APMLTF have pointed out the significance of implementation of legal provisions related to PEPs. Additionally, APMLTF employees, in their daily communication with compliance officers, through providing professional opinion and interpretation of the provisions of the Law, specify the necessity of applying legal provisions referring to PEPs.</p> <p>Within IPA 2007 Twinning project “Fight against organised crime and corruption” experts from United Kingdom and Northern Ireland, in co-operation with APMLTF, during May 2009 organised trainings for officers having a direct communication with customers. The training was conducted at 9 commercial banks with 100 participants.</p> <p>At the beginning of September 2009, trainings for supervisory bodies under the Law on the Prevention of Money Laundering and Terrorist Financing were held for the following supervisors: APMLTF, Ministry of Finance, Insurance Supervision Agency, Department of Public Revenues, Central Bank, Administration for Games on Chance, Securities Commission. The workshop on Inter-agency co-operation in relation to organised crime and corruption was held in the period from 7<sup>th</sup> to 11<sup>th</sup> September 2009. The participants at this workshop were representatives from: APMLTF, Police Directorate, Directorate for Anticorruption Initiative and Ministry of Internal Affairs and Public Administration.</p> <p>After the Report of the MONEYVAL Committee has been adopted the employees of the Police Directorate accepted the recommendations given in the Report. Due to that there were organised 4 seminars on the prevention of money laundering and terrorist financing as well as financial investigations. The mentioned seminars were organised at the Police Academy in Danilovgrad and 45 officers involved in PML/TF participated at these seminars that were organised by APMLTF or international organisations. At these joint seminars together with officers from APMLTF and State Prosecutor’s Office, participants were mainly higher level officers that have, made reports on the content of the seminars, and in such manner informed the heads of their sectors and field officers. Also, after the adoption of the Report of the MONEYVAL Committee, Police Academy introduced as regular subject „Money laundering and Corruption“ and through this subject students acquire the first and the most significant knowledge on this type of criminal activity.</p> <p>With a view to training its employees the Customs Administration signed an agreement with Faculty of Law Podgorica.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The Bill on Changes and Amendments to the Law on PMLTF in Article 21 (it refers to the changes of Article 27) prescribes that APMLTF shall, on its website, publish the list of PEPs. In accordance with that banks and other reporting entities will be able to download the list from APMLTF official site. The APMLTF shall, on regular basis, keep data accurate and up to date.</p> <p>Also, the Bill on Changes and Amendments to the Law on PMLTF in Article 19 (it refers to amendments to Article 25 of the current Law) defines that reporting entity is obliged to conduct enhanced customer due diligence in all cases when he/she estimates that there is high risk on money laundering or terrorist financing.</p>

	<p>Article 19 of the Bill on Changes and Amendments to the Law on PMLTF : Enhanced customer due diligence</p> <p>Article 25 A reporting entity shall conduct enhanced customer due diligence in cases when a reporting entity estimates that there is high risk on money laundering or terrorist financing.</p> <p>Reporting entity shall conduct enhanced CDD measures in the following cases as well:</p> <ol style="list-style-type: none"> <li>1. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list;</li> <li>2. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law,</li> <li>3. when a customer is not present during the verification process of establishing and verifying the identity.</li> </ol> <p>A reporting entity shall apply enhanced customer due diligence measures in cases when, in accordance with the Article 8 of this Law, a reporting entity estimates that regarding the nature of a business relationship, the form and manner of executing a transaction, business profile of the client or other circumstances related to the client, there is or there could be a high risk of money laundering or terrorist financing.”</p> <p>In September 2010, the Central Bank of Montenegro organized the seminar titled “Implementation of Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing”, to which banks were explained the identification of a client – politically exposed person – as well as which measures and activities are to be performed when the bank established the business relation with the politically exposed person.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p><b>Article 21</b> of the Bill of Law on Changes and Amendments to the Law on PMLTF stipulates who is considered as a close associate of the politically exposed person, and the new paragraph was added stipulating that the List of politically exposed persons shall be published at the website of the competent authority.</p>
<p>(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other</p>	<p>The abovementioned is included in the Risk Guidelines that SEC adopted in February 2012.</p> <p>In accordance with Article 27 paragraph 6 of the current Law (Article 32 paragraph 3 of the Proposal on the LPMLTF) it is prescribed that the List of politically exposed persons shall be published at the website of the Administration.</p>

<p>enforceable means” and other relevant initiatives</p>	<p>Links: List of domestic politically exposed persons - <a href="http://www.konfliktinteresa.me/funkcioneri/EvidencijaFun.php?pageNum_Recordset1=0&amp;totalRows_Recordset1=4452">http://www.konfliktinteresa.me/funkcioneri/EvidencijaFun.php?pageNum_Recordset1=0&amp;totalRows_Recordset1=4452</a></p> <p>List of foreign politically exposed persons - <a href="http://www.mip.gov.me/en/images/stories/download/DIPLOMATIC_LIST_November_2011.pdf">http://www.mip.gov.me/en/images/stories/download/DIPLOMATIC_LIST_November_2011.pdf</a></p> <p style="text-align: center;"><b>Article 27 of the current Law on PMLTF is changed and in the Proposal on the LPMLTF the following Articles cover the definition of PEP and CDD measures in respect business relationship with politically exposed persons</b></p> <p style="text-align: center;"><b>Politically exposed persons</b></p> <p style="text-align: center;"><b>Article 31</b></p> <p>Politically exposed person is a foreign politically exposed person entrusted with prominent public functions by another country, a domestic politically exposed person entrusted with prominent public function in Montenegro and a person entrusted with a prominent function by an international organisation and it includes a director, deputy director and members of the board or equivalent function with an international organisation, their family members and associates.</p> <p>A person from paragraph 1 of this Article shall be considered as a politically exposed person including period of time not less than 18 months since the date of ceasing to hold the office.</p> <p>Politically exposed persons from paragraph are:</p> <ol style="list-style-type: none"> <li>1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authorities and authorities of local governance units, as well as their deputies or assistants and other officials;</li> <li>2. elected representatives of legislative authorities;</li> <li>3. holders of the highest juridical and constitutionally judicial office;</li> <li>4. members of State Auditors Institution or supreme audit institutions and central banks councils;</li> <li>5. consuls, ambassadors and high officers of armed forces, and</li> <li>6. members of managing and supervisory bodies of enterprises with majority state ownership;</li> <li>7. directors, deputy directors and members of the board or equivalent function of an international organisation;</li> </ol> <p>Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article.</p> <p>Close associates of the person from paragraph 1 shall be deemed the following:</p> <ol style="list-style-type: none"> <li>1. any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;</li> <li>2. any natural person who has sole beneficial ownership of a legal entity or has established business relations for the benefit of the politically exposed person.</li> </ol>
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	<p><b>CDD measures in relation to politically exposed persons</b> <b>Article 32</b></p>
	<p>Within enhanced customer due diligence from Article 31 paragraph 1, in addition to the measures from Article 9 of this Law, a reporting entity shall:</p> <p>5. obtain data on funds and property sources, 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 identification documents, the data shall be obtained directly from a customer’s written statement;</p> <p>6. 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,</p> <p>7. establish whether the person from Article 31 is the beneficial owner of a legal person or a foreign legal person, or a natural person on whose behalf the business relationship is established, transaction is executed or other activity performed;</p> <p>8. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person or the customer whose beneficial owner is a politically exposed person.</p> <p>A reporting entity shall by an internal act, in accordance with the guidelines of a competent supervisory authority from Article 93 of this Law, determine the procedure of identifying a politically exposed person.</p> <p>The list of politically exposed persons from Article 31 of this Law shall be published on the website of the Administration.</p>

<b>Recommendation 8 (New technologies and non face-to-face business)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>A requirement for financial institutions to have policies and procedures to address the risk of misuse of technological developments in ML/TF schemes should be introduced.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>In their polices and procedures, banks have already prescribed certain rules regarding the protection from misuse of new technologies for the purposes of money laundering and terrorism financing, and now they are obliged to harmonise their policies and procedures with the rules and standards contained in the Central Bank’s Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing, chapter 3 paragraph 4 that reads:</p> <p>“With a view to ensuring a proper risk management in the area of preventing money laundering and terrorism financing, a bank shall reduce its exposure to risk arising from new technologies providing anonymity (electronic or internet banking, electronic money, etc.), i.e. the bank is obliged to define in its policies and procedures in particular, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>• identification of parties using electronic banking services;</li> <li>• authenticity of the signed electronic document;</li> <li>• reliable measures against the forgery of documents and signatures;</li> <li>• systems ensuring and enabling safe electronic banking;</li> <li>• other requirements in accordance with positive regulations governing the aforesaid</li> </ul>



	<p>business area.“</p> <p>This requirement for securities providers is imposed by the newly adopted Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).</p> <p>The Securities and Exchange Commission implemented this recommendation by the article 22 par.6-9 of the Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09).</p> <p>These Rules specifically regulate the procedures to be followed by the licensed market participants if the client uses electronic means of communication to submit an order or conclude a contract.</p> <p>"Client, who gives orders by phone, fax or electronically, may give the same with authorisation by identity code which licensee shall assign to a client when signing a contract. A client is obliged to keep his/her identity code as a secret, and may not make it available to third persons.</p> <p>Licensee is obliged to check client's identity through identity code, contained in any contract prescribing possibility of submitting orders by phone, fax or electronically or in any other manner which does not imply client's face to face transaction.</p> <p>When prescribing possibility of electronic submitting of client's orders, licensee is obliged to provide:</p> <ul style="list-style-type: none"> <li>- reliable manner of client identification;</li> <li>- that all necessary elements of an order are stated in the electronic message;</li> <li>- a record of exact time when the order arrived to an e-mail and time of its entry in the order book;</li> <li>- sending of reply to a received order, where the original message of order sender is clearly visible;</li> </ul> <p>When prescribing possibility of electronic submitting of client's orders, licensee shall retain the right to refuse order execution, if the order is unclear and/or ambiguous, and he/she shall inform a client on that in the same way it accepted an order."</p>
(Other) changes reported as of 16 March 2010	<p>Rules on Conduct of Business of Licensed Market Participants that are published in the Official Gazette of Montenegro ("Official Gazette of Montenegro", No. 78/09 and 87/09)</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The recommendations are accepted and due to that in Article 23 of the Bill on Changes and Amendments to the LPMLTF a new Article 28a defining obligation, primary for the banks, and then for other reporting entities to adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing, shall be added.</p> <p>“New technologies“</p> <p>Article 28a</p> <p>Banks and other financial institutions shall take measures and actions to eliminate money laundering risks that may arise from new developing technologies that might allow anonymity (internet banking, cash dispenser use, phone banking etc.).</p> <p>Banks and other financial institutions shall adopt internal procedures for prevention of the new technologies use for the purpose of money laundering and terrorist financing.”</p>
<p>Measures taken to implement the recommendations since the adoption of</p>	<p>There were no changes in relation to this response.</p>

the second progress report	
Recommendation of the MONEYVAL Report	<i>Regulations should clearly establish the obligation to obtain information on the purpose and intended nature of the business relationship for non-face to face business.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Chapter 3 paragraph 6 of the Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads:</p> <p>“Banks must have such policies and procedures to prescribe the requesting of all information on the purpose and the nature of business relationships or transactions with clients who are not present in person and they are obliged to apply these policies and procedures when establishing a business relationship with a client and in conducting the customer due diligence.”</p> <p>The obligation of the licensed market participant to obtain information on the purpose and intended nature of the business relationship is imposed by the article 5 par. 5 and article 11 par. 2 of the Rules.</p> <p>The article 5 par. 5 of the Rules prescribe:</p> <p>"Licensee shall not give advice related to securities business, nor realise transactions for the client’s account, until he/she determines that he/she possesses all facts revealed to him/her by his/her client and other relevant facts about client he/she is aware of or he /she should have knowledge about."</p> <p>The article 11 par. 2 of the Rules prescribe:</p> <p>"In order to provide that client understands actual risk, licensee is obliged to:</p> <ul style="list-style-type: none"> <li>- familiarize with client’s financial status, his/her investment experience and other circumstances related to client, in order to provide him /her with appropriate service;</li> </ul> <p>put at client’s disposal all necessary information (including information on risks) in order that client can make appropriate investment decisions."</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p><b>The Central Bank of Montenegro</b> passed the Decision on Mandatory Elements of the Payer` Transfer Order (OGM 15/11).</p> <p>The Decision was passed with a view to transposing the Regulation 1781/2006 of the European Parliament and Council aiming to prevent, investigate and detect the cases of money laundering and terrorist financing, and to apply the FATF’s <b>Special Recommendation VII</b>.</p> <p>This Decision is enclosed to the questionnaire.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.

<b>Recommendation 11 (Unusual transactions)</b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>Financial institutions should be required to examine as far as possible the background and purpose of unusual transactions. Enforceable requirements to set forth the finding of such examinations in writing should equally be provided. In addition specific enforceable requirement should be put in place for financial institutions to keep such findings available for authorities and auditors for at least five years.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Rulebook on Indicators for recognising suspicious clients and transactions ("Official Gazette of Montenegro ", No. 69/09, from 16<sup>th</sup> October 2009) adopted by Ministry of Finance and due to that the following List of indicators for recognising suspicious clients and transactions was established :</p> <ul style="list-style-type: none"> <li>- List of Indicators for banks,</li> <li>- List of Indicators for capital market,</li> <li>- List of Indicators for the Customs Administration,</li> <li>- List of Indicators for the Department of Public Revenues,</li> <li>- List of Indicators for leasing companies,</li> <li>- List of Indicators for auditors,</li> <li>- List of Indicators for accountants,</li> <li>- List of Indicators for lawyers and</li> <li>- General indicators.</li> </ul> <p>In the group of indicators referring to unusual changes on the account, indicator no.47 „Transactions that are recognised as unusual by employees with the bank, in accordance with their experience and knowledge.“ these transactions are treated as suspicious transactions. Also, in the group of suspicious transactions indicators with banks there is indicator no.9 stating „Client executes transactions which are unusual for him/her.“ Similar indicators are in the group for auditors (indicator No 6 and 8)</p>
Measures taken to implement the recommendations since the adoption of the first progress report	The mentioned recommendation is introduced in the Bill on Changes and Amendments to the LPMLTF, Article 33a.
Measures taken to implement the recommendations since the adoption of the second progress report	<p>Ministry of Finance Adopted a New Rulebook on Indicators for recognizing suspicious customers and transactions adopted („<b>Official Gazette of Montenegro No. 26 of 24.05.2012</b>“)</p> <ul style="list-style-type: none"> <li>- List of Indicators for banks,</li> <li>- List of Indicators for capital market,</li> <li>- List of Indicators for the Customs Administration,</li> <li>- List of Indicators for the Department of Public Revenues,</li> <li>- List of Indicators for leasing companies,</li> <li>- List of Indicators for auditors,</li> <li>- List of Indicators for accountants,</li> <li>- List of Indicators for lawyers and notaries</li> </ul>
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable	Article 33a of the Bill on Changes and Amendments to the LPMLTF defines that reporting entity is obliged to analyse all unusually large transactions which have no apparent economic or visible lawful purpose and to determine its own criteria for recognizing unusual transactions by an internal act .

means” and other relevant initiatives	<p>“Unusual transactions Article 33a A reporting entity shall analyze all unusually large transactions which have no apparent economic or visible lawful purpose. The findings of the analysis from paragraph 1 of this Article shall be recorded in writing by the reporting entity. A reporting entity shall determine by an internal act its own criteria for recognizing unusual transactions. The Guidelines on transactions that are considered as unusual shall be established by the Ministry on the basis of professional opinion of the competent administration body. In accordance with article 83 of the current Law on PMLTF obligor shall keep records provided on the basis this Law and related documentation ten years after the termination of business relationship.</p>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p><b>Article 33a of the current Law is amended and changed (Article 34 of the Proposal on LPMLTF ) as follows:</b></p> <p style="text-align: center;"><b>Unusual transactions</b></p> <p style="text-align: center;"><b>Article 34</b></p> <p>A reporting entity shall analyse all unusually large transactions, as well as unusual transactions that have no apparent economic or legal purpose.</p> <p>A reporting entity shall record in writing the findings of the analysis from paragraph 1 of this Article.</p> <p>A reporting entity shall, by an internal act from Article 7, determine the criteria for recognizing unusual transactions.</p> <p>A reporting entity shall, upon a request submitted by the Administration and other supervising bodies from Article 93 of this Law, provide the results of the analysis from paragraph 2 of this Article.</p>

<b>Recommendation 16 (Suspicious transaction reporting) Regarding DNFBP</b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>A prohibition against tipping off should be made specifically applicable to lawyers.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Article 80 of the LPMLTF defines that reporting entities and employees with reporting entities, members of governing, supervising or managing bodies, or other persons, to which data from Article 71 of this Law were available, may not reveal to a customer or third person:</p> <ol style="list-style-type: none"> <li>1. that data, information or documentation on the customer or the transaction, from Article 33 paragraph 2, 3 and 4, Article 43 paragraph 1*, Article 48 paragraph 1, 2 and 3, Article 49 paragraph 1 and 2* of this Law, are forwarded to the competent administration body ;</li> <li>2. that the competent administration body on the basis of Article 51 of this</li> </ol>

	<p>Law, temporarily suspended transaction or in accordance with that gave instructions to the reporting entity;</p> <p>3. that the competent administration body on the basis of Article 53 of this Law demanded regular supervision of customer’s financial business;</p> <p>4. that against customer or third party is initiated or should be initiated investigation for the suspicion of money laundering or terrorist financing .</p> <p>The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law. On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the Administration.</p> <p>Prohibition of giving information from paragraph 1 of this Article may not be applied on:</p> <ol style="list-style-type: none"> <li>1. data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and</li> <li>2. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law.</li> </ol> <p>*applicable to lawyers</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>Article 81of the LPMLTF defines exception to the principle of keeping confidentiality</p> <p>Article 81</p> <p>During the process of providing data, information and documentation to the administration, in accordance with this Law, the obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to reporting entities, an organization with public authorization, state bodies, courts, lawyers or notaries and their employees.</p> <p>Reporting entity , lawyer or notary and their employees shall not be liable for damage caused to their customers or third persons, if they are in accordance to this Law :</p> <ol style="list-style-type: none"> <li>1. providing data, information and documentation on their customers, to the competent administration body</li> <li>2. obtaining and processing data , information and documentation on their customers</li> <li>3. carrying out the administration’s order on temporary suspension of transaction, and</li> <li>4. carrying out the administration’s request on regular monitoring of customer’s financial businesses</li> </ol> <p>Employees with reporting entities, lawyers or notaries shall not be disciplinary or criminally liable for breach of obligation of keeping data secrecy, if:</p> <ol style="list-style-type: none"> <li>1. they are providing data, information and documentation to the competent administration body, and in accordance to provisions of this Law</li> <li>2. they are processing data, information and documentation, obtained in accordance to this Law, for the evaluation of customer and transaction, for which there are reasons for suspicion of money laundering and terrorism financing.</li> </ol>
<p>Measures taken to implement the recommendations since the adoption of</p>	<p>Article 81 of the current Law on PMLTF is amended and changed and it is now Article 88 of the Proposal on the LPMLTF.</p> <p style="text-align: center;"><b>Exception to the principle of keeping confidentiality</b></p>

<p>the second progress report</p>	<p style="text-align: center;"><b>Article 88</b></p> <p>When providing data, information and documentation to the Administration, in accordance with this Law, the obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to reporting entities, organizations with public authorization, state bodies, courts, lawyers or notaries and their employees.</p> <p>The obligation to protect business secrecy, bank secrecy, professional and official secrecy shall not apply to a reporting entity who is a member of financial group when exchanging data and information with other members of financial group in accordance with the conditions prescribed by the Article 41 of this Law.</p> <p>Reporting entity, lawyer or notary and their employees shall not be liable for damage caused to their customers or third persons, if in accordance to this Law, they:</p> <ol style="list-style-type: none"> <li>1. provide data, information and documentation on their customers to the Administration</li> <li>2. obtain and process data, information and documentation on their customers</li> <li>3. execute the Administration's order on temporary suspension of transaction, and</li> <li>4. realize the Administration's request on regular monitoring of customer's financial businesses</li> </ol> <p>Reporting entity's employees, lawyers or notaries shall not be disciplinary or criminally liable for breach of obligation of keeping data secrecy, if:</p> <ol style="list-style-type: none"> <li>1. they provide data, information and documentation to the Administration, in accordance with this Law;</li> <li>2. they process data, information and documentation, obtained in accordance with this Law, for the examination of customer and transaction for which there are reasons for suspicion of money laundering and terrorist financing.</li> </ol>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>More targeted training to sectors that pose the greatest risk should be considered.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Representatives of all categories of reporting entities participate at the training courses that APMLTF organises for compliance officers and employees with the reporting entities which have a direct contact with customers.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>Guidelines for analysis of AML / FT risk in life insurance companies, adopted at the Council meeting held on March 7, 2011. These Guidelines oblige just life insurance companies since only these companies are obliged to act according to the AML/FT Law (as prescribed in article 8 para. 2 point 4). After the adoption of the Guidelines, the document was sent to all obligors, and a seminar, introducing the new</p>

	<p>obligations brought by this act, was organized for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising there from were shared.</p> <p>APMLTF, Central Bank of Montenegro, Securities Commission, Insurance Supervision Agency continued to strengthen its roles in the area of prevention of money laundering and terrorism financing through the realization of activities in the Twinning project MN 08 IB FI 01 –“Strengthening the regulatory and supervisory capacity of the financial regulators in Montenegro" financed by the European Commission and performed in cooperation with the De Nederlandsche Bank and the Bulgarian National Bank. The following project activities were as follows :</p> <p>November 22 -25, 2010 Montenegro Twinning project – activity 4.3.1 AML/CFT supervision workshop for banks</p> <p>18th - 19th January 2011 within Activity 4.3.3. was organized Workshop on preparing AML/CFT information material for public, financial and non-financial institutions. the slogan and the text for the brochure and the flyer which will be distributed to financial institutions and citizens, aimed at raising public awareness on the prevention of money laundering and terrorism financing.</p> <p>25th - 26th January 2011 within Activity 4.4.1 was organized AML/CFT supervision workshop for financial institutions.</p> <p>27th - 28th January 2011 within Activity 4.4.1. was organized AML/CFT supervision workshop for non-financial institutions</p> <p>1st -2nd March 2011.godine, AMLCFT workshop for police and judicial institutions,</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>In the period September – December 2012, within Twinning Light Project "Strengthening fight against money laundering", with the help of European experts, 8 seminars and trainings were organized for supervision bodies that carry out controls in the area of money laundering and terrorist financing. Five seminars and trainings were also organized for authorized persons of reporting entities (banks, lawyers, notaries, casino’s representatives, bookmakers and insurance companies) and employees that have direct contact with the clients.</p> <p>Also, officials of the APMLTF and Police Directorate participated in a two-week training on the implementation of financial investigations which was held within this project</p> <p>Securities and Exchange Commission and APMLTF organised education for all obligors in the capital market and its employees on 20/03/2013.</p>

**Recommendation 21 (Special attention for higher risk countries)**

<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>Financial institutions should be required to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations. Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses</i>

	<p><i>in the AML/CFT systems of other countries and consideration should be given to the development of appropriate countermeasures as set out in the essential criteria to Recommendation 21.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p><b>Chapter 2 section 1.1 paragraph 4</b> of the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads:</p> <p>“In its internal act, a bank shall define conditions for refusing the establishment of a business relationship with a client, and in particular:</p> <ul style="list-style-type: none"> <li>• If the home country of the client or the beneficial owner of the client is on the list of non-cooperative countries published by the Financial Action Task Force – FATF, the list of offshore jurisdictions, or the list of countries deemed risky by the authority based on its own assessment;</li> <li>• If the client or the beneficial owner of the client comes from the country which has been subject to measures in line with the UN Security Council resolutions;</li> <li>• If the client is on the list compiled in line with the UN Security Council resolutions; “</li> </ul> <p><b>Chapter 2 section 1.3.1</b> of the Draft Guidelines on bank risk analysis aimed at preventing money laundering and terrorism financing reads:</p> <p><b>“Risk factors used for establishing the risk of an individual client or a group of clients and the business relationship</b></p> <p>Internationally accepted standards used as the basis for preparing risk analysis with a view to preventing money laundering and terrorism financing (e.g. FATF recommendations and Wolfsberg guidelines) shall cover the following risk factors:</p> <ul style="list-style-type: none"> <li>- <b>Client risk factors:</b> risk factors relating to the client’s status or activity (e.g. state authority, a politically exposed person, a client whose activity is connected with cash transactions, non-profitable organisations, and the like).</li> <li>- <b>Risk factors connected with business relationship:</b> risk of business relationship, for example, with a client whose home country does not follow the standards in the prevention of money laundering and terrorism financing, with a politically exposed person, and other business relationship deemed by the bank to involve high risk.</li> <li>- <b>Risk factors connected with geographical region:</b> countries having in place inadequate systems for the prevention of money laundering and terrorism financing, countries with high levels of corruption or criminal activities, countries subject to restrictive measures of international organisations;</li> </ul> <p>Risk factors for determining the risk of an individual client or a group of clients, the business relationship, and risk factors connected with the geographical region are illustrated in the risk matrix. In addition to risks presented in the risk matrix, a bank may define additional factors in relation with the specific nature of the client’s business.”</p> <p>The obligation of providing special attention to business relationships with the clients where AML/CFT procedures are not implemented is imposed by the Securities and Exchange Commission Instruction.</p> <p>This Instruction in the Article 2 items <i>a</i> and <i>b</i> prescribes:</p> <p>“Participants at the capital market are obliged to establish risks factors upon which shall determine acceptability of the clients, especially based at the following facts:</p> <ol style="list-style-type: none"> <li>a) Home country of the client, home country of the majority founder, and/or real owner of the client regardless of the position of such country on the list of non-cooperative countries and territories issued by the international body for control and combating of money laundering, on a list of countries presented as offshore zones or uncooperative jurisdiction or on list states which participant on securities market considers risky upon its own estimations.</li> </ol>



	<p>b) Home country of the person who conducts transactions with the client, regardless of the position of such a country at the lists from the item a) above;  And article 3 paragraph 1 prescribes: “Capital market participants establish acceptability of the client depending on a risk factors from the article 2 of this Instruction and may refuse to conclude a contract with the customer in relation to whom some of the abovementioned risk factors are established, or concluding or terminating of the already concluded contract condition upon fulfilment of some specific requirements prescribed by the general act of the capital market participant”.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	Article 20 of the Bill on Changes and Amendments to the LPMLTF (it refers to the changes of the Article 26of the current Law )defines following: Article 20 The title of the article and article 26 are changed as follows: “Correspondent relationships of banks with credit institutions of other countries When establishing a correspondent relationship with a bank or other similar credit institution that has a registered office outside the European Union or outside the states from the list, a reporting entity shall perform customer due diligence pursuant to Article 10 of this Law and obtain the following data; 1) issue date and validity of the license for providing banking services and the name and registered office of the competent state body that issued the license; 2) description of conducting internal procedures, related to detection and prevention of money laundering and terrorist financing, and in particular, client verification procedures, determining beneficial owners, reporting data on suspicious transactions and clients to competent bodies, records keeping, internal control and other procedures, that a bank or other similar credit institution has established in relation to preventing and detecting money laundering and terrorist financing; 3) description of systemic organization in the area of detecting and preventing money laundering and terrorist financing, applied in a third country, where a bank or other similar credit institution has a registered office or where it has been registered; 4) a written statement, that a bank or other similar credit institution in the state where it has a registered office or where it has been registered, under legal supervision and that, in compliance with legislation of that state, it shall apply appropriate regulations in the area of detecting and preventing money laundering and terrorist financing; 5) a written statement that a bank or other similar credit institution does not operate as a shell bank; 6) a written statement that a bank or other similar credit institution has not established or it does not establish business relationships or executes transactions with shell banks. 7) with respect to payable-through accounts, be satisfied that the respondent credit institution has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant data from the CDD procedure. A reporting entity shall obtain the data from paragraph 1 of this Article from public or other available data records, or by checking documents and business files

	<p>provided for by a bank or other similar credit institution that has a registered office outside the European Union or outside the states from the list.</p> <p>Additionally, Article 37 of the Bill on Changes and Amendments to the LPMLTF (it refers to changes of Article 64 of the current Law) defines that APMLTF shall publish on its web site the list of countries that do not apply standards in the area of detection and prevention of money laundering and terrorist financing.</p>
<p>(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>The Risk Guidelines that SEC adopted in February 2012 prescribe:</p> <p>„Factors, based on which it is determined whether a certain country or geographic area carries a higher risk of money laundering and terrorist financing, include:</p> <ul style="list-style-type: none"> <li>(a) countries which are subject to sanctions, embargoes or similar UN measures;</li> <li>(b) countries which are identified by the Financial Action Task Force - FATF or other credible international organizations, as those that finance or provide support to terrorist activities, as well as those which have certain terrorist organizations operating in it;</li> <li>(c) countries labelled by the FATF or other credible international organization, as countries that lack internationally recognized standard for prevention and detection of money laundering and terrorist financing;</li> <li>(d) countries that are, based on the competent international organizations' assessment, labelled as countries with a high level of organized crime due to corruption, arms trafficking, human trafficking or human rights violations;</li> <li>(e) countries that are, according to the assessment of international organizations (FATF, the Council of Europe, etc.), classified among non-cooperative countries or territories;</li> </ul> <p>countries that are off-shore regions.”</p> <p>Article 26 of the current Law on PMLTF is amended and changed and it is now Article 30 of the Proposal on the Law on PMLTF.</p> <p><b>Correspondent banking relationships with credit institutions of other countries</b> <b>Article 30</b></p> <p>When establishing a correspondent relationship with a bank or other credit institution that has a registered office outside the European Union or outside the states from the list, a reporting entity shall perform customer due diligence in accordance with to Article 10 of this Law and obtain the following data:</p> <ol style="list-style-type: none"> <li>1. issue and expiry date of the license for providing banking services and the name and registered office of the competent state body that issued the license;</li> <li>2. description of conducting internal procedures related to detection and prevention of money laundering and terrorist financing, and in particular, customer verification procedures, establishing beneficial owners, reporting data on suspicious transactions and customers to competent bodies, records keeping, internal control and other procedures, that a bank or other credit institution has established in relation to preventing and detecting money laundering and terrorist financing;</li> <li>3. description of organization of the system in the area of detecting and</li> </ol>

	<p>preventing money laundering and terrorist financing, applied in the other country where a bank or other credit institution has a registered office or where it has been registered;</p> <p>4. a written statement issued by a bank or other credit institution in the state where it has a registered office or where it has been registered under legal supervision, that, in compliance with legislation of that state, it is obliged to apply appropriate regulations in the area of detecting and preventing money laundering and terrorist financing, including the information on whether it is under an investigation related to money laundering or terrorist financing or measures have been undertaken against it by the competent supervisory authorities;</p> <p>5. a written statement that a bank or other credit institution does not operate as a shell bank;</p> <p>6. a written statement that a bank or other credit institution has not established or it does not establish business relationships or executes transactions with shell banks;</p> <p>7. obtain written consent from a senior management of a reporting entity before establishing a business relationship with a customer;</p> <p>8. a written statement that a bank or other credit institution has with respect to payable-through accounts, verified the identity and performed ongoing procedure with a customer having direct access to accounts of the correspondent and that it is able to provide relevant data from the procedure with the customer.</p> <p>A reporting entity shall obtain the data from paragraph 1 of this Article from public or other available data records, or by checking documents and business files provided for by a bank or other credit institution that has a registered office outside the European Union or outside the states from the list.</p>
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<b>Recommendation 24 (DNFBP – Regulation, supervision and monitoring)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>A comprehensive register of all reporting entities should be developed by APMLTF.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Out of all categories of reporting entities, subject to inspection control performed by Reporting Entities Control Department of the APMLTF, the real estate area is the most controlled one and there are comprehensive records. Also, this area is closely connected with the construction business. Companies that deal with construction business, besides its main business activity, they also deal with real estate trade even if they are not registered for it .</p> <p>In relation to NGOs there is a comprehensive register that includes 4000 NGOs. Most of registered NGOs are not active or they do not have any registered transaction which could be defined, on any basis, as suspicious.</p> <p>The number of other reporting entities categories supervised by APMLTF is lower than the number of previously described categories of reporting entities.</p>
Measures taken to implement the recommendations	There were no changes in relation to this response.

since the adoption of the first progress report	
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>Guidelines to assist DNFBPs in implementing and complying with respective AML/CFT requirements are, at should be developed. Adequate and appropriate feedback on suspicious transaction reporting for DNFBPs should be provided.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The APMLTF provide information, in written form, to the reporting entity or other requester, on obtaining and analysing data, information and documentation related to persons or transactions for which there are reasonable grounds for suspicion in criminal offence of money laundering or terrorist financing. The APML will not provide the mentioned information if it is assessed that such informing could have harmful effects for the process and outcome of the procedure, as it is defined in Article 57 of the LPMLTF.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	Article 57 of the current Law on PMLTF is now Article 66 of the Proposal on the Law on PMLTF

<b>Recommendation 32 (Statistics)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>Clear comprehensive and well-structured statistics should be kept systematically. Such statistics should differentiate the amounts of assets, types of measures, duration of measures and primarily request/imposition ratio, etc.. These statistics should then be utilised to measure the effectiveness of the system of confiscation, freezing and seizing of proceeds of crime..</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	Besides the statistical tables provided in this Report, the APMLTF is keeping statistics on inspection control, comprehensive statistics on misdemeanour procedure and statistics related to exchanging information with foreign FIUs <i>Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data.</i>

	<p><i>This data base is upgraded continuously and upon appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing .</i></p> <p>The Project of Integrated registration and payment is in the final phase and more efficient data access and keeping statistics will be provided by this project.</p> <p><b>Note:</b> The Central Bank of Montenegro has presented the statistical tables in the Chapter 4 – Statistics hereof</p> <p>Supreme State Prosecutor’s Office keeps comprehensive statistics for all criminal offences and for the criminal offence of money laundering.</p> <p>In the attachment you can find table in which is presented the number of criminal offences money laundering in the period of 2004 until December 31st 2009, the way the cases are solved, the number of the temporary measures suggested, amount of the proceeds of crime, suggested confiscation and the number of the convictions. This kind of statistical data gives the possibility to measure the efficiency</p> <p>Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data. This data base is upgraded continuously and upon appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing .</p> <p>The Project of Integrated registration and payment is in the final phase and more efficient data access and keeping statistics will be provided by this project</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>There were no changes in relation to this response.</p> <p>During 2009 and 2010 the requests for initiating first degree misdemeanour procedure were submitted to the person authorized for conducting first degree misdemeanour procedures (Department for conducting a first degree misdemeanour procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanour procedure. According to the new Law on misdemeanours that entered into force on 1<sup>st</sup> September 2011, the requests for initiating first degree misdemeanour procedure are submitted to the District misdemeanour authorities.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>There were no changes in relation to this response.</p>

<b>Recommendation 33 (Legal persons – beneficial owners)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The acquisition of information on beneficial owners by the agencies and institutions which deal with clients from abroad seems to be less effective. Considering the very intensive involvement of foreign legal entities on the Montenegrin real-estate market and rather poor information on beneficial ownership in such entities, this might present a considerable risk of abuse of such legal entities for money laundering and terrorist financing and it is recommended that financial institutions and DNFBPs be reminded to apply the same standards to overseas customers as to domestic.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>As a part of verification and examination of the client being a legal person, in addition to identification, a bank is obliged to identify the actual owner of such a legal person. In line with provisions of the LPMLTF, a bank shall apply the measures required for acquiring information on the person being the actual owner.</p> <p>In case of a high-risk client, a bank must confirm the acquired information if it is not received from a reliable and independent source (e.g. if a written statement of a legal representative was the only source of information for determining the client's identity, a bank must check the information to the extent that will enable it to understand the ownership of the legal person and its controlling structure, in order to identify all beneficial owners of the client).</p> <p><b>Beneficial owner</b> of a legal person within the meaning of Article 19 of the LPMLTF is considered:</p> <ol style="list-style-type: none"> <li>(1) a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and</li> <li>(2) a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made.</li> </ol> <p>As per the aforesaid definition, a beneficial owner is a natural person participating (directly or indirectly) in the legal person's management based on 25% of share. When identifying the beneficial owner, it is necessary to identify the natural person's ownership share in that legal person, as well as the ownership share of a legal person controlled by the same natural person.</p> <p>A bank may obtain ownership information based on the original or a certified copy of excerpt from the court registry or any other official registry submitted by the legal representative or the person authorised on behalf of the legal person.</p> <p>In addition, a bank may apply provisions of the LPMLTF enabling the obtaining of information on the beneficial owner through a direct inquiry into the court registry or any other public registry or through other available sources.</p> <p>If all the prescribed information regarding the beneficial owner (e.g. date and place of birth) cannot be obtained from the court registry or any other official registry, a bank may obtain the lacking information from the legal representative or the authorised person.</p> <p>A beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered:</p> <ol style="list-style-type: none"> <li>(1) a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity</li> <li>(2) a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that</li> </ol>

	<p>he/she manages.</p> <p>A bank must confirm the ownership structure of clients - legal persons and acquire all necessary information on their beneficial owners, in accordance with the LPMLTF.</p> <p>If the registered office of the legal person is in Montenegro, the bank is recommended to perform direct inquiry into the court registry or any other public registry in order to obtain or confirm information on the beneficial owner of such a legal person.</p> <p>If one of the beneficial owners is a foreign legal person, the bank is recommended to acquire the information on the beneficial owner of such a legal person based on the original or a certified copy from a foreign registry or from business documents to be submitted by the legal representative or the authorised person on behalf of the client. Since the bank has no information regarding the authenticity of information from other countries, it is recommended that the legal representative or the authorised person of the client submit an electronic statement from the public registry in the foreign country.</p> <p>If the legal representative, due to objective reasons, cannot provide the requested documentation that clearly shows the information on the beneficial owner, such information shall be obtained from the written statement to be submitted by the legal representative or the authorised person of the client.</p> <p>A bank shall also request a written statement from the legal representative in case of any suspicion regarding the accuracy of the submitted information.</p> <p>If the legal representative does not show his/her willingness to cooperate with the bank in offering the requested information and thus rendering the identification of the beneficial ownership impossible, the bank should not establish the business relationship with the client.</p> <p>Also, in case the client avoids to submit the legally requested information, a bank is recommended to use this as the indicator for detecting suspicious activities of the client involving money laundering and terrorism financing.</p> <p>A bank must adopt the procedures for identifying beneficial owners, taking into account the aforesaid recommendations and/or instructions.</p> <p>If a bank is still unable to acquire information on the beneficial owner in spite of the undertaken actions (even after a detailed analysis of the ownership structure), due to the complexity of the structure itself, a bank shall be allowed to establish or continue such a business relationship, provided that it classifies the client as a high-risk client, which requires enhanced monitoring of business activities. It should be underlined that this applies to cross-border cases and it does not represent normal practice.</p> <p>The aforesaid deviation does not mean that procedures for identifying the beneficial owner should be excluded - in such cases a bank has to prove to the competent authority that it has properly applied the procedure for identifying the beneficial owner and that that is a special case of complex ownership which justifies the bank's action. The bank is also recommended to deem such a complex ownership structure as a potential reason for reporting suspicious transactions.”</p> <p>In addition, in their internal acts (policies and procedures), banks have already prescribed the procedure for identifying beneficial owners, both natural and legal persons, which implies the use of information from the relevant public registries. Clients are also obliged to inform the bank in writing on any changes in their beneficial owners.</p>
Measures taken to implement the recommendations	In <b>Article 14</b> of the Bill on Changes and Amendments to the LPMLTF ( <b>it refers to changes of Article 19 of the current Law</b> ) the definition of the beneficial owner is harmonized with the definition provided in the Directive 2005/60/EC of the

<p>since the adoption of the first progress report</p>	<p>European Parliament and of the Council, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. In accordance with Article 14 of the Bill on Changes and Amendments to the LPMLTF the beneficial owner is defined as follows:          „Article 19 is changed as follows:          "Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement.          A beneficial owner of a business organization, i.e. 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 at least 25% share of the capital or has a dominating influence in the assets management of the business organization;          2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made.          As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered          1) a natural person, that indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity;          2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Consideration should be given to the risk of foreign bearer shares being sold in Montenegro.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>The bearer shares in Montenegro may not be issued. The Law on Securities (“Official Gazette of Montenegro”, No. 59/00 and 28/06). Article 5 of the Law on Securities prescribe:  <i>“Securities issued in accordance with this Law must be registered at the Central Depository Agency that is established and operates in accordance with this Law. The rights and obligations related to the securities shall start upon registration at the Central Depository Agency.”</i>          Article 100 par. 1 and 2 of the Law on Securities prescribes:  <i>“The owner of the account in the Central Depository Agency in which the security is recorded shall be considered the owner of the dematerialized security. The Central Depository Agency statement is the only legal proof of ownership of securities.”</i>          Foreign bearer shares may not be traded at the stock exchanges in Montenegro. Article 26 of the Law on Securities prescribes: <i>“No shares shall be traded on a licensed security market other than shares issued by a registered issuer.”</i></p>
<p>Measures taken to</p>	<p>There were no changes in relation to this response.</p>



implement the recommendations since the adoption of the second progress report	
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	In accordance with Article 14 of the Bill on Changes and Amendments to the LPMLTF the beneficial owner defines that the existing Article 19 shall be amended as follows: „Article 19 is changed as follows: "Beneficial owner is the natural person who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately who exercises control over a legal entity or legal arrangement. A beneficial owner of a business organization, i.e. 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 at least 25% share of the capital or has a dominating influence in the assets management of the business organization; 2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made. As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered 1) a natural person, that indirectly or directly controls at least 25% of a legal person’s asset or of a similar foreign legal entity; 2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.”
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.

<b>Special Recommendation I (Implement UN instruments)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The incrimination of money laundering is limited to actions, defined as "business operations", which is narrower than the convention and this formulation should be further refined.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	As explained in detail in the explanation of the measures taken according to recommendations of MONEYVAL relating to Recommendation 1 FATF (money laundering offence), this shortcoming was removed by the Law on Amendments to the Criminal Code, which is in the adoption procedure. <b>Please see the answers in the Recommendation 1 (money laundering offence).</b>
Measures taken to implement the recommendations	As it is explained in details in answer on measures taken to implement recommendations of MONEYVAL referring to Recommendation 1 of The FATF

<p>since the adoption of the first progress report</p>	<p>(criminal offence Money laundering), this short-coming was removed by Law on changes and amendments of The Criminal Code in 2010 („Official Gazette of MNE“ 25/2010).</p> <p>In accordance with the recommendation, changes and amendments of The Criminal Code removed the limitation that money laundering can be performed „through banking, financial or other business operations“. Namely, by new definition, criminal offence Money laundering is considered „conversion or transfer of money or other property knowing that they have been obtained by criminal activity, with the intention to conceal or fraudulently represent the origin of money or other property, or whoever acquires, keeps or uses money or other property knowing at the moment of receipt that they derive from a criminal offence, or concealing or fraudulently representing facts on the nature, origin, place of depositing, movements, disposal of or ownership over money or other property knowing that they were obtained through a criminal offence.”</p> <p>It is clear that in accordance with the recommendation, the definition is improved.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes since the last reporting.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Based on the Article 9 of the Constitution of Montenegro on the grounds of which the confirmed and published international contracts as well as commonly accepted regulations of international law which make constituent part of domestic legal order, as well as the fact that the UN Charter, bearing in mind that Montenegro is an UN member, represents international agreement Montenegro accepted (Independence Decision: UN Charter published in the Official Gazette of RFY 69/45), Montenegro is under obligation to implement measures adopted on the grounds of the Chapter VII of the UN Charter.</p> <p>In accordance with the EU National Integration Program for Montenegro the passing of the Law was planned for the end of 2011. in order to prepare for application and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced, and/or create legal framework for introduction of unilateral restrictive measures., Ministry of Foreign Affairs initiated the procedure of collecting all relevant international documents, EU regulations, as well as the guidelines related to implementation of all restrictive measures categories. Also, in order to determine the mechanism for overall regulation of the given area comparative analyses of the legal solutions of the states in the region are performed. The models of the established entities whose jurisdiction is to update the list are considered, as well as the relation of the laws on restrictive measures with other legal documents dealing with the issue of sanctions introduction. At this stage the model of introducing the institute of, „freezing assets” (in a manner S/RES/1267) into the legal system of Montenegro, and/or whether it is more relevant to make it a part of criminal legislation or introduce it with the Law on restrictive measures.</p>
<p>Measures taken to implement the</p>	<p>In compliance with the Law on Foreign Trade in Arms, Military Equipment and Dual Goods, Montenegro abides by its international commitments, particularly those</p>

<p>recommendations since the adoption of the first progress report</p>	<p>relevant to the sanctions introduced by the UN Security Council, EU and OSCE; international agreements on non-proliferation as well as other international commitments. This Law stipulates foreign trade in controlled goods and it determines the terms and conditions for foreign trade, transit and transportation of controlled goods, for providing technical assistance pertinent to controlled goods as well as other issues relevant for foreign trade in this kind of goods. This law extends control to cover brokering activities, in-kind transfers of technologies, technical assistance concerning the goods from „Catch All“category, too.</p> <p>Banks and other institutions operating in Montenegro have to abide by the Law on Prevention of Money Laundering and Financing of Terrorism (“Official Gazette of Montenegro”, No.14/07 and 04/08) and by the Guidelines for Risk Analysis for Banks in order to prevent money laundering and financing of terrorism as drafted by the Central Bank of Montenegro. Based on those acts, banks in Montenegro have passed their internal rules on measures and activities to be conducted for detecting and preventing money laundering and financing of terrorism.</p> <p>Banks in Montenegro have to classify their clients, business relations, transactions or products based by the degree of risk and put them into respective classification categories (A- insignificant risk, B-low risk, C-medium risk and D- high risk). Also, in their internal acts (such as „Know Your Client“) banks defined the way in which they determine client’s eligibility i.e. the reasons to refuse to contract any business deal with individuals from the states towards whom the measures from UN Security Council Resolution apply and individuals whose names were put on the List made in compliance with the UN Security Council resolutions.</p> <p>With a view to improve the system of prevention of money laundering and financing of terrorism, banks developed tools to detect persons whose names can be found on the Lists made on the basis of the UN security Council resolutions such as „Labo-online“, „Labo 1“ and „Labo 2“.</p> <p>If a person from the List made by the UN Security Council Resolution requests to make a transaction at a bank, the bank will refuse the request and inform the Administration for Prevention of Money Laundering and Financing of Terrorism of Montenegro promptly.</p> <p>In accordance with the EU National Integration Program for Montenegro the adoption of the Law on the implementation of international restrictive measures is planned. The working group for the drafting of the above mentioned law has already prepared the text, which is planned to be adopted in 2012. This law will be the legal ground for the application and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced, and/or create legal framework for introduction of unilateral restrictive measures. Ministry of Foreign Affairs initiated the procedure of collecting all relevant international documents, EU regulations, as well as the guidelines related to implementation of all restrictive measures categories. Also, in order to determine the mechanism for overall regulation of the given area, comparative analyses of the legal solutions of the states in the region are performed. The models of the established entities whose jurisdiction is to update the list are considered, as well as the relation of the laws on restrictive measures with other legal documents dealing with the issue of sanctions introduction. At this stage the model of introducing the institute of, freezing assets” (in a manner S/RES/1267) into the legal system of Montenegro, <u>and/or whether it is more relevant to make it a part of criminal legislation or introduce it with the Law on restrictive measures.</u></p>
<p>Measures taken to</p>	<p>There were no changes in relation to this response.</p>

implement the recommendations since the adoption of the second progress report	
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes in relation to this response.

<b>Special Recommendation III (Freeze and confiscate terrorist assets)</b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>A central authority at national level to examine, integrate and update the received lists of persons and entities suspected to be linked to international terrorism before sending them to the financial sector and DNFBP should be introduced.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>After reviewing the Report of the MONEYVAL Committee on the third round of detailed assessment of 17th March 2009, with the conclusion of the Government of Montenegro of 23rd April 2009, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs and Public Administration and the Administration for Prevention of Money Laundering and Financing of Terrorism were put in charge to consider the method of application of the Special Resolutions of the United Nations Security Council S/RES/1267 (1999), S/RES/1373 (2001) and S/RES/1452(2002) and propose to the Government the measures for their implementation</p> <p>Although there is still no legal framework defining the system of publishing, or informing, integrating and updating the received lists of persons and companies suspected to be related to international terrorism, there is a practice to, after receiving such lists from the Permanent Mission at the United Nations Headquarters in New York, the Ministry of Foreign Affairs forwards the lists to the Ministry of Finance and Police Directorate.</p> <p>APMLTF receives, through its Department for National and International Co-operation, MONEYVAL and FATF statements referring to non cooperative countries with significant risk of money laundering and terrorist financing. After processing, the statements are forwarded to Analytics Department which, in written form, notifies all reporting entities under the Law on the Prevention of Money Laundering and Terrorist Financing. The statements are also published on the APMLTF website.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	After reviewing the Report of the MONEYVAL Committee on the third round of detailed assessment of 17th March 2009, with the conclusion of the Government of Montenegro of 23rd April 2009, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs and Public Administration and the Administration for Prevention of Money Laundering and Financing of Terrorism were put in charge to consider the method of application of the Special Resolutions of the United Nations Security Council S/RES/1267 (1999), S/RES/1373 (2001) and S/RES/1452(2002) and propose to the Government the measures for their implementation.
Measures taken to implement the	There were no changes in relation to this response.

recommendations since the adoption of the second progress report	
Recommendation of the MONEYVAL Report	<i>A domestic mechanism to enact S/RES/1373 (2001) should be implemented to be able to designate terrorists at national level as well as to give effect to designations and requests for freezing assets from other countries.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	This issue is planned to be regulated by the Law on restrictive measures.
Measures taken to implement the recommendations since the adoption of the first progress report	Apart from already implemented national regulations, Law on the implementation of international restrictive measures will be adopted in 2012. The working group for the drafting of the above mentioned law has already prepared the text, which is at the moment sent to the relevant institution for consideration. This law will be the legal ground for the implementation and enactment of restrictive measures, jurisdictions of specific state institutions, as well as keeping records on natural and legal persons against which international restrictive measures have been introduced.
Measures taken to implement the recommendations since the adoption of the second progress report	Drafting of the new Law on Restrictive Measures is in the final phase. Consultations with the competent state authorities, the Working group drafted the Proposal on the Law on Restrictive Measures which is currently published for gathering opinion of the public. When the comments and opinion of the interested public are obtained then the text of the Law on Restrictive measures will be forwarded to the Secretariat for legislation so that this body could verify the level of harmonization of this Law with the legal system in Montenegro. Due to procedures, the final version-proposal on the Law of Restrictive Measures will be forwarded to the Government for adoption. In September 2013 Ministry of Foreign Affairs and European Integration has send the Draft Law on Restrictive measures to EEAS and there were no negative comments in relation to the Draft Law. (Draft Law on Restrictive Measures is enclosed to this questionnaire)
Recommendation of the MONEYVAL Report	<i>Procedures for evaluating de-listing requests, for releasing funds or other assets of persons or entities erroneously subject to the freezing and for authorising resources pursuant to S/RES/1452 (2002) should be adopted.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	This issue is planned to be regulated by the Law on restrictive measures
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Measures taken to implement the recommendations since the adoption of	After adoption of the Law on Restrictive Measures this issue will be covered.

the second progress report	
Recommendation of the MONEYVAL Report	<i>Practical guidance to the financial institutions and DNFBP concerning their responsibilities under the freezing regime as well as for the reporting of suspicious transactions that may be linked to terrorism financing should be issued by the authorities.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The Guidelines on Developing Risk Analysis with a view to Preventing Money Laundering and Terrorist Financing define:</p> <p>The customers that present high risk from money laundering and terrorist financing are included in customers with the permanent residence or registered office:</p> <ol style="list-style-type: none"> <li>1. in the state that is non EU member state or did not sign EU pre accession agreement,</li> <li>2. in the state that is, based on assessment of the competent international organisations, known for production or well organised drug trafficking (Middle and Far East countries known for heroin production: Turkey, Afghanistan, Pakistan and golden triangle countries (Myanmar, Laos, Thailand), South American Countries known for cocaine production Peru, Columbia and neighbour countries, Middle and Far East Countries, Central American Countries known for Indian hemp production: Turkey, Lebanon, Afghanistan, Pakistan, Morocco, Tunis, Nigeria and neighbour countries, Mexico),</li> <li>3. state that is, based on the assessment of the competent international organisations, known as country with high level of organised crime due to corruption, arm trafficking, human trafficking or human rights violation,</li> <li>4. state that is, based on assessment of the international organisation FATF (Financial Action Task Force) classified in to the non cooperative countries or territories (that are countries and territories that, according to FATF assessment, do not have relevant legislation in the area of prevention and detection of money laundering or terrorist financing, the state supervision of financial institutions does not exist or it is not relevant, establishing and acting of the financial institutions is possible without state certificates or registration at the competent authorities, state supports opening anonymous accounts or other anonymous financial instruments, the system of recognising and reporting suspicious transactions is inappropriate, the establishing beneficial owner is not an obligation prescribed by the law, international co-operation is not efficient or does not exists at all)</li> <li>5. country against which UN or EU measures are imposed, including complete or partial break up of economic relations, railways, waterways, post, telephone lines, telegraph lines, radio and other communicational relations, breakup of diplomatic relations, military embargo, travel embargo etc.</li> <li>6. country which is known as financial or tax paradise (for these countries it is particularly important that they enable complete or partial tax free obligation, or tax rate is significantly lower than tax rate in other countries. These countries usually do not have concluded agreements for the avoidance of double taxation, or if they do sign the agreements, they do not obey them. The legislation of these countries requires strict observance of bank and business secrecy and also quick, discreet and cheap financial services are provided. Countries known as financial or tax paradises are : Dubai – Jebel Ali Free Zone, Gibraltar, Hong Kong, Isle of Man, Lichtenstein, Macau, Mauritius, Monaco, Nauru, Nevis Island, Iceland –Norfolk Area, Panama, Samoa, San Marino, Isle of Sark, Seychelles, St. Kitts and Nevis, St. Vincent and Grenadine, Switzerland – canton Vaud and Zug, Turks and Caicos Islands, the USA – federal states Delaware and Wyoming, Uruguay, British Virgin Islands and Vanuatu</li> </ol>

	<p>7. country known as offshore financial center (these countries define certain limitations in the process of direct activities registration of business entities in the country, provide high level of bank and business secrecy, liberal control over international trade business is performed, quick, discreet and cheap financial services and legal person registration are enabled. It is significant that these countries do not have adopted relevant legislation in the area of prevention and detection of money laundering and terrorist financing. Countries known as offshore financial centers are: Andorra, Angola, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermudas, British Virgin Islands, Brunei Darussalam, Cape Verde, Cayman Islands, Cook Islands, Costa Rica, Delaware (USA), Dominica, Gibraltar, Grenada, Guernsey, Isle of Man, Jersey, Labuan (Malaysia), Lebanon, Lichtenstein, Macao, Madeira (Portugal), Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Nevada (USA), The Netherlands Antilles, Niue, Palau, Panama, Philippines, Samoa, Seychelles, St. Kitts and Nevis, St Lucia, St Vincent and Grenadines, Zug (Switzerland), Tonga, Turks and Caicos Islands, Uruguay, Vanuatu and Wyoming (USA).</p> <p>Transactions that could represent high risk of money laundering and terrorist financing include:</p> <ol style="list-style-type: none"> <li>1. payment from customer's account or payment to customer's account, which differ from the account that customer provided in the process of identification of the account through which customer regularly carried or has been carrying business activities (particularly in case of crossbred transactions)</li> <li>2. transactions intended to be sent to a persons with the residence or registered office in country known as financial or tax paradise,</li> <li>3. transactions intended to be sent to persons with the residence or registered office in country known as off shore financial center,</li> <li>4. transactions intended to be sent to non profit organisations with the registered office in: country known as off shore financial center, country known as financial or tax paradise or in non- EU member states, or country which did not sign EU Pre-Accession Agreement,</li> </ol> <p>Public statement under Step VI on MONEYVAL Compliance Enhancing Procedures in respect of Azerbaijan (12 December 2008)</p> <p>Public statement under Step VI of MONEYVAL's Compliance Enhancing Procedures in respect of Azerbaijan (24 September 2009)</p>
<p>(Other) changes reported as of 16 March 2010</p>	<p>Please see answer to question 1 in section "Special Questions" of this Questionnaire – relating to crucial substantive and procedural changes regarding the procedure of confiscation of property gain acquired through criminal offence (the procedure of permanent confiscation of property whose legal origin is not proved is introduced). Montenegro has accessed another very important convention in the field of international legal assistance – the European Convention on International Validity of Criminal Judgments (CETS 070). Having in mind that Montenegro has accessed the European Convention on Mutual Assistance in Criminal Matters with additional protocols, the European Convention on Extradition with additional protocols, the European Convention on Transfer of Convicted Persons with additional protocol, by confirming this convention Montenegro has completed the set of international instruments applied in the area of international legal assistance in criminal matters.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress</p>	<p>There were no changes since the last reporting.</p>

<p>report</p> <p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>During preparation of replies in the previous progress evaluation, it was pointed out that changes and amendments were in progress also with respect to introducing confiscation of property whose legality of origin could not be proven („extended confiscation“). In accordance with the changes and amendments of The Criminal Code („Official Gazette of MNE“, no.25/2010), art. 113 defines that from the perpetrator of criminal offence it is possible to seize material benefit for which there is well-founded suspicion that it has been acquired through criminal activity, unless the offender makes plausible that its origin is legal (extended confiscation). Extended confiscation can be applied if the offender was sentenced by a final and enforceable decision for:</p> <ol style="list-style-type: none"> <li>1) one of the criminal offences committed within a criminal organization (Article 401a);</li> <li>2) one of the following criminal offences: <ul style="list-style-type: none"> <li>- against humanity and other assets protected under international law and committed out of greed;</li> <li>- money laundering;</li> <li>- unauthorized manufacture, possession and distribution of narcotic drugs;</li> <li>- against payment and business operations and against official duties, committed out of greed and with a stipulated imprisonment sentence of eight years or a more severe sentence.</li> </ul> </li> </ol> <p>Also, on September 1st 2011., new Criminal Procedure Code started its full application. Comparing to earlier criminal procedure, this Code introduced numerous changes of criminal proceeding, and the most important change is introducing concept of prosecutorial investigation.</p> <p>Having in mind Article 9 of the Constitution of Montenegro according to which the ratified and published international treaties and generally accepted international rules of the international law are an integral part of the internal legal system, as well as in accordance with the fact that Montenegro, as a member of the United Nations, accepted the UN Charter (Decision on proclamation of Independence of Montenegro, Official Gazette No. 36/06; UN Charter published in the Official Gazette of the Democratic Federal Yugoslavia 69/45), Montenegro is obliged to implement the measures which has been adopted on the basis of Chapter 7 of the UN Charter.</p> <p>In Montenegro, the international restrictive measures towards third countries are implemented by the competent state authorities in accordance with the provisions of the following laws:</p> <ol style="list-style-type: none"> <li>1. Law on Foreign Trade (Official Gazette of the Republic of Montenegro No. 28/2004 and 37/2007),</li> <li>2. Law on the Prevention of Money Laundering and Terrorist Financing (Official Gazette of Montenegro No. 14/07 and 4/08),</li> <li>3. Law on Foreign Trade in Armament, Military Equipment and Goods with Dual Purpose (Official Gazette of the Republic of Montenegro No. 80/08),</li> <li>4. Law on Foreigners (Official Gazette of Montenegro, 82/08)</li> <li>5. Criminal Code (Official Gazette of Republic of Montenegro No. 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro No. 40/2008, 25/2010 and 32/2011),</li> <li>6. Criminal Procedure Code (Official Gazette of Montenegro 57/09 and 49/10).</li> </ol> <p>The administrative framework for the implementation of the mentioned laws and related bylaws consists of the following competent authorities::</p>
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	<ol style="list-style-type: none"> <li>1. Ministry of Foreign Affairs and European Integrations,</li> <li>2. Ministry of Economy,</li> <li>3. Ministry of Defence,</li> <li>4. Ministry of Finance (Administration for the prevention of Money Laundering and Terrorist Financing),</li> <li>5. Ministry of Interior ,</li> <li>6. Police Directorate,</li> <li>7. Customs Administration ,</li> <li>8. Tax Administration,</li> <li>9. Central Bank,</li> <li>10. Securities Commission</li> </ol> <p>The Law on the implementation of international restrictive measures shall be adopted in 2012 and after its adoption all necessary bylaws for its implementation shall be adopted, too.</p> <p>As an example of implementation of the restrictive measures is the Central Bank of Montenegro passed the Decision on prohibition of conducting financial transactions with the Central Bank of Iran, financial institutions from Iran and persons related to these institutions.</p>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	There were no changes since the last reporting.

<b>Special Recommendation VI (AML requirements for money/value transfer service)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The requirements of Special Recommendation VI need to be implemented.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>National payment system is regulated by the National Payment Systems Law (OGM 61/08), as well as by secondary legislation acts, among which, the following are particularly important with respect to the Special Recommendations VI and VII:</p> <ul style="list-style-type: none"> <li>- Decision on the structure of transfer execution account and the detailed conditions and manner of account opening and closing (OGM 24/09);</li> <li>- Decision on unified structure for identification and classification of accounts using IBAN standard for international payments (OGM 24/09),</li> <li>- Decision on minimum elements of credit and debit order (OGM 24/09),</li> <li>- Decision on conditions and manner of performing individual transfer execution by agents (OGM 24/09);</li> <li>- Decision on the issuing and use of remote access instruments and the reporting manner and timelines (OGM 24/09),</li> <li>- Decision on detailed conditions of issuing and revoking licenses for payment system and granting approvals (OGM 24/09),</li> <li>- Decision on payment system oversight (OGM 24/09),</li> <li>- Payment system rules for interbank transfer execution (OGM 24/09).</li> </ul> <p>The National Payment Systems Law governs the performance of national payment system: transfers of funds, settlement of inter-bank transfers, electronic payment</p>

	<p>instruments and payment systems and out-of-court settlement of payment system-related disputes.</p> <p>Transfer of funds, under this Law, shall be a transfer of monetary assets executed at the originator's order by the performing institution.</p> <p>International payment system operations are regulated by the External Current and Capital Transactions Law (OGM 45/05 and OGM 62/08).</p> <p>This Law regulates the performance of payment operations between residents and non-residents in euro and currency other than euro, as well as the manner for transfer of property to Montenegro and out of Montenegro, and the capacity of residents to have ownership over means of payment denominated in currency other than euro.</p> <p>According to Montenegrin legislation (Banking Law, OGM 17/08, National Payment Systems Law, and External Current and Capital Transactions Law), the transfer of funds in the country and abroad is performed exclusively by legal persons, primarily banks, foreign bank branches and other legal persons that have obtained license or approval for transfer execution by the Central Bank.</p> <p>The National Payment Systems Law additionally regulates agents as legal persons that may be entrusted by the performing institution, in accordance with the appropriate agreement, certain activities related to the execution of a transfer. The agent performs these activities in the name of and for the account of the performing institution that is responsible for all the agent's procedures and failures arising from the performance of the aforesaid activities.</p> <p>The Central Bank has up-to-date records on all service providers of transfer of funds.</p> <p>As described in point VI.1, the work of an agent, as a legal person to whom the performing institution has entrusted, in accordance with the appropriate agreement, certain activities related to the execution of a transfer is regulated by the National Payment Systems Law and Decision on conditions and manner of performing individual operations in transfer of funds execution by agents.</p> <p>Only Post Office of Montenegro is currently acting as an agent of the payment system in Montenegro.</p> <p>The aforesaid Decision regulating the work of agents is the act passed by the Central Bank of Montenegro, which will incorporate this requirement.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>There were no changes in relation to this response.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The Montenegrin authorities should introduce legislation to enforce the licensing/registration of all MVT service providers together with appropriate sanctions.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of</p>	<p>See the answer presented in the first part of SR VI.</p>

the report	
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>The work on the new Payment Operations Law, which shall incorporate the international standards of the Directive 2007/64/EC on Payment Services (PSD), Directive 2009/110/EC on E-money institutions and Directive 98/26/EC on Settlement Finality in Payment systems, started under the Twinning project “Strengthening the Regulatory and Supervisory Capacity of the Financial Regulator”.</p> <p>According to the plan, the Council of the Central Bank should determine the draft of this Law in September 2012, after which plans regarding the enactment of the law will be determined.</p> <p>This law intends to introduce payment instructions and e-money institutions, as the providers of payment services.</p>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>The drafting of the new Payment System Law ended at the beginning of October 2012 and the Council of the Central Bank of Montenegro agreed the wording of the Draft Payment System Law at its meeting held on 23 October 2012.</p> <p>The Draft Payment System Law is harmonised with the following:</p> <ol style="list-style-type: none"> <li>1) Directive 2007/64/EC on payment services in the internal market;</li> <li>2) Directive 2009/110/EC on taking up, pursuit and prudential supervision of the electronic money institutions, and</li> <li>3) Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2009/44/EC amending the Directive 98/26/EC.</li> </ol> <p>The transposition of Directive 2007/64/EC on payment services in the internal market ensures greater protection of payment service users, strengthening of competition in payment service provision, and sets up the basis for the creation of the common payment services market in the European Union, i.e. the creation of conditions for national and cross-border payment transactions to be subject to the same rules.</p> <p>The transposition of the Directive 2009/110/EC establishes the rules for the pursuit of e-money issuing and regulates e-money institutions as separate</p>

entities that may pursue both e-money issuing and payment services activities.

In addition, the Draft Payment System Law regulates the establishment and work of payment systems, including interoperable systems, settlement finality in payment systems in line with the Directive 98/26/EC and Directive 2009/44/EC, and the supervision and oversight of payment systems.

Pursuant to the aforesaid, the Draft Payment System Law:

- creates preconditions for improvement of the payment system legislation with a view to its full harmonisation with EU regulations and with the ultimate objective to abolish the differences between national and cross-border transactions with the EU Member States once Montenegro joins the EU;
- precisely defines payment services and payment service providers, increases transparency in payment service provision with the detailed regulation of information that a payment service provider is obliged to provide to a payment service user, as well as with the regulation of other rights and obligations related to the payment services provision and use.;
- creates legal preconditions for the introduction of new payment service providers – payment institutions and e-money institutions, as well as their licensing and supervision;
- strengthens competition to banks in payment service provision and thus encouraging more efficient and cheaper provision of payment services;
- regulates e-money issuing;
- eliminates regulatory restrictions regarding payment system operators and establishes full legal safety in preventing systemic risk in payment systems in case of bankruptcy or liquidation against a payment system participant;
- retains the high standards and good solutions from the current regulatory framework.

The Governor submitted the Draft Payment System Law to the Ministry of Finance to be subject to a public debate.

Having in mind the importance of this law for banks, the Governor also gave the draft law to the Association of Montenegrin Banks for comments and suggestions.

Looking forward, the plan is to organise a public debate to discuss the draft

	<p>Law in an acceptable timeframe to leave sufficient time for the Law to be harmonised with any suggestions communicated at the public debate and to prepare the final wording of the Law as a material for bilateral screening by representatives of the European Commission scheduled for 21 February 2013.</p> <p>It is also planned to agree further activities regarding the enactment procedure of this Law after the aforesaid bilateral screening.</p> <p style="text-align: center;"><b>NEW DEVELOPMENTS SINCE THE ADOPTION OF THE THIRD PROGRESS REPORT</b></p> <p style="text-align: center;"><b>Information regarding the new Payment System Law (October 2013)</b></p> <p>The draft Payment System Law had been the subject of consultations with the European Commission (EC) in June 2012 and presented to the EC at the Bilateral Screening in Brussels on 21 February 2013. The Government of Montenegro adopted the proposal of this law on 11 July 2013 and forwarded it to the Parliament of Montenegro for enactment at end-July.</p> <p>The enactment and entry into force of the new Payment System Law is expected by the end of 2013 and the application one year following the effective date as the Central Bank will adopt all necessary secondary legislation in the meantime. In accordance with the aforesaid, it is expected that the implementation of the new law and the pertinent secondary legislation will start at the same time, at end-2014.</p> <p>The new Payment System Law is fully compliant with the following EU regulations:</p> <ol style="list-style-type: none"> <li>1) Directive 2007/64/EC on payment services in the internal market;</li> <li>2) Directive 2009/110/EC on taking up, pursuit and prudential supervision of the electronic money institutions, and</li> <li>3) Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2009/44/EC amending the Directive 98/26/EC.</li> </ol>
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<b>Special Recommendation VII (Wire transfer rules)</b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>The requirements of Special Recommendation VII should be incorporated into the legislation of Montenegro.</i>
Measures reported as of 16 March 2010 to	Decision on the structure of transfer execution accounts and the detailed conditions and manner of account opening and closing (OGM 24/09) regulates, <i>inter alia</i> ,

<p>implement the Recommendation of the report</p>	<p>opening and closing of transfer execution accounts in the country.</p> <p>The following data should be mentioned, <i>inter alia</i>, by the client in his application:</p> <ul style="list-style-type: none"> <li>- Name of the legal or natural person that performs registered activity, i.e. name and last name of natural person not performing registered activity,</li> <li>- Place – registered office or residence, address and phone number;</li> <li>- Identification number of legal or natural person performing registered activity or uniform identification number of citizens for natural person not performing registered activity and the like.</li> </ul> <p>In that respect, requested information on ordering party of electronic transfer in any transfer amount.</p> <p>The aforesaid is valid in situations when the cash payment of natural person precedes the transfer (e.g. cash payment by various accounts or any other basis).</p> <p>The account of the financial institution (bank) that simultaneously processes that transfer appears as the account of originator (ordering party) of such transfer.</p> <p>The Decision on minimum elements of credit and debit order prescribes the obligatory elements that these payment instruments must contain to initiate electronic transfers. The minimum prescribed elements includes also payment orders submitted electronically.</p> <p>In accordance with Articles 7 and 8 of the Decision, transfer should also contain the following in order to be executed,:</p> <ul style="list-style-type: none"> <li>- name of the originator as ordering party, i.e. name and registered office of legal or natural person performing registered activity or name, last name and address of residence of natural person not performing registered activity, and – debited or credited account. If the cash payment by natural person of such transfer preceded the transfer, the financial institution (bank) simultaneously processes that transfer, so the account of institution that debits the account is also mentioned.</li> </ul> <p>Pursuant to Article 16 of the National Payment Systems Law, the performing institution is obliged to archive the documentation on executed transfers and store them for five years, and to keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.</p> <p>When developing risk analysis for money transfers, banks and/or financial institutions shall define in their internal acts, based on the Guidelines on bank risk analysis aimed at the prevention of money laundering and terrorism Financing, the criterion that will have high risk concerning electronic transfer that do not contain complete information on ordering party.</p> <p>Transfers without complete information on ordering party and related transactions shall be considered suspicious and shall be acted upon the prescribed manner, and in some cases, the termination of business relations shall be performed with the financial institutions not complying with standards referred to in Recommendation VII.</p> <p>Banks in Montenegro as bearers of national and international payment systems shall, pursuant to Articles 7 and 71 of the LPMLTF, identify client (legal or natural person) prior to execution of transaction and obtain all prescribed data and/or following data and information:</p> <ul style="list-style-type: none"> <li>- name of the company, address, registered office of the company and personal identification number of the legal person, that establishes business relationship or executes transaction, or legal person for whom is established business relationship or executed transaction;</li> <li>- name, address of permanent residence or temporary residence, date and place of birth and tax ID number of a representative or an authorised person, that for a legal person or other juristic person conclude the business relationship or execute</li> </ul>
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	<p>transaction, number, kind and name of the authority that issued the personal documents;</p> <ul style="list-style-type: none"> <li>- name, address of permanent residence or temporary residence, date and place of birth and tax ID number of an authorised person, which requires or executes transaction for a customer, and number, kind and name of the competent body that issued the personal documents;</li> <li>- name, address of permanent residence or temporary residence, date and place of birth and tax ID number of natural person or tax ID number of its representative, entrepreneur or natural person carrying out activities, and that establish business relationship or execute the transaction, or natural person, for which is established business relationship or executed transaction, and number, kind and name of the competent body that issued the personal documents;</li> <li>- date and time of executing transaction ;</li> <li>- the amount of transaction and foreign currency of transaction that is executed;</li> <li>- the purpose of transaction and name and address of permanent residence or temporary residence, registered office of the company and residence of the person to which transaction is intended;</li> <li>- method of executing the transaction;</li> <li>- data on assets and income sources, that are or will be the subject of transaction or business relationship.</li> </ul> <p>Pursuant to Article 86 and with respect to Article 4 points 1, 2, 3, 10 and 13 of the LPMLTF, the Central Bank oversees the implementation of this law and enabling regulations and imposes measures against banks violating LPMLTF.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p><b>The Central Bank of Montenegro</b> passed the Decision on Mandatory Elements of the Payer` Transfer Order (OGM 15/11).</p> <p>The Decision was passed with a view to transposing the Regulation 1781/2006 of the European Parliament and Council aiming to prevent, investigate and detect the cases of money laundering and terrorist financing, and to apply the FATF`s <b>Special Recommendation VII</b>.</p> <p>This Decision is enclosed to the questionnaire.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>The recommendations are accepted and due to that in Article 11 of the Bill on Changes and Amendments to the LPMLTF a new Article 12a defining obligation for a reporting entity, engaged in payment operations services or money transfer, to obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer.</p> <p style="text-align: center;">“Wire transfers Article 12a</p> <p>A reporting entity engaged in payment operations services or money transfer services shall obtain accurate and complete information on the originator and enter them into the form or message related to wire transfers of funds sent or received in any currency that is the subject of the wire transfer.</p> <p>The data from paragraph 1 of this Article shall remain with the funds transfer through the payment chain.</p> <p>A provider of payment operations or money transfer services, that is an</p>

	<p>intermediary or beneficiary person of the funds, shall refuse to transfer the funds unless the originator data are complete or shall require the originator data to be completed within the shortest time possible.</p> <p>In the process of gathering the data from paragraph 1 of this Article, providers of payment operations or money transfer services shall identify the originator by checking a personal identification document issued by a competent authority.</p> <p>The content and type of the data from paragraph 1 of this Article, and other obligations of the providers of payment operations or money transfer services, as well as the exceptions from data gathering requirement when transferring funds that present insignificant risk of money laundering and terrorist financing, shall be more specifically regulated by a regulation of the Ministry.“</p> <p>Pursuant to Article 16 of the Law on National Payment Operations, (OGM 61/08), The performing institution shall be obliged to archive and keep the electronic data on executed transfers for ten years from the date of the execution of the transfer.</p>
(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>On 27th November 2012, In accordance with the article 12 a paragraph 5 of the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of the Republic of Montenegro ", No. 14/07 and 14/12), The Ministry of Finance adopted</p> <p><b>RULEBOOK ON CONTENT AND TYPE OF PAYER’S DATA ACCOMPANYING ELECTRONIC FUNDS TRANSFER</b> that contains standards defined by Regulation (EC) no 1781/2006 of the European Parliament and of the Council. This RULEBOOK is enclosed to the questionnaire.</p> <p>Note: The Central Bank of Montenegro declared null and void the Decision on Mandatory Elements of the Payer` Transfer Order (OGM 15/11), that was a transitional solution until the adoption of the Law on Amendments and Changes to the Law on Prevention of Money Laundering and Terrorist Financing (OGM 14/12). In accordance with the article 12 a paragraph 5 of the Law on the Prevention of Money Laundering and Terrorist Financing ("Official Gazette of the Republic of Montenegro ", No. 14/07 and 14/12),The Ministry of Finance adopted <b>RULEBOOK ON CONTENT AND TYPE OF PAYER’S DATA ACCOMPANYING ELECTRONIC FUNDS TRANSFER</b> (OGM br.60/12).</p>

<b>Special Recommendation VIII (Non-profit organisations)</b>	
<b>Rating: NC</b>	
Recommendation of the MONEYVAL Report	<i>Montenegro should conduct a review of the adequacy of its legal framework that relates to NPOs that can be abused for terrorism financing.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The New Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07) was adopted in June of 2011., and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.
(Other) changes reported as of 16 March 2010	<p><b>Normative framework</b></p> <p>The Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07), regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.</p> <p>Non-governmental organisations shall be non-governmental associations and non-governmental foundations.</p> <p>A non-governmental association is defined as ‘a nonprofit organisation with</p>



	<p>members, founded by domestic and foreign physical persons and legal entities, in order to realise individual or common interests or for realisation and affirmation of public interest.’</p> <p>A non-governmental foundation is ‘a nonprofit organisation without members, founded by domestic and foreign physical persons and legal entities, for pooling resources and assets in order to realise charitable and other activity, which are of public interest and importance.’</p> <p>According to the provisions of this Law, non-governmental organisations are not political organisations, religious communities, trade union organisations, sport organisations, business associations, and organisations and foundations whose founder is the State.</p> <p>The changes and amendments of the Law on NGOs from 2007 precisely define the terms under which an NGO can perform its business activity.</p> <p>Certain issues related to the operating of NGOs are regulated by other laws:</p> <p>The Law on Tax on Profit of Legal Persons (Official Gazette MNE No. 80/04) defines non-taxable profit of NGOs; Law on Administrative Taxes (Official Gazette MNE No. 80/04) that liberates NGOs from paying taxes and fees for accomplishing the goals they are set for; Law on Value Added Tax (Official Gazette MNE No.80/04) that, under certain conditions, liberates from paying taxes of NGOs services; Law on Property Sales Tax (Official Gazette MNE No. 80/04) prescribes that this tax shall not be paid by NGOs for the real estates they use for performing the activities they are founded for; Law on State Administration (Official Gazette MNE No. 38/03) and Law on Local Self-Government (Official Gazette MNE No.13/06) regulate the relations between the state administration authorities, or local self-government authorities and NGOs. These laws define the obligation of appropriate consulting of NGOs in the procedure of preparing and adopting laws, bylaws and other regulations and enactments, as well as development projects and programs; Law on Games of Chance (Official Gazette MNE No. 52/04) prescribes that a part of the profit from games of chance shall be used for financing the projects of NGOs and other organisations, and the Government adopted the Bill on Changes and Amendments of the Law on Games of Chance, that precisely defines the amount of at least 75% of the profit from games of chance that shall be used for financing the plans and programs of NGOs and other organisations.</p> <p>4200 NGOs are registered in Montenegro (the number has the tendency of growth, and it has been changing on daily basis). The registration and the register of NGOs are kept by the Ministry of Interior Affairs and Public Administration.</p> <p>The financing made by the state is done in accordance with the Law on NGOs and the Law on Games of Chance through public announcements, and the decisions are made by the Commission of the Montenegro Parliament and the Government Commission established in accordance with these laws.</p> <p><b>Institutional framework</b></p> <p>In the beginning of 2007 the Government of Montenegro established the Office for Co-operation with NGOs, which functions as an internal organisational unit of the General Secretariat of the Government.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p><b>Normative framework</b></p> <p>The New Law on Non-Governmental Organisations (Official Gazette of Montenegro No. 11/07) was adopted in June of 2011., and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.</p> <p>Non-governmental organizations shall be non-governmental associations, non-governmental foundations and foreign organizations.</p> <p>Non-governmental association is a non-profit membership organisation, which can</p>

	<p>be established by domestic and/or foreign natural and/or legal persons for the purpose of accomplishing certain common or public goals and interests. Association may be established by at least three persons, out of which one shall have domicile, residence or head office in Montenegro.</p> <p>A non-governmental foundation is a voluntary non-profit organization without membership, which can be established by a domestic and/or foreign natural and/or legal person with or without initial assets, for the purpose of accomplishing public goals and interests. A foundation may be established by a single person or more persons regardless of their domicile, residence or head office in Montenegro. A foundation may also be established by a will.</p> <p>Foreign organization, for the purpose of this Law, shall mean non-governmental organization with the status of legal person, whose head office is in other country, and which has been founded in accordance with regulations of that country for the purpose of accomplishing common or public goals and interests.</p> <p>In this moment in Montenegro exist approximately 6000 NGOs. Register of associations, register of foundations and register of foreign organizations in shall be kept in written and electronic form by the Ministry of interior. Registration of non-governmental organization in the Register shall be performed based on the application for registration. Non-governmental organization has the status of legal person which it shall obtain on the day of registration. Decision on registration and decision on deletion from the Register shall be published in the “Official Gazette of Montenegro”.</p> <p>Non-governmental organization acquires property from membership fees, donations, gifts, financial subventions, inheritances, interests on bank deposits, dividends, lease, and revenues realised from economic business activities and other income generated from any lawful activities.</p> <p>Non-governmental organisation, which has realised on all grounds during the calendar year revenues higher than 10.000,00 EUR shall publish at its website its annual report adopted by the competent body of that organisation, within ten days from adoption of the report.</p> <p>Law on PMLTF is one of the rare Laws in Europe and beyond that defines that Non-governmental organizations, as reporting entities under the LPMLTF, are obliged to take measures for detection and prevention of money laundering and terrorist financing.</p> <p>Furthermore, Article 86 of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to the Law on NGOs.</p> <p>Currently in Montenegro exist approximately 2895 NGOs. Number of NGOs has decreased since the last reporting. Namely, non-governmental organisation registered in the Register according to provisions of the Law on Non-Governmental Organisations (“Official gazette of RoM” No. 27/99 and 30/02 and “Official gazette of Montenegro” No.11/07), were required to harmonise their bylaws with new Law to 13th August 2012. Non-governmental organisation which does not proceed in accordance with this obligation were deleted from the Register.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Montenegro should implement measures to ensure that terrorist organisations cannot pose as legitimate NPOs.</i></p>

Measures reported as of 16 March 2010 to implement the Recommendation of the report	No significant measures have been taken
Measures taken to implement the recommendations since the adoption of the first progress report	<p>Law on PMLTF defines that Non-governmental organisations, as reporting entities under the LPMLTF, are obliged to take measures for detection and prevention of money laundering and terrorist financing.</p> <p>Furthermore, Article 86 of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law.</p> <p>Also, Reporting Entities Control Department of the APMLTF, in accordance with the Law on PMLTF and Law on inspection control conducts control with the designated reporting entities. The list of reporting entities supervised by APMLTF is defined in Article 4, item 14 and 15 of the LPMLTF and in Articles 14, 15 and 16 of the Law on inspection control define Authorities of Inspectors, Obligations and authorities in eliminating the irregularities and Administrative measures and actions that can be performed during the control.</p> <p><b>Additional explained in the part that refers to Normative framework:</b></p> <p>The New Law on Non-Governmental Organizations (Official Gazette of Montenegro No. 11/07) was adopted in June of 2011., and regulates the issues of procedure, registration, terms and forms of associations of citizens in Montenegro.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>Montenegro should also reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the administration and management of all NPOs.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	No significant measures have been taken
Measures taken to implement the recommendations since the adoption of the first progress report	<p>Law on Non-Governmental Organizations defines following:</p> <p>Non-governmental organisation shall be deleted from the Register:</p> <ol style="list-style-type: none"> <li>1) if the period for which it was founded expires, within three days from the last day of that period;</li> <li>2) based on the decision on termination of operations, within three days from the submission of that decision to the Ministry by the authorised representative of organization;</li> <li>3) based on the decision to prohibit the work of non-governmental organization, within three days from the day this decision is published in the "Official Gazette of Montenegro". The decision to prohibit the work of non-governmental organization adopt the Constitutional Court of Montenegro (Law on the Constitutional Court of Montenegro, Official Gazette of Montenegro", No. 64/2008). The proceedings deciding to ban the work of a non-governmental</li> </ol>

	<p>organization shall be initiated by a proposal which, within their competences, may be submitted by: the Protector of human rights and liberties; the Council of Defense and Security; state administration authority in charge of protection of human and minority rights; state administration authority in charge of entry of a non-governmental organization in the registry. The Constitutional Court may ban the work of a political party or of a non-governmental organization if their activities are directed or aimed at violent destruction of constitutional order, infringement on the territorial integrity of Montenegro, violation of human rights and freedoms or instigating of racial, religious and other hatred and intolerance.</p> <p>4) based on the decision to finish the bankruptcy proceeding or the voluntary liquidation proceeding in summary proceedings in accordance with laws regulating the bankruptcy proceedings or voluntary liquidation, within three days from the day of deletion from the Company Register.</p> <p>Association shall also be deleted from the Register upon request of the member of association, if the number of members of association is reduced below the minimum number of founders stipulated by the law, when competent body of the association does not render a decision on admission of new members within the period of one year.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>Montenegro should take more proactive steps to promote effective supervision or monitoring of NPOs. Authorities should ensure that detailed information on the administration and management of NPOs are available during the course of an investigation or on request internationally. Montenegro should also implement effective sanctions for violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	The Administration for the Prevention of Money Laundering and Terrorist Financing, within its defined competences, supervises humanitarian organisations, NGOs and NPOs regarding the implementation of the LPMLTF and the bylaws adopted upon this Law. The supervision is carried out through the compliance officer, in accordance with the law regulating the issue of supervision
Measures taken to implement the recommendations since the adoption of the first progress report	<p>Article 86 of the LPMLTF defines that APMLTF shall conduct supervision over NGO in relation to implementation of the Law on PMLTF and regulations passed in accordance with this Law.</p> <p>In Articles 45, 46, 47, 48 and 49 of the Bill on Changes and Amendments to the LPMLTF (it refers to Articles 92,93,94,95 and 96 of the current Law) Penalty provisions are amended. These provisions refer to all reporting entities under the LPMLTF as well as to NPOS.</p>
Measures taken to implement the recommendations since the adoption of the second progress report	The mentioned change is introduced in the current Law on PMLTF ( see Articles 92 -96).
(Other) changes since the second progress report (e.g.	Article 86 (Supervision) and Articles 92-96 (Penalty provisions) of the current Law on PMLTF are changed and in the Proposal of the Law the mentioned provisions are defined under Articles 93 (Supervision ) and 98-103(Penalty provisions). These

draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	provisions refer to all reporting entities under the LPMLTF as well as to NPOs.
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<b>Special Recommendation IX (Cross Border declaration and disclosure)</b>	
<b>Rating: PC</b>	
Recommendation of the MONEYVAL Report	<i>The Customs Administration should be given clear powers to stop individuals and restrain currency in all circumstances.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>The customs control of cross border money transferring is prescribed by the following:</p> <ul style="list-style-type: none"> <li>• Law on Foreign Current and Capital Operations (“Official Gazette of the Republic of Montenegro, No. 45/05, 62//08),</li> <li>• Decision on the amount of cash that can brought in or out of the Republic of Montenegro without declaring- Official Gazette of the Republic of Montenegro, No.58/05),</li> <li>• Law on the prevention of money laundering and terrorist financing (“- Official Gazette of the Republic of Montenegro, No.14/07, 4/08)</li> <li>• Rulebook on the Manner of Reporting Cash Transactions exceeding €15,000 or more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing (Official Gazette of the Republic of Montenegro, No. 79/08).</li> </ul> <p>In accordance with valid regulations, residents and non-residents are obligated to report physical bringing in or out of currency at place of entry or exit to/from Montenegro. Physical persons, Le. residents and non-residents, in passengers traffic with foreign countries, can bring in or out the amounts up to 2000 € (in euro or other currency) without reporting it to the customs authorities. The amount exceeding 2000 € is reported to the border customs authority.</p> <p>Pursuant to the Article 66 of Law the Customs Administration is obligated to submit to the Administration for the prevention of anti-laundering information on every cross-border transport of money, checks and bearer negotiable instruments, precious metal and precious stones, in value exceeding 10,000 Euro, within 3 days following the cross-border transport. (Official Gazette of Montenegro 14/07).</p> <p>In accordance with the above Law, Customs Administration is obligated to submit to the Administration for the prevention of anti-laundering information on every cross-border transport or attempt to transfer money, checks and bearer negotiable instruments, precious metal and precious stones, in value below 10,000 Euro, if there is a suspicion of money laundering or terrorism financing.</p> <p>Reporting forms, which we previously used, was addendum to the Agreement on co-operation between the Administration for the Prevention of Anti-laundering and Terrorism Financing and the Customs Administration, from October 2004.</p> <p>Since 31 December 2008 when the Rulebook on providing data on cash operations of value of or exceeding 15,000 € and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing entered into force (Official Gazette of Montenegro 79/08) we are using new form - FORM 06 for Customs authorities, which was printed together with the Rulebook and represents its integral part.</p>
Measures taken to	- Decision on the amount of cash that can be brought in or out of Montenegro

<p>implement the recommendations since the adoption of the first progress report</p>	<p>without declaring (Official Gazette of Montenegro 38/10). On the day of entering into force of this Decision, the Decision on the amount of cash that can brought in or out of the Republic of Montenegro without declaring (Official Gazette of Montenegro 58/05) ceases to be valid. Consequently, resident or non-resident can, physically entry or exit in/out of Montenegro without declaring means of payment in the value up to 10.000 Euro or in that value converted from the currency other than euro.</p> <p>- Rulebook on detailed evidence on performed controls of physical entry and exit of means of payment across state border (Official Gazette of Montenegro 35/11). This Rulebook closely defines the records on conducted controls of physical entry or exit of means of payment at the locations of entry or exit in/out of Montenegro. The records on conducted controls of physical entry or exit of means of payment in the value exceeding 10.000 Euro or in that value converted from the currency other than euro, during the entry or exit in Montenegro, on the reporting form, which makes the integral part of this Rulebook.</p> <p>In accordance with the referred Rulebook, the Customs Administration of Montenegro has posted the Notification on method of declaring physical entry and exit of means of payment at visible location at border crossings.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The Customs Administration should have the legal authority to restrain currency in cases of an administrative offence.</i></p>
<p>Measures reported as of 16 March 2010 to implement the Recommendation of the report</p>	<p>Valid legal regulations (Law on Foreign Current and Capital Operations, Official Gazette of the Republic of Montenegro 45/05, 62/08, Official Gazette of Montenegro 62/08, Decision on the amount of cash that can be brought in or out of the Republic of Montenegro without declaring- Official Gazette of the Republic of Montenegro 58/05, Law on Prevention of Money-laundering and terrorism financing - Official Gazette of Montenegro 14/07, 4/08, Rulebook on providing data on cash operations of the 15,000 € value or more and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing Official Gazette of Montenegro 79/03) prevent Customs Administration to keep funds in the cases of administrative offences.</p> <p>During the period 1 March 2009 - 31 December 2009, Customs Administration had four cases of non-declaring currency by persons entering or exiting territory of Montenegro. In all four cases, persons who didn't declare the currency to the customs authority were fined in accordance with Article 15, Paragraphs 1 and 3 of the Law on Foreign Current and Capital Operations, with adequate pecuniary fines.</p> <p>During the period from 1 March 2009 - 31 December 2009, Customs Administration has forwarded 144 reports on transport of money, checks and bearer negotiable instruments, precious metal and precious stones, as divided per months: March- 14, April- 16, May - 16, June - 19, July - 15, August - 11, September - 19, October - 11, November - 9 and December - 14.</p> <p>Also, during the period 1 March 2009 - 31 December 2009, Customs Administration has provided information on 26 instances on suspicious transactions to the Administration for the Prevention of Anti-laundering and Terrorism Financing .</p>
<p>Measures taken to</p>	<p>During 2010 and 2011 the Customs Administration Montenegro detected 11 cases</p>

implement the recommendations since the adoption of the first progress report	of non-declaring currency at the border crossings. Against all offenders were filed misdemeanour charges. In all cases the persons who failed to declare currency to the customs authority are sentenced with adequate pecuniary fines, in accordance with the Article 15, Paragraphs 12 and 3 of the Law on Foreign Current and Capital Operations. In accordance to the valid legal provisions, Customs Administration has no mandate to hold the currency in case of administrative offence.
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>The Customs Administration should take into consideration a system to use reports on currency declaration in order to identify money launderers and terrorists.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Customs administration is keeping records of all reports made by all customs officers on the territory of Montenegro, which is later forwarded to the Administration for the prevention of anti-laundering.</p> <p>In case of suspicion of money laundering, regardless of amount of cash, or value of checks and bearer negotiable instruments, precious metal and precious stones, transported across the border, the customs officer at border crossing is obligated to immediately inform the officers in Customs Enforcement sector. Afterwards, the information, i.e. the report, using the same form is submitted to the Customs Enforcement sector, which shall forward it to the Administration for the prevention of anti-laundering, within 3 days from transport, as legally required.</p> <p>Pursuant to the Article 69 of Law on prevention of money laundering and terrorism financing, Customs Administration is obligated to inform the Administration for the prevention of anti-laundering information on annual basis, and until the end of January at the latest, on its observations and undertaken activities related to the transactions suspicious of money laundering or terrorism financing.</p> <p>Articles 74 and 75 of this Law prescribed the records, which the Customs Administration is obligated to keep, as well as its contents. The Customs Administration is obligated to keep the records for 11 years after its collection, and such information is being destroyed after the expiry of that deadline.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>Customs Administration is keeping records of all reports made by the competent customs officers on whole territory of Montenegro, which are later forwarded to the Administration for prevention of money laundering.</p> <p>Specifically, in the case of suspicion of money laundering, regardless of the amount of currency, checks and bearer negotiable instruments, precious metal and precious stones transferred across the state border, the customs officer at the border crossing shall notify the officers from the Sector of customs enforcement. Afterwards, the data, i.e. the report using the Form 06 in the Rulebook on providing data on cash operations of value of or exceeding 15,000 € and suspicious transactions to the Administration for Prevention of Money-laundering and terrorism financing (Official Gazette of Montenegro 79/08), is submitted to the Sector of customs enforcement, which is forwarding to the Administration for Prevention of Money-laundering, within the legally prescribed deadline of 3 days after the transfer.</p> <p>In 2010 Customs Administration submitted to the APML 386 reports on cross border transfer of currency, payment instruments etc.</p> <p>In 2011 Customs Administration submitted to the APML 358 reports on cross border transfer of currency, payment instruments etc.</p>

	In 2010 Customs Administration submitted to the APML 15 suspicious transaction reports and 11 suspicious transaction reports in 2011.
Measures taken to implement the recommendations since the adoption of the second progress report	In 2012 Customs Administration submitted to the APML 397 reports on cross border transfer of currency, payment instruments etc.
Recommendation of the MONEYVAL Report	<i>The administrative sanctions for false declarations or non-declared currency should be raised considerably. Taking into account the low chance of detection, the fines are not considered to be dissuasive or effective.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	All the cases of finding currency that was not declared at the moment of crossing border are processed to the competent organisational unit of the customs administration and the offenders are sentenced administrative fines, pursuant to the Article 15 of the Law on Foreign Current and Capital Operations, which lay down the amount of fine.
Measures taken to implement the recommendations since the adoption of the first progress report	There were no changes in relation to this response.
Measures taken to implement the recommendations since the adoption of the second progress report	There were no changes in relation to this response.
Recommendation of the MONEYVAL Report	<i>In order to increase its effectiveness, the Customs Administration should hire more specialised staff to deal with money laundering and terrorist financing cross-border transportation of currency.</i>
Measures reported as of 16 March 2010 to implement the Recommendation of the report	<p>Customs Administration in 2009 continued with comprehensive training of customs officers in the area of money laundering and terrorism financing. Customs officers working in customs offices at the border or at airports, together with officers from the Department of prevention of smuggling that belong to headquarters and two officers appointed in accordance with Article 1 of the Agreement between the Administration for the prevention of anti-laundering and Customs Administration, to act as liaison officers and official contact points for the Administration for the prevention of anti-laundering, are employees of customs administration involved in control of bringing in or out of domestic or foreign currency.</p> <p>We would like to note that positive legal regulations are defining the amount of administrative fines for false impersonation or non-declaring currency, and that it prevents the Customs Administration from withholding funds from fines in cases of administrative offences, and provide recommendations in the section related to amendment of existing legal acts in jurisdiction of the Ministry of Finance.</p> <p>In the period from 1<sup>st</sup> March to 31<sup>st</sup> December 2009 the Customs Administration had four cases of non declaring cash by persons entering and leaving the territory of Montenegro. In all four cases persons that failed to declare money are penalized, by appropriate fines, in accordance with Article 15 paragraph 1 and 3 of the Law on Foreign Current and Capital Operations.</p> <p>Since 31<sup>st</sup> December 2008 when the Rulebook on the Manner of Reporting Cash</p>



	<p>Transactions exceeding €15,000 or more and Suspicious Transactions to the Administration for the Prevention of Money Laundering and Terrorist Financing, the Customs Administration uses the new form (Form 06 for customs authorities) and it is the integral part of the Rulebook.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>Within the referred period of time, The Customs Administration has participated at the meeting organized for the purpose of exchanger of information related to the money laundering and terrorism financing, which was organized within the ET Twining project of Bulgaria, Central Bank of the Netherlands and supervisory authorities of Montenegro, held on 18/04/2011 in the premises of the Central Bank of Montenegro.</p> <p>The custom administration also participated at the workshop entitle “investigations of money laundering” held within the »ILECUS 2« project, and topics f the workshop were: investigations of money laundering, legal framework which defines the investigations of money laundering, comparable practice and practical experience of Austria in investigations and criminal prosecution related to the money laundering, international cooperation in the investigation of money laundering and financial investigation, identification of gains from criminal activities-relationship between the investigations of money laundering and financial investigations. The workshop was held on 19-21 April 2011, in Budva, and the lecturers were eminent experts in this line of works from the criminal police of Austria, as well as manager of ILECU’s project for Montenegro.</p> <p>We would like to note that customs officers deployed in border customs offices and at airports, together with the customs officers from the Anti-smuggling Department, as well as two officers selected in accordance with the Article 1 of the Agreement between the Administration for the prevention of Money laundering and Customs Administration to be liaison officers and official contact pints with APML, are presenting the staff of customs administration involved in the control of entry and exit of domestic and foreign means of payment.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>(Other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>There were no changes in relation to this response.</p>

## 2.4 Specific Questions

1. Have any steps been taken to introduce a reversal of the burden of proof regarding property subject to confiscation?

In August 2009, the Parliament of Montenegro adopted new Criminal Procedure Code (Official Gazette of Montenegro no 57/09) in which it is prescribed reversed burden of proof in order to extend confiscation of the property (confiscation of property whose legal origin has not been proved). In the article 486-489 of the CPC it is prescribed

*„after the finality of the judgment finding the accused person guilty of the criminal offence for which Criminal Code prescribes the possibility of extended confiscation of property from the convicted person, his legal successor or the person to whom the convicted person has transferred the property and who cannot prove the legality of its origin, the State Prosecutor shall, at the latest within one year, submit the request for the confiscation of the property of the convicted person, his legal successor or the person to whom the convicted person has transferred the property for which there is no evidence on the legality of its origin.“*

Those articles in the CPC are procedural norms and for their implementation there is a need for the change of the existing Criminal Code and to have the institute of extended confiscation of property. According to this, in the proposal of the changes of Criminal Procedure Code there are three new paragraphs and the Article 113 is now:

„ (1) Money, things of value and all other property gains obtained by a criminal offence shall be confiscated from the offender; should such a confiscation be not possible, the perpetrator shall be obliged to pay for the monetary value of the obtained property gain.

(2) property for which there is founded suspicion that derives from the criminal activity shall be confiscated from the offender unless the offender makes it probable legality of its origin (extended confiscation)

(3) Confiscation from the paragraph 2 of this Article can be applied if the offender is finally convicted for -some of the criminal offence from the Article 401 a of this Code that was committed within the criminal organisation;

- some of the following criminal offences:

1) terrorism

2) Non authorised production, keeping and releasing for circulation of narcotics;

3) against payment operations and economic transactions and against official duty committed out of lucrative for which it is the penalty of 8 years or more of the imprisonment can be imposed

(4) Property from the paragraph 2 of this article can be confiscated if it is gained from the criminal activity in the period of 5 years before the committing the crime from the paragraph 3 of this article and/or after committing criminal offence until the judgment is final.

(5) A material gain obtained by a criminal offence shall also be confiscated from the persons it has been transferred to without compensation or against compensation that is obviously inadequate of its real value

(6) Confiscated shall also be any property obtained by a criminal offence in favor of other persons.”

2. Since the on-site visit, have any steps been taken to expand access by the APMLTF to other authorities databases?

The APMLTF, Police Directorate, Department of Public Revenues and Customs Directorate, with the help of: OSCE Mission to MNE, Customs and Fiscal Assistance Office (EU) – CAFAO, United Nations Office on Drugs and Crime – UNODC, Swedish National Police Board, International Criminal Investigative Training Assistance Program – ICITAP, US Embassy and British Embassy, harmonised the model of joint office for coordination and intelligence data exchange- with working title “ National coordination office for the state administration. The Working group adopted the Conclusion that the conditions for establishing this office are fulfilled and send the letter to the Prime Minister of Montenegro (directors of

all involved state administration authorities has signed this letter) suggesting the specific measures. The Prime minister has forwarded the suggestion to the Ministry of Internal Affairs and Public Administration so that the national office could be established. The establishing of this office will enable data exchange between: the Administration for the Prevention of Money Laundering and Terrorist Financing, Police Directorate, Department of Public Revenues and the Customs Administration  
 Department of Public Revenues possesses appropriate software and data base that enables collecting, analysing and forwarding data. This data base is upgraded continuously and upon the appropriate requests is available to all authorities involved in the system of prevention of money laundering and terrorist financing .

3. *Has an updated list of suspicious transaction indicators been issued to obligors? If so, when was the list last updated? Furthermore, does APMLTF now provide regular general feedback to all obligors containing:*

- (a) *statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;*
- (b) *information on current techniques, methods and trends (typologies); and*
- (c) *sanitised examples of actual money laundering cases.*

Yes .

Rulebook on Indicators for recognising suspicious clients and transactions ("Official Gazette of Montenegro " No. 69/09, from 16th October 2009) adopted by Ministry of Finance and due to that the following List of indicators for recognising suspicious clients and transactions was established :

- List of Indicators for banks,
- List of Indicators for capital market,
- List of Indicators for the Customs Administration,
- List of Indicators for the Department of Public Revenues,
- List of Indicators for leasing companies,
- List of Indicators for auditors,
- List of Indicators for accountants,
- List of Indicators for lawyers and
- General indicators.

Department of Public Revenues, in relation to risk assessment on money laundering and terrorist financing and instructions sent to the inspection control subsidiaries, obliged the tax inspectors to check the origin, purpose of the business relationship and transaction in accordance with the List of Suspicious Transactions Indicators, to the greatest extent possible. The real-estate and construction sectors are designated as specific sectors.

*Furthermore, does APMLTF now provide regular general feedback to all reporting entities containing:*

The APMLTF provides information, in written form, to the reporting entity or other requester, on obtaining and analysing data, information and documentation related to persons or transactions for which there are reasonable grounds for suspicion in criminal offence of money laundering or terrorist financing except in case when it is assessed that such informing could have harmful effects for the process and outcome of the procedure .

APMLTF provides feedback on results of the actions that are undertaken upon the STRs submitted by reporting entities. For the purpose of data confidentiality and data secrecy the feedback breakdown is given in statistical form. The breakdown is made in total and individually for each reporting entity. It includes the number of analytical cases opened on the basis of STRs.

In 2009 the APMLTF has sent 38 feedback information to the reporting entities and in 2010 three information are sent.

**2009**

Commercial Banks	42 feedback information
Lawyers	1 feedback information
Capital city of Podgorica	1 feedback information

SEC	2 feedback information
<b>2010</b>	
Securities Commission	1 feedback information
Insurance company	1 feedback information
Customs administration	1 feedback information

(a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;

(b) information on current techniques, methods and trends (typologies);

APMLTF established, based on analysis, money laundering typologies that are presented to the compliance officers and employees with the reporting entities that have a direct contact with customers.

The following business activities are designated, on the basis on present experience, as high risk areas from the aspect of money laundering and terrorist financing :

- Real-estate trade,
- Construction business,
- Service providing companies,
- Capital market,
- Organisers of games of chance
- Sport organisations

In relation to the above mentioned business activities, APMLTF processed cases related to numerous legal and natural persons, residents and non-residents, and achieved a significant co-operation with foreign FIUs. After analysis performed these cases are forwarded to the competent state authorities or foreign FIUs.

According to feedback information, the significant number of cases resulted with police investigations, bringing indictments for the criminal offence of money laundering and other criminal offences and final court decisions for other criminal offences related to money laundering.

*Real-estate trade:*

- Fictitious contracts– contract cancellation right after concluding the contract. Presenting the same land parcels as the subject of sale in the contract and under the different conditions.
- Fictitious contracts where unreal –false price is presented in the contract or by direct bargain between seller and buyer where seller consent not to record the status in ownership change at the ownership registry (obtaining property rights is not recorded)
- Founding capital increase without recording changes of the status documentation at the Commercial Court (provision of the Law) and afterwards withdrawing cash from the account in the same amount (deposited).

*Construction business:*

- This business activity is related to the real estate trade.
- Using cash for constructing buildings
- Making contract on selling buildings that are neither constructed nor in the starting phase of construction.
- Fictitious Companies
- Illegal founding of legal persons
- Parallel – linked companies (the same persons are founders and representatives)
- Non existing companies

- Non available companies (non-residents)
- Transactions that do not correspond with the business activity for which the company is registered by the range of business activity or natural person does not have a company and the natural person is unemployed but on its account are recorded enormous inflows without the clear purpose of transaction.

\*(I Case study from practice: 2 resident and 2 non resident natural persons from the neighbor country. The case is forwarded to the Police directorate and State Prosecutor's Office and afterwards assets were confiscated and natural persons were arrested. There was a significant co-operation with the foreign FIU.

A natural person, without criminal records, has been engaged by criminal group and (with benefits) this natural person is used for opening account and enormous inflows from abroad and afterwards withdrawal and cash payments to the members of this criminal group in order to conceal the trace .

\*( II Case study related to alleged spot managers when high amounts were sent from abroad for football transfers. There was a significant co-operation with the foreign FIU. The FIU confirmed that the case has been pursued and that our information was used in the court process.

( III Case study : presenting enormous amounts as alleged prize from games of chance (betting house) The case has been pursued.

- Loans from companies
- Magnified invoice value(disproportional expenses)
- In relation to the capital market :
- Block businesses

These business activities are used with the aim of justifying the origin of money that would be gained by sail (on the capital market), after direct agreement between stock exchange market clients(buyer and seller) about the stock price and in the manner that the price would be unrealistically high or low.

#### *Services providing companies*

- TAXI associations ( registration of unrealized profit from providing services) delivered to the Department of Public Revenues and APMLTF due to reasonable grounds of suspicion in other criminal
- Catering companies (forwarded to the Tax Administration ) registration of unrealized profit from providing goods and services

*Transferring non-declared TRAVELLERS checks* (amounts in million of euros) across the state border and attempt of converting checks at banks in Montenegro. This case has been forwarded to the Police Directorate) and

(c) sanitised examples of actual money laundering cases.

At trainings, seminars and round tables organised by APMLTF case studies and sanitised examples are jointly presented and analysed.

*4. Please explain the arrangements for co-operation between policy makers, FIU, law enforcement and supervisory bodies at a strategic level. At the operational level, have additional formal agreements been concluded in order to define the type of information to be exchanged, timeliness of the exchange, the names of contact person, etc.?*

On 19<sup>th</sup> February 2010 APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration signed the MoU in prevention and prosecution of offenders related to organised crime and corruption. The MoU defines obligations, general rules and terms of forming and working of the joint team that will act in special cases of organised crime and corruption. The team, whose work will be coordinated by the Supreme State Prosecutor, is composed of representatives of APMLTF, Supreme State Prosecutor's Office, Police Directorate Department of Public Revenues and Customs Administration, who will be appointed for the period of three years.

With a view to establishing better co-operation between the Supreme State Prosecutor's Office and Police Directorate, and according to the evaluators' recommendations, the Memorandum on Understanding and information exchange related to prevention, detection and prosecution of offenders prosecuted ex officio.

The Memorandum refers to co-operation and acting in pre-trial criminal and criminal procedure, especially to:

1. direct communication between the competent state prosecutor and the competent officer of the Police Directorate
2. forming ad hoc joint teams for complex investigations
3. ensuring procedure and data secrecy

Signing the Memoranda of understanding related to preventing, detecting and prosecuting the offenders in the area of organised crime and corruption, is planned and it will be signed by State Prosecutor's Office, Police Directorate, APMLTF, Department for Public Revenues and Customs Administration.

Signing the memoranda of understanding between the APMLTF and Deposit Protection Fund is planned as well as innovation of the MoU between APMLTF and CBM. There are designated representatives of these institutions that will prepare the text of the new MoU.

On the basis of analysing the assessment of needs for concluding new bilateral Memoranda, the APMLTF has, for the forthcoming period, planned innovating memoranda with Central Bank of Montenegro(CBM) and signing the new memoranda with the supervising authorities from Article 86 of the LPMLTF . In March 2009 the APMLTF signed MoU with the State Audit Institution of Montenegro. Previously signed MoUs between the APMLTF and Customs Administration, Securities Commission, Ministry of Interior and Public Administration, Department for Public Revenues, CBM and basic Court in Podgorica, are fully applied. The co-operation with the Police Directorate and State Prosecutor's Office is achieved through daily communication.

The establishment of the National coordination office for the state administration is in progress.

The time period for exchange of information is prescribed by the LPMLTF, Article 50 of the LPMLTF:

*State authorities and public powers holders shall provide the requested data, information and documentation to the competent administration body without delay, and not later than eight days after the day of receiving the request, or enable, without compensation, direct electronic access to data and information stated in the request.*

(In relation to supervision Article 89 of the LPMLTF „Bodies from Article 86 of this law shall inform the competent administration body on measures taken in process of supervising in accordance with this Law, and within 8 days from the date on which the measures were taken. )

The APMLTF and Ministry of Interior agreed, due to MoU signed in 2004, that in these institutions shall be designated an officer and its deputy that will be the official contact person for co-operation between these institutions.

On 17th February 2009 Securities commission signed IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Co-operation and the Exchange of Information. With signing this memorandum Securities and Exchange Commission become included into the international network of supervisors and provided a significant asset in acting upon taking measures on the international level. Signing this MoU shows the capability of the Securities and Exchange Commission to ensure harmonisation with regulations and full implementation of regulations related to securities. Also, the MoU confirms capacities and readiness of the Securities and Exchange Commission to provide the greatest possible assistance to the international regulators of the securities market in order to facilitate their work on the securities market. Signing this MoU is a significant step for SEC since it enables the Commission to exchange information with all relevant world wide jurisdictions and leads Montenegro to full compliance with best international practice.

The SEC drafted the proposal of the memorandum with CBM and drafting the proposal with the ISA is underway.

ISA has not signed the MoUs with the competent authorities from the LPMLTF. The activities on signing the mentioned are one of the priorities of ISA in 2010.

The Customs Administration signed the MoU with the Faculty of Law in Podgorica (training employees )

*5. Have provisions been introduced to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by APMLTF?*

Article 55, paragraph 2 of the LPMLTF defines as follows :

In notification from paragraph 1 of this Article the competent administration body shall not state data on reporting entity and on person employed in the organisation, that announced data unless there are reasonable grounds for suspicion that reporting entity or reporting entity's employee committed criminal act of money laundering or terrorist financing, or if those data are necessary for establishing facts in criminal proceedings and if transferring those data are required, in written form, by Court.

Article 80, paragraph 2 and 3 of the Law on PML/TF defines The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law.

On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the administration.

### **Additional questions since the first progress report**

1. Have there been any successful prosecutions for autonomous and/or third party money laundering? If so please provide details.

In previous report (March 2010.) changes and amendments of the Criminal code were announced which refer, among other aspects, to institute of confiscation of material gain whose legality of origin was not proven („extended confiscation“). These changes and amendments were adopted by the Parliament of Montenegro in April 2010. The procedure is defined by The Criminal Procedure Code which started full application of September 1st, 2011. In accordance with the Code, reversal burden of proof of legality of origin of property is on force.

Since the first progress report we have had three cases against 6 persons for money laundering offences. All of those cases have started in 2011 and in all of the cases the procedure before the court is now in process. So, we still cannot judge successfulness of the prosecution because the court procedures are not yet finished.

2. Have there been any non-conviction based confiscations? If so please provide details.

No, we have not had any non conviction based confiscation  
Criminal legislation of Montenegro does not contain the institute of permanent confiscation of property without conviction before (“NCB confiscation”).

3. Has there been any relevant court practice which clarifies the term “business operations” as set out in Article 268 (1) of the Criminal Code?

In the period from the First Progress Report we have not had any court practice that would clarify the term “business operation” as it is set out in the Article 268 of the previous Criminal Code. It is worth mentioning that we have adopted amendments and changes of the Criminal Code as it is explained under the Recommendation I.

4. Please provide a breakdown of the relevant investigations, prosecutions and convictions for money laundering between fiscal (e.g. tax evasion, etc.) and non-fiscal offences.

Since the First progress report, Department for suppression of organized crime, corruption, terrorism and war crime, has had three cases of money laundering offences.

Fiscal offences:

- One case: Investigation against one person, for the money laundering offence, where there was fiscal predicate offence. In this case, predicate offences were committed in the foreign country and were related to the abuse of the authority by function, unlawful enterprises and robbery. Prosecutor raised an indictment against this person and the main hearing is in process right now.

Non-fiscal offences:

- One case: Investigation against two persons, for money laundering, where there was non-fiscal predicate offence. In this case, predicate offence was drug trafficking. The indictment was raised before the court in may 2011 and the main hearing is now in process

<ul style="list-style-type: none"> <li>- One case: Investigation against three persons, for money laundering, where there was non-fiscal predicate offence- drug trafficking. The indictment is raised, and the main hearing is in process now.</li> </ul>
<p>5. Please provide a breakdown of the relevant freezing, seizing and confiscation of proceeds between proceeds linked to fiscal offences and proceeds linked to non-fiscal offences.</p>
<p>Fiscal Offences:</p> <ul style="list-style-type: none"> <li>- One case against one person: seizure that was issued by the court is in the amount of 6.8 million Euros</li> </ul> <p>Non-Fiscal offences:</p> <ul style="list-style-type: none"> <li>- One case against three persons: seizure that was issued by the court is in the amount of 28 million Euros</li> <li>- One case against 2 persons: seizure that was issued by the court in the amount of 12.5 million Euros</li> </ul>
<p>6. Have any specific trainings on AML/CFT related issues been provided to investigators, prosecutors and judges since the date of the previous progress report?</p>
<p>In Montenegro, relevant institutions regularly organize trainings for the investigators, prosecutors and judges. Especially, Special investigative team has regular trainings for their members (from Tax Administration, FIU, Police Administration and Custom Administration, as well as from the prosecutors) Organized by the USA Office for legal aid.</p>
<p>7. When was the list of suspicious indicators last updated and disseminated to obligors.</p>
<p>The list of indicators for recognizing suspicious customers and transactions is updated and amended with 16 new indicators for recognizing suspicious transactions and clients regarding real estate trade and construction businesses. Furthermore, the list is amended with 11 new indicators referring to lawyers and notaries. Due to that, in addition to the indicators for lawyers there are introduced indicators that will assist notaries to recognize suspicious transactions and part of indicators refers to real estate trade and construction business. The list is forwarded to reporting entities and on 8<sup>th</sup> December 2012 APMLTF organized a meeting with reporting entities in order to present novelties and discuss on the list of indicators.</p>
<p>8. Have any supervisory visits on AML/CFT related issues been conducted with money service bureaux and currency exchange offices? Did any sanctions result from these visits?</p>
<p>The Banking Law (OGM 17/08 and 44/10) stipulates that banks perform exchange operations. On-site examinations of banks also checked the exchange operations, whereby it was concluded that there were no irregularities in these operations, and thus there were no sanctions.</p>
<p>9. How many requests for mutual legal assistance were received in 2010 and 2011? What was the average time to respond to these requests?</p>
<p>During 2010., Ministry of Justice received 6 rogatory letters from the judiciary authorities from other states, on the occasion of criminal proceedings for the criminal offence Money laundering. During 2011., Ministry of Justice received 1 rogatory letters from the judiciary authorities from other states, on the occasion of criminal proceedings for the criminal offence Money laundering. The time to act upon the rogatory letters for international legal assistance depends on the type and complexity of the request stated in rogatory letters.</p>

### **Additional questions since the second progress report**

<p>1. Please provide an update on the cases against the six persons for money laundering offences which was reported under the answer to question 1 in the second Progress Report.</p>
<p><i>Case 1</i></p> <p>In the first case the indictment was against 2 persons. One person is accused of drug trafficking (article 300 paragraph 1 of the Criminal Code) and of money laundering (article 268 paragraphs 4 and 1 of the Criminal Code). The second person is accused of money laundering (article 268 paragraphs 4 and 1 of the</p>



Criminal Code). The first accused person in this case, is the person who also participated in the predicate offence, and the second person was only accused for the criminal offence of money laundering. The first person was punished with imprisonment for eight years, and the second was punished with imprisonment for six years. The mentioned convicted persons are obliged to pay to the budget of Montenegro €16,617,029.83 and €4,736,859.39 respectively. Accused persons as well as prosecutor appealed on this judgement and Appellate court accepted the appeal, abolished the first instance judgement and required of the first instance to conduct the proceeding again.

#### *Case 2*

In the second case the indictment was against one person for money laundering (Article 268 paragraph 3 and 1 of the Criminal Code). This accused person is a foreigner who committed a predicate offence in a foreign country and the criminal offence of money laundering was committed in Montenegro. The predicate offences were the abuse of the authority by function, unlawful enterprises and robbery. Out of those three predicate offences, one was committed by the accused person. In this case the prosecutor proposed temporary confiscation of the property in the total amount of €6.8 million. The first instance court passed an acquittal decision and the Appellate court accepted the prosecutor's appeal and abolished the first instance judgement. The procedure is now on going.

#### *Case 3*

. In the third case an indictment has been brought against three persons and all of them are accused of the criminal offence of money laundering. One accused person in this case had committed the predicate offence of drug trafficking in a foreign country. The other two persons are accused of money laundering and did not participate in the predicate offence. Court hearing for this case is scheduled for December 28, 2012. The procedure in this case is still on going.

2. Has a register on reporting entities to be supervised by APMLTF been established and kept up-to-date?

The Reporting Entities Control Department of the APMLTF performs control over the reporting entities defined by the Law on PMLTF Article 4 items 14 and 15. Due to numerous reporting entities it would be very useful to have a software solution for the register of the abovementioned entities. For the lack of financial resources we do not possess the register, but are limited to open sources and the available data bases of other institutions, such as:

- CBR, Real Estate Administration, reporting entities, Ministry of Interior, Police Directorate, Tax Administration, Customs Administration, foreign FIUs, local self-government bodies (register of business approving licenses and of issued construction licenses), Commercial Court (register of commercial disputes), open sources – internet, media...

The Reporting Entities Control Department of the APMLTF also has a register of supervised reporting entities.

3. Have requirements that require financial institutions to put in place screening procedures, to ensure high standards when hiring employees, been introduced?

Draft Law on PMLTF determines in the Article 43(Requirements for a compliance officer) precise conditions for hiring a compliance officer and deputy compliance officer.

#### **Requirements for a compliance officer**

##### **Article 43**

The affairs of a compliance officer and deputy compliance officer from Article 42 of this Law can be performed by a person who:

1. is employed with only one reporting entity for carrying on affairs and tasks that are in accordance with the enactment on systematization of the reporting entity or employment contract organized in the

manner ensuring fast, qualitative and timely performance of tasks defined by this Law and regulations passed on the basis of this Law;

2. is professionally skilled for performing affairs of preventing and detecting money laundering and terrorist financing and has professional competencies for reporting entity's operations in the areas where the risk of money laundering or terrorist financing exists, and

3. has not been finally convicted for a criminal act for which an imprisonment longer than six months is provided, and which makes him/her inadequate for performing affairs of prevention of money laundering and terrorist financing.

**2.5 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)<sup>10</sup>**

<b>Implementation / Application of the provisions in the Third Directive and the Implementation Directive</b>	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Yes in the Law on the Prevention of Money Laundering and Terrorist Financing
<b>Measures taken to implement the recommendations since the adoption of the first progress report</b>	<p>Yes. In the process of preparing the Bill on Changes and Amendments to the LPMLTF a transposition table for compliance of the Montenegrin legislation for the prevention of money laundering and terrorist financing with the requirements of Directive 2005/60/EC is created. The LPMLTF is partly compliant with the III Directive. It is not compliant in the part defining trusts since the Law on business organisations does not define trusts as a type of conducting business activity. The Law on PMLTF will be amended with the provision referring to trusts When the amendments and changes Law on business companies came into force.</p> <p>The last revision of compliance of the Law on PMLTF with the 3<sup>rd</sup> Directive is performed in period September – November 2011, when the Draft of the Law on Changes and Amendments to the LPMLTF is submitted to the Government.</p> <p>On 1<sup>st</sup> December 2011 the Government of Montenegro adopted the Bill on Changes and Amendments to the LPMLTF.</p>
<b>Measures taken to implement the recommendations since the adoption of the second progress report</b>	The Law on Amendments and changes to the LPMLTF is adopted in the Parliament (Official Gazette of Montenegro No. 14 of 07.03.2012) and it is currently into force.
<b>(other) changes since the second progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	<p>In accordance with the proposed measures Montenegro prepared the Proposal of the Law on PMLTF and due to that the level of compliance with III Directive is higher.</p> <p>Namely , the Ministry of Finance has, upon the initiative of the APMLTF, started activities for preparing the new LPMLTF. The working group, formed by the Ministry of Finance (which proposes the law), consisted of the representatives of: Ministry of Finance, The Parliament of Montenegro, Administration for the Prevention of Money Laundering and Terrorist Financing, Ministry of Justice, Ministry of Interior Affairs and Public Administration, The Administration for Games on Chance, Department of Public Revenues, Central Bank of Montenegro, Securities and Exchange Commission, Insurance Supervision Agency, Supreme State Prosecutor, The Police, Agency for Electronic Communications and Postal Services. The working group prepared Draft of the Law on PMLTF which is , according to procedures, published for the public discussion. According to the Working plan of the Government for 2013, the Law will be adopted until the end of this year, and afterward the Proposal of Law will be sent to the Parliament, for adoption.</p>

<sup>10</sup> For relevant legal texts from the EU standards see Appendix II.

<b>Beneficial Owner</b>	
<p>Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3<sup>rd</sup> Directive<sup>11</sup> (please also provide the legal text with your reply)</p>	<p style="text-align: center;"><b>LPMLFT /Establishing the Beneficial Owner</b></p> <p style="text-align: center;"><b>Beneficial Owner</b></p> <p style="text-align: center;"><b>Article 19</b></p> <p>In the context of this Law the following shall be considered as a beneficial owner of a business organisation or legal person:</p> <ol style="list-style-type: none"> <li>1. a natural person who indirectly or directly owns more than 25% of the shares, voting rights and other rights, on the basis of which he/she participates in the management, or owns more than a 25% share of the capital or has a dominating influence in the assets management of the business organisation, and</li> <li>2. a natural person that indirectly ensures or is ensuring funds to a business organisation and on that basis has the right to influence significantly the decision making process of the managing body of the business organisation when decisions concerning financing and business are made.</li> </ol> <p>Also, a business organisation, legal person, as well as an institution or other foreign legal person that is directly or indirectly a holder of at least €500,000 of shares, or capital share, shall be considered a foreign owner.</p> <p>As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered:</p> <ol style="list-style-type: none"> <li>1. a natural person, that indirectly or directly controls more than 25% of a legal person's asset or of a similar foreign legal entity, and</li> <li>2. a natural person, determined or determinable as a beneficiary of more than 25% of the income from property that he/she manages.</li> </ol> <p style="text-align: center;"><b>Establishment of a beneficial owner of a legal person or foreign legal entity</b></p> <p style="text-align: center;"><b>Article 20</b></p> <p>An reporting entity shall establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law.</p> <p>An reporting entity shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CRCC or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law.</p> <p>If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an reporting entity shall obtain the missing data from a written statement of an agent or authorised person.</p> <p>Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment.</p>
<p><b>Measures taken to implement the recommendations since the adoption of the first progress report</b></p>	<p><b>The definition of the beneficial owner provided in the Bill of the Law on Changes and Amendments to the LPMLTF is harmonised with the definition provided in 3<sup>rd</sup> Directive , except in part that refers to trusts.</b></p> <p>In Article 14 of the Bill on Changes and Amendments to the LPMLTF (it refers to changes of Article 19 of the current Law) the definition of the beneficial owner stipulates the following:</p> <p>„Beneficial owner" means the natural person(s) who ultimately owns or controls the client and/or the natural person on whose behalf a transaction or activity is being conducted. Beneficial owner shall also include the natural person(s) who ultimately</p>

<sup>11</sup> Please see Article 3(6) of the 3<sup>rd</sup> Directive reproduced in Appendix II.

	<p>who exercises control over a legal entity or legal arrangement.</p> <p>A beneficial owner of a business organization, i.e. legal person, in the context of this Law, shall be:</p> <ol style="list-style-type: none"> <li>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 at least 25% share of the capital or has a dominating influence in the assets management of the business organization;</li> <li>2) a natural person that indirectly ensures or is ensuring funds to a business organization and on that basis has the right to influence significantly the decision making process of the managing body of the business organization when decisions concerning financing and business are made.</li> </ol> <p>As a beneficial owner of an institution or other foreign legal person (trust, fund and the like) that receives, manages or allocates assets for certain purposes, in the context of this Law, shall be considered</p> <ol style="list-style-type: none"> <li>1) a natural person, that indirectly or directly controls at least 25% of a legal person's asset or of a similar foreign legal entity;</li> <li>2) a natural person, determined or determinable as a beneficiary of at least 25% of the income from property that is being managed.</li> </ol> <p>Article 15 of the Bill of the Law on Changes and Amendments to the LPMLTF (it refers to changes in Article 20) defines the following:</p> <p>An obligor <b>shall be bound to</b> establish the beneficial owner of a legal person or foreign legal person by obtaining data from Article 71 item 15 of this Law.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 an agent on behalf of a legal person.</p> <p>An obligor shall obtain the data from paragraph 1 of this Article by checking the original or certified copy of the documentation from the CRCC or other appropriate public register that may not be older than three months of its issue date or obtain them on the basis of the CBR or other public register in accordance with Article 14 paragraphs 3 and 5 of this Law.</p> <p>If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, an obligor shall obtain the missing data from a written statement of an agent or authorised person.</p> <p>Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer respecting risk-degree assessment.</p>
<p><b>Measures taken to implement the recommendations since the adoption of the second progress report</b></p>	<p>The mentioned change is introduced in the current Law on PMLTF. (see Article 19)</p>
<p><b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b></p>	<p>Article 19 (Beneficial owner) of the current Law on PMLTF is not changed in the Proposal of the Law on PMLTF but Article 20 of the current Law is amended in the Proposal of the Law on PMLTF as follows:</p> <p style="text-align: center;"><b>Establishment of a beneficial owner of a legal person or foreign legal person</b></p> <p style="text-align: center;"><b>Article 20</b></p> <p>A reporting entity shall establish the beneficial owner of a legal person or foreign</p>

	<p>legal person by obtaining data from Article 78 item 15 of this Law.</p> <p>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 its issue date or obtain them on the basis of the CBR or other public register in accordance with Article 15 of this Law.</p> <p>If the data on the customer’s beneficial owner cannot be obtained from the CBR or other appropriate public register, 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 legal representative or authorized person of the customer.</p> <p>If the required data cannot be obtained in the manner determined in paragraphs 1 and 2 of this Article, a reporting entity shall obtain the missing data from a written statement of the legal representative or authorized person.</p> <p>Data on beneficial owners of a legal person or similar foreign legal entity shall be verified to the extent that ensures complete and clear insight into the beneficial ownership and managing authority of a customer taking into consideration risk-degree assessment.</p> <p>A reporting entity shall, when establishing identity of legal representative of a legal person, obtain photocopy of personal identification documents of that person (e.g. Personal identification card, passport, driving license or similar documents containing a photo of a person whose identity a reporting entity is establishing) and enter date, time and personal name of the person that performed the check on that photocopy.</p> <p>A reporting entity shall keep the photocopy of a personal document from this paragraph in accordance with this Law.</p>
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<b>Risk-Based Approach</b>	
<p>Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.</p>	<p>The LPMLTF prescribes in Article 13 transactions that do not require the application of customer due diligence measures, which reads:</p> <p>“Insurance companies conducting life insurance business and business units of foreign insurance companies licensed to conduct life insurance business Montenegro, founders, managers of pension funds, and legal and natural persons conducting representation and brokerage business in insurance, when entering into life insurance contracts do not need to conduct the verification of a customer when:</p> <ol style="list-style-type: none"> <li>1) entering into life insurance contracts where an individual instalment of premium or multiple 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;</li> <li>2) concluding pension insurance business providing that it is: <ul style="list-style-type: none"> <li>- 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, or</li> <li>- a conclusion of a collective insurance contract ensuring the right to a pension.</li> </ul> </li> </ol> <p>Domestic and foreign companies and business units of foreign companies that issue</p>

	<p>electronic money do not need to conduct the verification of a customer when:</p> <ol style="list-style-type: none"> <li>1)issuing electronic money, if the single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150, and</li> <li>2)issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which 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 €1,000 or more.</li> </ol> <p>An reporting entity does not need to conduct control over a customer to whom it provides other services or related transactions representing an insignificant risk of money laundering or terrorist financing, unless there are reasonable grounds for suspicion of money laundering or terrorist financing.</p> <p>Cases representing an insignificant risk of money laundering or terrorist financing shall be more specifically regulated by a regulation of the Ministry.”</p> <p>Simplified customer verification is prescribed in Article 29 of the LPMLTF, which reads:</p> <p>“Unless there are reasonable grounds for suspicion of money laundering or terrorist financing in relation to a customer or transaction from Article 9 paragraph 1 items 1 and 2 of this Law, an reporting entity can conduct simplified verification of a customer that is:</p> <ol style="list-style-type: none"> <li>1)the reporting entity from Article 4 paragraph 2 items 1, 2, 4, 5, 6, 8 and 9 of this Law or other appropriate institution that has a registered office in the EU or in a state from the list;</li> <li>2)state body or local governance body and other legal persons exercising public powers;</li> <li>3)an organisation whose securities are included in the trade on the organised market in the EU member states or other states where the EU standards are applied on the stock markets, and</li> <li>4)the customer from Article 8 paragraph 4 of this Law to whom an insignificant risk of money laundering or terrorist financing is related.</li> </ol> <p>The list of the states from paragraph 1 of this Article shall be determined by the Ministry.”</p>
<p><b>Measures taken to implement the recommendations since the adoption of the first progress report</b></p>	<p>The recommendations are accepted and due to that in Article 12 of the Bill on Changes and Amendments to the LPMLTF (refers to amendments of Article 13 of the current Law) the following changes are made:</p> <p>Article 12 of Bill on Changes and Amendments to the LPMLTF  ‘Exemption from customer due diligence in relation to certain services</p> <p>Article 13</p> <p>Insurance companies conducting life insurance business and business units 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, <b><u>in cases of concluding life insurance contracts, are not obliged to conduct customer due diligence measures when:</u></b></p> <ol style="list-style-type: none"> <li>1) entering into life insurance contracts where an individual installment of premium or multiple installments 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;</li> <li>2) concluding pension insurance business providing that it is: <ul style="list-style-type: none"> <li>- 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;</li> </ul> </li> </ol>

	<p>- a conclusion of a collective insurance contract ensuring the right to a pension. Domestic and foreign companies and business units of foreign companies that issue electronic money do not need to conduct customer due diligence measures when:</p> <ol style="list-style-type: none"> <li>1. issuing electronic money, if the single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150;</li> <li>2. issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which 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.</li> </ol> <p>The provisions of paragraphs 1 and 2 of this Article do not apply to cases when in relation to a transaction or client there is suspicion in money laundering or terrorist financing. “</p>
<b>Measures taken to implement the recommendations since the adoption of the second progress report</b>	The mentioned change is introduced in the current Law on PMLTF ( see Article 13).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	<p>Article 13 of the current Law is changed (the same Article in the Proposal on the Law on PMLTF) in relation to paragraph 2, as follows:</p> <p>Exemption from customer control in relation to certain services</p> <p>Article 13</p> <p>.....</p> <p>Institutions that issue electronic money and their subsidiaries do not need to conduct customer due diligence measures when:</p> <ol style="list-style-type: none"> <li>1.issuing electronic money, if a single maximum value issued on the electronic data carrier, upon which it is not possible to re-deposit value, does not exceed the amount of €150;</li> <li>2.issuing and dealing with electronic money, if the total amount of value kept on the electronic data carrier, upon which 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.</li> </ol>

<b>Politically Exposed Persons</b>	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation	<p>Article 27 of the LPMLTF determines the following PEPs definition: A natural person that is acting or has been acting in the last year on a distinguished public position in a state, including his/her immediate family members and close associates, shall, in the context of this Law, be considered politically exposed person, as follows:</p> <ol style="list-style-type: none"> <li>1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authority and authorities of local governance units, as well as their deputies or assistants and other officials;</li> </ol>



<p>Directive<sup>12</sup> are provided for in your domestic legislation (please also provide the legal text with your reply).</p>	<ol style="list-style-type: none"> <li>2. elected representatives of legislative authorities;</li> <li>3. holders of the highest juridical and constitutionally judicial office;</li> <li>4. members of State Auditors Institution or supreme audit institutions and central banks councils;</li> <li>5. consuls, ambassadors and high officers of armed forces, and</li> <li>6. members of managing and supervisory bodies of enterprises with majority state ownership.</li> </ol> <p>Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article.</p> <p>A natural person that has a common profit from the asset or established business relationship or other type of close business contacts shall be deemed a close assistant of the person from paragraph 1 of this Article.</p> <p>Within enhanced customer verification from paragraph 1 of this Article, in addition to identification from Article 7 of this Law, an reporting entity shall:</p> <ol style="list-style-type: none"> <li>9. obtain data on funds and asset sources, that are the subject of a business relationship or transaction, from personal or other 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;</li> <li>10. obtain a written consent of the person in charge before establishing business relationship with a customer, and</li> <li>11. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person.</li> </ol> <p>An reporting entity shall by an internal enactment, in accordance with the guidelines of a competent supervisory authority, determine the procedure of identifying a politically exposed person.</p> <p>Article 25 of the LPMLTF defines the Enhanced Customer Verification</p> <p>Enhanced customer verification, in addition to the identification from Article 7 of this Law, shall include additional measures in the following cases:</p> <ol style="list-style-type: none"> <li>4. on entering into open account relationship with a bank or other similar credit institution, with registered office outside the EU or outside the states from the list;</li> <li>5. on entering into business relationship or executing transaction from Article 9 paragraph 1 item 2 of this Law with a customer that is a politically exposed person from Article 27 of this Law, and</li> <li>6. when a customer is not present during the verification process of establishing and verifying the identity.</li> </ol> <p>An reporting entity shall apply a measure or measures of enhanced customer verification from Articles 26, 27 or 28 of this Law in the cases when he/she/it estimates, that due to the nature of a business relationship, type and manner of transaction execution, business profile of a customer or other circumstances related to the customer, there is or there could be a risk of money laundering or terrorist financing.</p> <p>As the constituent part of the Guidelines about the risk analysis assessment in the scope of money laundering and terrorism financing assessment for reporting entities from the Article 4. Paragraph 2. items 14. and 15. of the LPMLTF, the APMMLFT determined</p>
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<sup>12</sup> Please see Article 3(8) of the 3<sup>rd</sup> Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

form for PEP identification.

The reporting entity receives information whether the specific customer is politically exposed persons or not from specific written and signed notification which is given to the customer to be fulfilled before concluding business relation or carrying out the transaction (Questionnaire for Identification of PEPs). Written notification needs to be drafted both in local and in English language).

### QUESTIONNAIRE FOR IDENTIFYING A POLITICALLY EXPOSED PERSON

In accordance with the Law on the Prevention of Money Laundering and Terrorist Financing (hereinafter: the LPMLTF, Official Gazette of Montenegro, No. 14/07), \_\_\_\_\_ (reporting entity) must establish whether a customer is a politically exposed person when entering into a business relationship or executing transactions (Article 9 Paragraph 1 Item 2) with the customer .

*A **politically exposed person** is any natural person who works or has worked in the last year in a high-profile public position, including that person's immediate family members and co-workers.*

***Immediate family members of a politically exposed person** are spouses or cohabiting partners, parents, brothers and sisters, as well as children and their spouses or cohabiting partners.*

***Immediate co-workers of a politically exposed person** are all persons who have joint income from property, an active business relationship or any other form of close business contact.*

Pursuant to the requirements of the LPMLTF, we are kindly requesting that you answer the following questions.

**1. Are you:**

1.	a head of state?	YES	NO
2.	the head of a government?	YES	NO
3.	a minister or deputy or assistant thereof?	YES	NO
4.	Head of state administrative body or local administrative body, or his /her deputy or assistant and other official?	YES	NO
5.	an elected representative of a legislative body (MPs and other person appointed or elected by the Parliament)	YES	NO
6.	a holder of the highest judicial and constitutional court functions (judges, prosecutors, and their deputies)	YES	NO
7.	a member of a court of auditors or supreme auditing institutions and central bank governing board?	YES	NO
8.	an ambassador?	YES	NO
9.	A consul? (diplomatic agents)?	YES	NO
10.	a high-ranking officer in the armed forces?	YES	NO
11.	a member of the management or supervisory board of a company under majority state ownership?	YES	NO

**2. Are you:**

1.	An immediate family member of the persons defined in point 1?	YES	NO
	• Spouse of cohabiting partner	YES	NO
	• Parent	YES	NO
	• Brother or sister	YES	NO
	• Child born in a marital or extramarital relationship and his or her spouse or cohabiting		

	partner		
2.	An immediate co-worker of the persons defined in point 1 <ul style="list-style-type: none"> <li>Do you have joint income from property or an active business relationship with the persons defined above?</li> <li>Do you have any other form of close business contact with the persons defined above?</li> </ul>	YES YES	NO NO
<b>3. Have you:</b>			
In the last 12 months worked in any of the positions set out in point 1?		YES	NO
Are you an immediate family member or co-worker of a person who has worked in any of the positions, set out in point 1, in the last 12 months?		YES	NO
If you have answered YES to any of the above questions, you are considered a politically exposed foreign person according to the law. We therefore kindly request that you state the origin of funds and property that are or will be the subject of the business relationship or transaction:			
<b>I, the undersigned, hereby confirm that the above stated data are correct and true.</b>			
_____			
Name and surname of person completing the questionnaire			
Customer's address		Customer's data of birth	
Place and date		Signature of the customer	
_____			
Name and surname of the bank employee			
Place and date		Signature of the bank employee	
<b>I hereby authorise the entering into a business relationship with a politically exposed person.</b>			
_____			
Name and surname of the responsible senior staff member			
Place and date		Signature of the responsible senior staff member	

<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>With a view to supervising the implementation of the Law on the Prevention of Money Laundering and Terrorist Financing and the Guidelines on Bank Risk Analysis Aimed at Preventing Money Laundering and Terrorism Financing, the <b>Central Bank of Montenegro</b> performed inspections of compliance to the parts of regulations defining the CDD of clients who are politically exposed persons (PEPs). During those decisions, it was determined that in once case a PEP has not signed the Form for Identification of a Politically Exposed Person. However, using other publically available sources, the Bank determined that it is a PEP and classified that client into high risk category, with the obligation of permanent monitoring of the client’s account.</p>
<p>Measures taken to implement the recommendations since the adoption of the second progress report</p>	<p>There were no changes in relation to this response.</p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p>	<p>The criteria for identifying PEPs in accordance with the provisions in the Third Directive, the Implementation Directive and New FATF Recommendations are changed. Due to that Articles of the current Law on PMLTF defining PEPs are changed in the Proposal on the Law on PMLTF as follows:</p> <p style="text-align: center;"><b>Definition of Terms</b></p> <p style="text-align: center;"><b>Article 5</b> <b>Paragraph 1 item 18</b></p> <p>18. “politically exposed person” is a foreign politically exposed person who is entrusted with prominent public function by another country, domestic politically exposed person who is entrusted with prominent public function in Montenegro and person who is entrusted with a prominent function by an international organisation and it includes directors, deputy directors and members of the board or equivalent function of an international organisation; their family members and associates, including the time period of 18 months since the date of ceasing to hold the office;</p> <p style="text-align: center;"><b>Article 27 of the current Law on PMLTF is changed and in the Proposal on the LPMLTF the following Articles cover the definition of PEP and CDD measures in respect business relationship with politically exposed persons</b></p> <p style="text-align: center;"><b>Politically exposed persons</b></p> <p style="text-align: center;"><b>Article 31</b></p> <p>Politically exposed person is a foreign politically exposed person entrusted with prominent public functions by another country, a domestic politically exposed person entrusted with prominent public function in Montenegro and a person entrusted with a prominent function by an international organisation and it includes a director, deputy director and members of the board or equivalent function with an international organisation, their family members and associates.</p> <p>A person from paragraph 1 of this Article shall be considered as a politically exposed person including period of time not less than 18 months since the date of ceasing to hold the office.</p>

Politically exposed persons from paragraph are:

1. presidents of states, prime ministers, ministers and their deputies or assistants, heads of administration authorities and authorities of local governance units, as well as their deputies or assistants and other officials;
2. elected representatives of legislative authorities;
3. holders of the highest juridical and constitutionally judicial office;
4. members of State Auditors Institution or supreme audit institutions and central banks councils;
5. consuls, ambassadors and high officers of armed forces, and
6. members of managing and supervisory bodies of enterprises with majority state ownership;
7. directors, deputy directors and members of the board or equivalent function of an international organisation;

Marital or extra-marital partner and children born in a marital or extra-marital relationship and their marital or extra-marital partners, parents, brothers and sisters shall be deemed immediate family members of the person from paragraph 1 of this Article.

Close associates of the person from paragraph 1 shall be deemed the following:

1. any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;
2. any natural person who has sole beneficial ownership of a legal entity or has established business relations for the benefit of the politically exposed person.

### **CDD measures in relation to politically exposed persons**

#### **Article 32**

Within enhanced customer due diligence from Article 31 paragraph 1, in addition to the measures from Article 9 of this Law, a reporting entity shall:

1. obtain data on funds and property sources, 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 identification documents, the data shall be obtained directly from a customer's written statement;
2. 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,
3. establish whether the person from Article 31 is the beneficial owner of a legal person or a foreign legal person, or a natural person on whose behalf the business relationship is established, transaction is executed or other activity performed;
4. after establishing a business relationship, monitor with special attention transactions and other business activities carried out with an institution by a politically exposed person or the customer whose beneficial owner is a politically exposed person.

A reporting entity shall by an internal act, in accordance with the guidelines of a competent supervisory authority from Article 93 of this Law, determine the procedure of identifying a politically exposed person.

	The list of politically exposed persons from Article 31 of this Law shall be published on the website of the Administration.
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<b>“Tipping off”</b>	
<p>Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.</p>	<p style="text-align: center;"><b>Prohibition of giving information</b></p> <p>Article 80 of the LPMLTF determines: Reporting entities and reporting entity’s employees, members of authorised, supervising or managing bodies, or other persons, to which were available data from Article 71 of this Law, shall not reveal to a customer or third person:</p> <ol style="list-style-type: none"> <li>1. that data, information or documentation on the customer or the transaction, from Article 33 paragraph 2, 3 and 4, Article 43 paragraph 1, Article 48 paragraph 1, 2 and 3, Article 49 paragraph 1 and 2 of this Law, are forwarded to the competent administration body ;</li> <li>2. that the competent administration body on the basis of Article 51 of this Law, temporarily suspended transaction or in accordance with that gave instructions to the reporting entity;</li> <li>3. that the competent administration body on the basis of Article 53 of this Law demanded regular supervision of customer’s financial business;</li> <li>4. that against customer or third party is initiated or should be initiated investigation for the suspicion of money laundering or terrorist financing .</li> </ol> <p>The information about the facts from paragraph 1 of this Article and notification on suspicious transactions or information about other offences from Articles 55 and 56 of this Law, are the official secret and designated as such, in accordance with Law. On removing the official secret designation, from paragraph 2 of this Article shall decide the authorised person of the administration. Prohibition of giving information from paragraph 1 of this Article shall not be applied on:</p> <ol style="list-style-type: none"> <li>3. data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and</li> <li>4. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law.</li> </ol> <p style="text-align: center;"><b>Disclosing a Business Secret is criminalized in the Article 280 of the Criminal Code (Official Gazette of the RM 70/03, 13/04, 47/06, and Official Gazette of the RM 40/08)</b></p> <ol style="list-style-type: none"> <li>(1) Anyone who without authorisation communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorised person, shall be punished by an imprisonment sentence of three months to five years.</li> <li>(2) If the offence referred to in paragraph 1 of this Article was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the offender shall be punished by an imprisonment sentence from two to ten years.</li> <li>(3) Anyone who commits an offence referred to in paragraph 1 of this Article out of negligence, shall be punished by an imprisonment sentence not exceeding three years.</li> <li>(4) Business secrets are deemed to be data and documents which were proclaimed as</li> </ol>

	<p>such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organisation or other business entity.</p> <p>Business secret is also determined in the Law on Civil Servants and State Employees</p> <p>Article 52 (Law on Civil Servants and State Employees (Official Gazette of Montenegro 50/08 and 86/09) states:</p> <p><i>“A Civil Servant, i.e. State Employee shall keep an official secret stipulated by the law or other regulation, regardless of the manner in which he/she has learned about it.</i></p> <p><i>The obligation to keep an official secret shall last even after the termination of employment, but no longer than five years from the day of the termination of office. Exceptionally, the obligation to keep an official secret may last even longer, when this is stipulated by the law.</i></p> <p><i>The head of a state authority may release a Civil Servant, i.e. State Employee, from the obligation to keep an official secret during a court or administrative procedure, if it relates to data without which the establishment of facts and making of a legal decision would not be possible.”</i></p> <p>Article 59 of the same Law determines that the reviling of business, professional and other secret is determined by the Law and by other regulations and is a serious disciplinary offence:</p> <p><i>Serious disciplinary offences are:</i></p> <ul style="list-style-type: none"> <li>- <i>a fine in the amount of 20 to 30% of a salary paid in the month in which the offence was committed;</i></li> <li>- <i>termination of employment.</i></li> </ul>
<p><b>Measures taken to implement the recommendations since the adoption of the first progress report</b></p>	<p>In accordance with art.280 of <b>The Criminal Code of Montenegro</b>, disclosing a business secret is a criminal offence.</p> <p>Business secrets are deemed to be data and documents which were proclaimed as such by means of a law, other regulation or decision of a competent authority passed under law, and whose disclosure would or could cause detrimental consequences for a business organization or other business entity.</p> <p>The Code defines that person shall be punished by an imprisonment sentence of three months to five years who without authorization communicates to another, hands over or in any other manner makes available data representing a business secret or who obtains such data with the intention to hand them over to an unauthorized person. If this offence was committed out of greed or with reference to strictly confidential data or in order to make the data public or use them abroad, the prescribed sentence is imprisonment sentence from two to ten years. If the offence was committed out of negligence, prescribed sentence is imprisonment sentence not exceeding three years.</p> <p><b>The Criminal Procedure Code</b>, in part which defines conditions and manners of determining measures of secret surveillance defines that Persons acting in an official capacity and responsible persons involved in the process of passing the order and enforcement of the measures of secret surveillance shall keep as secret all the data they have learned in the course of this procedure. Criminal offence Money laundering is among offences for which secret surveillance measures can be issued.</p> <p>Also, Criminal Procedure Code defines obligation of keeping secret in the investigation. Should it be in the interests of criminal proceedings, keeping information as secret, public order, moral or protection of personal or family life of the injured party or the accused person, the person acting in an official capacity who is undertaking an evidence gathering action shall order the persons who are being</p>

	<p>examined or who are present while the abovementioned actions are being carried out, or who inspect the files of the investigation, to keep as secret certain facts or information they have learned in the course of proceedings and shall advise them that any disclosure of a secret constitutes a criminal offence.</p> <p>In accordance with <b>the Law on Civil Servants and State Employees</b> (“Official Gazette of MNE”, no.50/08, 86/09 i 49/10), civil servants and state employees are obliged to keep as official secret as determined by law or other regulation, regardless of the way they had learned about it. The obligation to keep an official secret lasts even after the termination of employment, but no longer than five years from the day of the termination of office. Exceptionally, the obligation to keep an official secret may last even longer, when this is stipulated by the law. The head of a state authority may release a Civil Servant, i.e. State Employee, from the obligation to keep an official secret during a court or administrative procedure, if it relates to data without which the establishment of facts and making of a legal decision would not be possible. Revealing of business, professional and other secret determined by the Law or by other regulations is a serious disciplinary offence, for which the disciplinary measures are: fine in the amount of 20% to 30% of a salary paid in the month in which the offence was committed and termination of employment.</p>
<p><b>Measures taken to implement the recommendations since the adoption of the second progress report</b></p>	<p><b>In July 2013 Parliament adopted Amendments to the Criminal Code, which enter into force on 21st August 2013, and the following changes are made in relation to Article 280:</b></p> <p><b>Revealing a Business Secret</b></p> <p><b>Article 280</b></p> <p>(1) Anyone who without authorization communicates, hands over or otherwise makes accessible to another person the data classified as business secret or who obtains such data with the intention to hand them over to an unauthorized person shall be punished by a prison term from three months to five years.</p> <p>(2) The punishment referred to in paragraph 1 above shall apply to an unauthorised person who uses data classified as business secret and obtained in the manner described in paragraph 1 above.</p> <p>(3) Where the offence under paragraphs 1 and 2 above was committed out of greed or with respect to strictly confidential data or for the purpose of their publication or use abroad, the perpetrator shall be punished by a prison term from two to ten years.</p> <p>(4) Anyone who commits the offence under paragraphs 1 and 2 above by negligence shall be punished by a prison term up to three years.</p> <p>(5) A business secret is considered to include data and documents which were classified as such by a law, or a regulation or decision issued by a competent authority on the basis of a law, and revealing of which would or could cause harmful effects to the business entity or other business enterprise.</p>
<p>With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.</p>	<p>As it is defined in the previous response On removing the official secret designation from Article 80, paragraph 2 of the LPMLTF shall decide the authorised person of the administration.</p> <p>Article 80 paragraph 4 defines:</p> <p>Prohibition of giving information from paragraph 1 of this Article may not be applied on:</p> <ol style="list-style-type: none"> <li>1. data, information and documentation, that are, in accordance with this Law obtained and kept by reporting entity, and necessary for establishing facts in criminal proceedings, and if submitting those data in written form is required or ordered by the Competent court, and</li> </ol>



	2. data from item 1 of this Article, if it is demanded by supervision body from Article 86 of this Law for the reasons of carrying out the provisions of this Law and regulations passed on the basis of this Law.
<b>Measures taken to implement the recommendations since the adoption of the first progress report</b>	In Article 41 of the Bill on Changes and Amendments to the LPML (it refers to Article 80 of the current Law) the following changes are made: In Article 80 after paragraph 1 a new paragraph is added, as follows: “An attempt to retort a client from engaging into illegal activity shall not be deemed as disclosure in the sense of paragraph 1 of this Article.” The existing paragraphs 2, 3 and 4 now become paragraphs 3, 4 and 5.
<b>Measures taken to implement the recommendations since the adoption of the second progress report</b>	There were no changes in relation to this response.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	There were no changes in relation to this response.

<b>“Corporate liability”</b>	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	This possibility exists. In accordance with the Law on Liability of Legal Entities for Criminal Offences (“Official Gazette of the Republic of Montenegro“ 2/2007), a legal person liable for a criminal offence of the responsible person who acting on behalf of the legal person within its competence commits a criminal offence with the intent to acquire some gain for that legal person. The liability of the legal person exists also when the acting of that responsible person was contrary to the business politics or orders of the legal person. Regarding the limits of liability of a legal person for criminal acts, when the legal conditions are met, a legal person is liable for a criminal act even if the responsible person who committed the criminal act was not convicted for that criminal act. The law also stipulates that the liability of a legal person does not exclude criminal liability of the responsible person for the committed criminal act.  In accordance with the provision Article 5 of the Law on Liability of Legal Persons for Criminal Offences (“Official Gazette of the Republic of Montenegro“ 2/2007, 13/2007), a legal person can also be liable for a money laundering offence.
<b>Measures taken to implement the recommendations since the adoption of the first progress report</b>	There were no changes since the last reporting.
<b>Measures taken to implement the recommendations since the adoption of the second</b>	There were no changes in relation to this response.

<b>progress report</b>	
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	As above stated, a legal person is liable for the criminal offence of a responsible person who acting on behalf of the legal person within its competence commits a criminal offence with the intent to acquire some gain for that legal person. The Criminal Code of Montenegro stipulates that a criminal offence can be done by an act or omission (Article 6). Offence is done by omission when the perpetrator omitted the act which he/she was obliged to do. Also, an offence that is legally not determined as omission can be done by omission, if the perpetrator achieved characteristics of offence by omitting the due act. According to that, common liability can be applied when the act was committed to the benefit of legal person due to lack of supervision or control of the responsible person in the legal person.
<b>Measures taken to implement the recommendations since the adoption of the first progress report</b>	There were no changes since the last reporting.
<b>Measures taken to implement the recommendations since the adoption of the second progress report</b>	There were no changes in relation to this response.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	There were no changes in relation to this response.

<b>DNFBPs</b>	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	Article 4 paragraph 2 of the LPMLTF: Measures from Paragraph 1 of this Article shall be undertaken by business organisations, other legal persons, entrepreneurs and natural persons (hereinafter referred to as: reporting entities), as follows: 19) banks and foreign banks’ branches and other financial institutions; 20) savings-banks, and savings and loan institutions; 21) organisations performing payment transactions, 22) post offices, 23) companies for managing investment funds and branches of foreign companies for managing investment funds; 24) companies for managing pension funds and branches of foreign companies for managing pension funds; 25) stock brokers and branches of foreign stock brokers; 26) insurance companies and branches of foreign insurance companies dealing with life assurance; 27) organisers of lottery and special games of chance;

	<p>28) exchange offices;  29) pawnshops;  30) audit companies, independent auditor and legal or natural persons providing accounting and tax advice services;  31) institutions for issuing electronic money;  32) humanitarian, nongovernmental and other non-profit organisations, and  33) other business organisations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:</p> <ul style="list-style-type: none"> <li>- sale and purchase of claims;</li> <li>- factoring;</li> <li>- third persons' property management;</li> <li>- issuing and performing operations with payment and credit cards;</li> <li>- financial leasing;</li> <li>- travel organisation;</li> <li>- real estate trade;</li> <li>- motor vehicles trade;</li> <li>- vessels and aircrafts trade;</li> <li>- safekeeping;</li> <li>- issuing warranties and other guarantees;</li> <li>- crediting and credit agencies;</li> <li>- granting loans and brokerage in loan negotiation affairs;</li> <li>- brokerage or representation in life insurance affairs, and</li> <li>- organising and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of € 15.000 or more, in one or more interconnected transactions.</li> </ul>
<p><b>Measures taken to implement the recommendations since the adoption of the first progress report</b></p>	<p>The obligation refers to all obligors and additionally in Article 3 of the Bill on Changes and Amendments to the LPMLTF(refers to amendments to Article 4 of the current Law) the list of obligors is amended in respect to insurance companies and intermediaries and companies providing services in respect of the activities of insurance agents when they act in respect of life insurance; - investment, and agency in real estate trade; sport organizations and catering;  Guidelines for analysis of AML / FT risk in life insurance companies, adopted at the Council meeting held on March 7, 2011. These Guidelines oblige just life insurance companies since only these companies are obliged to act according to the AML/FT Law (as prescribed in article 8 para. 2 point 4). After the adoption of the Guidelines, the document was sent to all obligors, and a seminar, introducing the new obligations brought by this act, was organized for the representatives of all life insurance companies, where all relevant information on Guidelines and obligations arising therefrom were shared.  These Guidelines prescribe minimum activities that should be performed by the life insurance companies.  The Obligor shall adopt an internal act on business policy which is to regulate the following activities:</p> <ul style="list-style-type: none"> <li>- development of a risk analysis in relation to the money laundering and terrorism financing, with the purpose of defining areas of business which are, given the possibilities of money laundering or terrorism financing, more or less critical, i.e. of self-determining other risks in business operation,</li> <li>- definition of measures and manner for their implementation for the purpose of preventing the risk of money laundering and terrorism financing,</li> <li>- appointment of person authorized for implementation of measures aimed at</li> </ul>

	<p>preventing the risk of money laundering and terrorism financing and undisturbed performance of activities by this person,</p> <ul style="list-style-type: none"> <li>- training program for employees, especially for authorized person, for the purpose of adequate fulfilment of activities prescribed by the Law and these Guidelines,</li> <li>- collection of data in a manner prescribed by the Law and these Guidelines,</li> <li>- reporting to the authorities in a manner prescribed by the Law,</li> <li>- assessment of procedures on prevention of money laundering and terrorism financing implemented by the insurance brokers or agents that the Obligor cooperates with,</li> <li>- treatment of client's data in the procedure of establishing identity, reviews of and monitoring the basis for establishing client's identity and risk factor,</li> <li>- treatment of data on transactions performed under the business relationship with the client, especially of those that cause doubt whether they are appropriate for the type of business and in line with the client's risk and information on the respective client,</li> <li>- keeping records in a manner prescribed by the Law.</li> </ul>
<p><b>Measures taken to implement the recommendations since the adoption of the second progress report</b></p>	<p>The mentioned change is introduced in the current Law on PMLTF ( see Article 4).</p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</p>	<p><b>Article 4 of the current Law on PMLTF is changed and the list of reporting entities is amended in the Proposal on the LPMLTF Article 4 , as follows:</b></p> <p><b>Reporting entities</b> <b>Article 4</b></p> <p>Measures for detecting and preventing money laundering and terrorist financing shall be taken before, during and after the conduct of any business of receiving, investing, exchanging, keeping or other form of disposing of money or other property, or any transactions for which there are reasonable grounds of suspicion of money laundering or terrorist financing.</p> <p>Measures from paragraph 1 of this Article shall be undertaken by business organizations, other legal persons, entrepreneurs and natural persons conducting activities (hereinafter referred to as: reporting entities), as follows:</p> <ol style="list-style-type: none"> <li>1) banks and other credit institutions, and foreign banks' branches;</li> <li>2) financial institutions;</li> <li>3) payment service providers</li> <li>4) post offices,</li> <li>5) companies for managing investment funds and branches of foreign companies for managing investment funds;</li> <li>6) companies for managing pension funds and branches of foreign companies for managing pension funds;</li> <li>7) stock brokers and branches of foreign stock brokers;</li> <li>8) legal persons licenced by Securities and Exchange Commission for providing custody and depository services, except banks,</li> <li>9) insurance companies and branches of foreign insurance companies dealing with life insurance,</li> <li>10) insurance intermediaries and companies providing services in respect of the</li> </ol>

	<p>activities of insurance agents when they act in respect of life insurance;</p> <p>11) organizers of lottery and special games of chance;</p> <p>12) exchange offices;</p> <p>13) pawnshops;</p> <p>14) companies issuers of electronic money;</p> <p>15) humanitarian, non-governmental and other non-profit organizations;</p> <p>16) sport organizations;</p> <p>17) other business organizations, legal persons, entrepreneurs and natural persons engaged in an activity or business of:</p> <ul style="list-style-type: none"> <li>- sale and purchase of claims;</li> <li>- factoring and forfeiting ;</li> <li>- audit companies, independent auditor and legal or natural persons providing accounting and tax advice services and also services of establishing new companies;</li> <li>- third persons' property management;</li> <li>- issuing and performing operations with payment and credit cards;</li> <li>- financial leasing;</li> <li>- investment, trade and intermediation in real estate trade;</li> <li>- performing construction works;</li> <li>- elaborating construction projects;</li> <li>- motor vehicles trade;</li> <li>- vessels and aircrafts trade;</li> <li>- safekeeping;</li> <li>- issuing warranties and other guarantees;</li> <li>- crediting and credit agencies;</li> <li>- granting loans and brokerage in loan negotiation affairs;</li> <li>- marketing and consulting activities related to business activities and other managing activities</li> <li>- catering and tourism services;</li> <li>- purchase and trade with secondary raw materials;</li> <li>- multi-level sale</li> <li>- organizing and conducting biddings, trading in works of art, precious metals and precious stones and precious metals and precious stones products, as well as other goods, when the payment is made in cash in the amount of at least € 7.500, in one or more interconnected transactions.</li> </ul> <p>By way of exception to item 2 of this Article a regulation of the Government of Montenegro (hereinafter: the Government) can define the other reporting entities that shall take the measures from item 1 of this Article if, considering the nature and manner of carrying out activities or business, there is a risk of money laundering or terrorist financing.</p> <p>By way of exception to item 2 of this Article, the Government may, in accordance with special conditions prescribed by the international standards, define that the reporting entities performing activities on an occasional or very limited basis are not obliged to undertake the measures and actions prescribed by this Law when performing certain part of business or activity.</p>
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## 2.6 Statistics

### 2.6.1 Money laundering and financing of terrorism cases

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3	8	1	1	1	1						
FT												

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	7	39	7	42	1	1				1958000€		161000€
FT												

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	2	11	1	10								
FT												

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3	7	2	5	1	4				87600€		
FT												

2009*												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2010*												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2011												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	3	6	3	6	-	-			3	47,3 millions		
FT												

2012												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML					4*				1	21 353 889,22 euro		
FT												

**\*IN 2009 AND 2010 THERE WERE NO CASES OF MONEY LAUNDERING AND TERRORIST FINANCING. THERE ARE ONGOING PROCEEDINGS FOR 3 CASES RELATED TO MONEY LAUNDERING IN 2011.**

\*out of this 4 cases, we have 1 case (indictment from 2011) against 2 persons where the first instance judgment found them guilty and the accused are obliged to pay 21 353 889,22 euro;  
in two cases (one from 2006 and one from 2008) we have final judgment of release and in one case(indictment from 2011) the conviction is of release but it is not final.

**2.6.2 Statistical data for the criminal offence- money laundering for the period from 2004 to 2012**

**SUPREME STATE PROSECUTOR'S OFFICE**

Year	No. cases	No. persons	investigation		Temporary measures		Amount of proceeds derived from crime	Termination of investigation		Pending investigation		Raised indictment		Confiscation proposed	Convictions		Conviction based confiscation )	Transferred criminal cases	
			No. cases	No. persons	No. cases	No. persons		No. cases	No. persons	No. cases	No. persons	No. cases	No. persons		No. cases	No. persons		No. cases	No. persons
2004	2	3	1	2			895,000\$					1	2	895,000 \$	1	2	895,000 \$	1	1
2005	3	8	3	8			over 40,000 €	2	7			1	1		1*	1			
2006	10	53	7	39	4	31	5,965,000 €			2	8	7	42	1,958,000€	1* 1**	1* 2**	161,000€	1	3
2007	2	11					190,000€ ****					1	10					1	1
2008	3	7	3	7	1	1	over 80,000€			1	2	2	5	87,600€	1*	4*			
2009																			
2010																			
2011																			
2012																			

\* Conviction of release.

\*\* Conviction is not final.

\*\*\*\* In the case in which the investigation is being conducted was not suggested to determinate temporary measure, because this measure has already been determined against the same persons in the case from 2006



2.6.3 STR/CTR

2005																		
Statistical Information on reports received by the FIU								Judicial proceedings										
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions						
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT				
								cases	persons	cases	persons	cases	persons	cases	persons			
Commercial Banks		500																
Insurance Companies	4																	
Notaries																		
Currency Exchange																		
Broker Companies	3.275																	
Securities' Registrars																		
Lawyers																		
Accountants/Auditors																		
Company Service Providers																		
Car dealers	393																	
Real estate agents	349																	
Organisers of games of chance	1																	
<b>Total</b>		500		158		27												

\* Cash transactions 20.755 +78.934\*Cashless transactions = 99689 CTR

**Reports received from the competent state authorities**

Customs	161	7	
Post office	4		
Stock exchange markets	110.042*		
CDA	663*		

2006														
Statistical Information on reports received by the FIU								Judicial proceedings						
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions		
		ML	FT	ML	FT	ML	FT	ML		FT		ML	FT	
								cases	persons	cases	persons	cases	persons	cases
Commercial Banks	49,539 CTR	183												
Insurance Companies	1													
Notaries														
Currency Exchange														
Broker Companies	3	1												
Securities' Registrars														
Lawyers														
Accountants/Auditors														
Company Service Providers														
Car dealers	234													
Real estate dealers	96													
<b>Total</b>		<b>184</b>		<b>286</b>		<b>29</b>								

**\*Cash transactions 41.140 +8.399\*Cashless transactions = 49.539 Currency Transaction Reports**

**Reports received from the competent state authorities**

Customs	218	2	
Post office	31		
Stock exchange market	111.809		
CDA	1.085		

2007																		
Statistical Information on reports received by the FIU								Judicial proceedings										
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions						
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT				
								cases	persons	cases	persons	cases	persons	cases	persons			
Commercial Banks	Cash transactions 87.026 +646*	104																
Insurance Companies																		
Notaries																		
Currency Exchange																		
Broker Companies																		
Securities' Registrars																		
Lawyers																		
Accountants/Auditors																		
Company Service Providers																		
<b>Car dealers</b>	<b>211</b>																	
<b>Real estate agents</b>	<b>512</b>																	
<b>Total</b>		<b>104</b>		<b>220</b>		<b>43</b>												

\* Cash transactions 87.026 +646Cashless transactions= 87672 Currency Transaction Reports

#### Reports received from the competent state authorities

Courts(contracts)**	14.457**		
Customs	333	12	
Post office	42		
Stock exchange market	215.403		
CDA	161.432		

\*\*APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts

2008																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
								cases	persons	cases	persons	cases	persons	cases	persons		
Commercial Banks	*58.014 CTR	41															
Insurance Companies																	
Notaries																	
Currency Exchange																	
Broker Companies	3	3															
Securities' Registrars																	
Lawyers																	
Accountants/Auditors																	
Company Service Providers																	
<b>Car dealers</b>	<b>199</b>																
<b>Regal estate agents</b>	<b>338</b>																
<b>Organisers of games of chance</b>	<b>5</b>																
		<b>44</b>		<b>148</b>		<b>38</b>											

\* Cash transactions 57.675 +339 Cashless transactions =58.014 Currency Transaction Reports

#### Reports received from the competent state authorities

Courts (contracts)	8.887**		
Customs	387	13	
Post office	26		
Stock exchange markets	62.672		
CDA	79.859		

\*\*APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts

2009																	
Statistical Information on reports received by the FIU								Judicial proceedings									
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions					
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT			
								cases	persons	cases	persons	cases	persons	cases	persons		
Commercial Banks	*34.743 CTR	48															
Insurance Companies																	
Notaries																	
Currency Exchange																	
Broker Companies	7																
Securities' Registrars		2															
Lawyers		1															
Accountants/Auditors																	
Company Service Providers																	
Car dealers	196																
Real-estate agents	356	1															
Organisers of games of chance	192																
<b>Total</b>		<b>52</b>		<b>269</b>		<b>130</b>											

\* Cash transactions 34.702 +41\*Cashless transaction =34.743 Currency Transaction Reports

#### Reports received from the competent state authorities

Courts (contracts)**	3.888**		
CDA	53.663		
Customs	344	38	
Post office	5		
Stock exchange markets	33,262		
Department of Public Revenues		1	
Capital City Podgorica		1	
Analytics Department		91	
Anonymous tips			

\*\*APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts

2010																		
Statistical Information on reports received by the FIU								Judicial proceedings										
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement /prosecutors		indictments				convictions						
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT				
								cases	persons	cases	persons	cases	persons	cases	persons			
Commercial Banks	33,787 CTR	63																
Insurance Companies		1																
Notaries																		
Currency Exchange																		
Broker Companies	3	1																
Securities' Registrars		3																
Lawyers																		
Accountants/Auditors																		
<b>Car dealers</b>	118																	
<b>Real-estate agents</b>	310																	
<b>Organisers of games of chance</b>	272																	
Company Service Providers																		
Others (please specify and if necessary add further rows)																		
<b>Total</b>		<b>68</b>			<b>276</b>			<b>127</b>										

### Reports received from the competent state authorities

	reports about transactions above threshold	reports about suspicious transactions	
		ML	FT
<b>Courts (contracts)**</b>	4,122		
CDA	17,545	-	
<b>Customs</b>	386	<b>15</b>	
<b>Post office</b>	5	-	
<b>Department of Public Revenues</b>		<b>2</b>	
<b>APMLTF</b>		<b>25</b>	
<b>Stock exchange marker</b>	5,277		
<b>TOTAL</b>		<b>42</b>	

**\*\*APMLTF possesses data base with verified copies of real estate sales contracts that are provided by court**

2011																			
Statistical Information on reports received by the FIU								Judicial proceedings											
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions							
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT					
								cases	persons	cases	persons	cases	persons	cases	persons				
Commercial Banks	32,851	44																	
Insurance Companies		1																	
Notaries																			
Currency Exchange																			
Broker Companies	*																		
Securities' Registrars		4																	
Lawyers		1																	
Accountants/Auditors																			
Company Service Providers																			
<b>Car dealers</b>	22																		
<b>Real-estate agents</b>	301																		
<b>Organisers of games of chance</b>	169																		
Others (please specify and if necessary add further rows)				285		125	2												
<b>Total</b>		<b>50</b>																	

\* some broker companies deliver APMLTF reports on cashless transactions, especially when the amount of the transaction is high, or the transaction is 'interesting' (gift – share in high amounts, 'interesting' persons), as well as within the quarter reports

### Reports received from the competent state authorities

	reports about transactions above threshold	reports about suspicious transactions	
		ML	FT
<b>Courts (contracts)**</b>	3,508	-	
CDA	12,444	-	
<b>Customs</b>	358	<b>14</b>	
<b>Post office</b>	5	-	
<b>Department of Public Revenues</b>		-	
<b>APMLTF</b>		<b>17</b>	
<b>Others (reprt received by a judge)</b>		<b>1</b>	
<b>total</b>		<b>32</b>	

\*\*APMLTF possesses data base with verified copies of real estate sales contracts that are provided by courts

2012																			
Statistical Information on reports received by the FIU								Judicial proceedings											
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions							
		ML	FT	M L	FT	ML	FT	ML		FT		ML		FT					
								cases	persons	cases	persons	cases	persons	cases	persons				
Commercial Banks	34901	87		210	1 (upon request of foreign FIU)	127													
Insurance Companies	/																		
Notaries	3532																		
Currency Exchange	/																		
Broker Companies	/																		
Securities' Registrars	/	1																	
Lawyers	/	1																	
Accountants/Auditors	/																		
Company Service Providers	/																		
Car dealers	35																		
Real-estate agents	252																		
Organisers of games of chance	181																		
Stock exchange market	54																		
<b>Total</b>	<b>38955</b>	<b>89</b>	<b>/</b>																

\* some broker companies deliver APMLTF reports on cashless transactions, especially when the amount of the transaction is high, or the transaction is 'interesting' (gift – share in high amounts, 'interesting' persons), as well as within the quarter reports

### Reports received from the competent state authorities

	reports about transactions above threshold	reports about suspicious transactions	
		ML	FT
<b>Courts (contracts)**</b>			
CDA	6364		
Customs	362	5	
Post office	6		
Department of Public Revenues			
APMLTF		2	
Others (reprt received by a judge)			
<b>total</b>	<b>6732</b>	<b>7</b>	



2013 for the period 1 <sup>st</sup> January - 1 <sup>st</sup> November 2013													
Statistical Information on reports received by the FIU								Judicial proceedings					
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		Cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions			
		ML	FT	ML	FT	ML	FT	ML		FT			
								cases	persons	cases	persons	cases	persons
Commercial Banks	29240 *	88											
Insurance Companies													
Notaries	4588												
Currency Exchange													
Broker Companies													
Securities' Registrars	5372	1											
Lawyers													
Accountants/Auditors													
Company Service Providers													
Car dealers	77												
Real-estate agents	286												
Organisers of games of chance	406			239		157							
Stock exchange market	229												
Hotels	2												
<b>Total</b>	<b>40200</b>	<b>89</b>											

\*\* Cash transactions 29240+33\* wire transfers =29273 Currency Transaction Reports

	reports about transactions above threshold	reports about suspicious transactions	
		ML	FT
<b>Courts (contracts)**</b>			
CDA	5372		
Customs	386	3	
Post office	4		
Department of Public Revenues			
APMLTF		60	
Others (reprt received by a judge)			
<b>total</b>	5762	63	

#### 2.6.4 AML/CFT Sanctions imposed by supervisory authorities

##### Administrative Sanctions

	2006	2007	2008	2009	2010	2011	2012
<b>Number of AML/CFT violations identified by the supervisor</b>				29	69	61	
<b>Type of measure/sanction*</b>							
Written warnings							
Fines				€51.180	€44.185		-
Removal of manager/compliance officer							
Withdrawal of license							
Other**							
<b>Total amount of fines</b>							
<b>Number of sanctions taken to the court (where applicable)</b>							
Number of final court orders							
Average time for finalising a court order							

**Note:** During 2009 and 2010 the requests for initiating first degree misdemeanour procedure were submitted to the person authorized for conducting first degree misdemeanour procedures (Department for conducting a first degree misdemeanour procedure was within the APMLTF). In November 2010 the Authorized person moved to another state authority. In February 2011 the new Rulebook on internal organization and systematization of APMLTF dissolved the Department for conducting a first degree misdemeanour procedure. According to the new Law on misdemeanours that entered into force on 1<sup>st</sup> September 2011, the requests for initiating first degree misdemeanour procedure are submitted to the District misdemeanour authorities.

##### Administrative Sanctions- Banks The Central Bank of Montenegro

	2006	2007	2008	2009	2010	2011	2012	2013
<b>Number of AML/CFT violations identified by the supervisor</b>			9	7	9	10	21	3
<b>Type of measure/sanction*</b>								
Written warnings			2			1	0	0
Order Imposing Measures			1	3	2		0	0
Fines							0	0
Removal of manager/compliance officer							0	0
Withdrawal of license							0	0
Other**							2	3
<b>Total amount of fines***</b>							0	0
<b>Number of sanctions taken to the court (where applicable)</b>							N/A	N/A
Number of final court orders								
Average time for finalising a court order								

The violations of the Law on Prevention of Money Laundering and Terrorism Financing (LPMLTF) identified in 2012 and they referred to CDD and data protection, whereas those in 2013, the violations referred to CDD and inadequate risk classification of one client.

**\*\*Note:** The Central Bank of Montenegro delivers supervision reports to the Administration for Prevention of Money Laundering and terrorism Financing (APMLTF) in accordance with the MoU signed between these two institutions.

In cases when the supervision reports indicate violations of the LPMTF, the APMLTF files for the request to the competent authority for initiation of offence proceedings.

As shown in Table above, during 2012 the APMLTF filed 2 requests for initiation of offence proceedings against two banks.

In 2013, the APMLTF filed 3 requests for initiation of offence proceedings against three banks:

2 requests involving violations of the LPMLTF in 2012;

1 request involving violation of the LPMLTF in 2013.

\*\*\*The offence proceedings are pending.

**The Central Bank of Montenegro** has not imposed cash penalties, because there was no legal basis for such type of penalties.

The procedure of imposing measures against banks is prescribed by the Banking Law (OGM 17/08, 44/10 and 40/11). Provisions of Article 116 of the Banking Law, prescribes that if the Central Bank determines that specific bank has violated regulations it may undertake one of the following measures:

- Warn the bank in writing;
- conclude a written agreement with the bank making the bank bound to remove the irregularities found within a specified time;
- issue an **order** imposing one or more measures prescribed by this law;
- revoke the bank's license.

**The Central Bank** - examinations in 2012 and 2013 are presented in the table below:

**On-site bank examinations conducted in 2012 and 2013 by the Central Bank**

1.		2012	2013	Total
2.	<b>Number of examinations</b>	<b>14</b>	<b>5</b>	<b>19</b>

**Statistics of the APMLTF's Reporting Entities Control Department 2012**

Type of business activities	Conducted controls
Real estate agencies	9
Constructing companies	8
NGOs	/
Other activities	9
<b>Total</b>	<b>26</b>

**Requests for initiating misdemeanour procedure: 15**

**Initiatives:**

- To the STR Department - 1
- To other state authorities - 3

**1 January 2013 – 1 November 2013**

<b>Type of business activities</b>	<b>Conducted controls</b>
Real estate agencies	46
Constructing companies	48
NGOs	2
Other activities	41
<b>Total</b>	<b>137</b>

**Requests for imitating misdemeanour procedure: 28**

**Issued and charged 23 misdemeanour orders in the amount of €62.000**

**Initiatives:**

- To the STR Department - 2
- To other state authorities - 11

**2.6.5 STATISTICS OF THE INTERNATIONAL AND NATIONAL COOPERATION DEPARTMENT 2012 - 2013**

	data delivery requests received from foreign FIUs	data delivery requests sent to foreign FIUs	responses received from foreign FIUs	responses sent to foreign FIUs
<b>2012</b>	<b>26</b>	<b>176</b>	<b>170</b>	<b>31</b>
<b>2013</b>	<b>34</b>	<b>160</b>	<b>186</b>	<b>34</b>

### 3. Appendices

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

AML/CFT System	Recommended Action (listed in order of priority)
<b>1. General</b>	<b>No text required</b>
<b>2. Legal System and Related Institutional Measures</b>	
2.1 Criminalisation of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> <li>• The money laundering offence as defined by the Criminal Code is basically sound, but it lacks further refinement; the current formulation of criminalised behaviour (conversion/transfer and concealment/disguise) is narrower than the requirements in the Vienna and Palermo Conventions and should be clarified in the Criminal Code.</li> <li>• The Criminal Code should be amended to clearly include insider trading and market manipulation offences as predicate offences for money laundering.</li> <li>• There is relatively strict regulation of extraterritoriality in the case of offences committed by persons who are not citizens of Montenegro against a foreign state. This also raises the question of inclusion of “all serious offences” in the predicate offences. This is subject to incriminations in those countries and if offences are not punishable with at least 5 years imprisonment, the offence would not be considered a predicate offence in Montenegro. Abolition of this limitation (5 years imprisonment) would prevent such situations.</li> </ul>
2.2 Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> <li>• A definition of “funds”, which includes “assets of every kind, whether tangible or intangible, movable or immovable, however, acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.” should be laid down in the Criminal Code.</li> <li>• The reference to specific criminal offences (terrorism, international terrorism and hostage taking) in Article 449 should be brought into line with the scope of the Terrorist Financing Convention and the Interpretive Note to SR II, as the scope which constitutes the criminal offence becomes narrower. Under Articles 365 and 447, only the acts, intended to <i>cause harm</i> (to the constitutional order of Montenegro, or the foreign state/international organisation) are criminalised, while the convention requires the incrimination of any acts of violence which purpose is to <i>intimidate</i> a population or <i>compel</i> a government or international institution (to do/to abstain from doing).</li> <li>• The Criminal Code should be amended to incorporate the incrimination of funding of terrorist organisations and individual</li> </ul>

	<p>terrorists.</p> <ul style="list-style-type: none"> <li>• The solution of relating the existence of the terrorist financing offence to specific criminal offences, found under other Articles of the CC is also appropriate (IN 6). Under current legislation, terrorist financing is only considered to be a criminal offence if funds are intended for one of three specific criminal offences (Terrorism, Article 365, International Terrorism, Article 447 and Hostage Taking, Article 448). A more flexible definition which would incriminate financing. Furthermore, there needs to be an offence introduced to cover cases when funds are not linked with a specific terrorist.</li> <li>• Article 449 of the Criminal Code should be brought into line with international standards.</li> </ul>
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> <li>• The Criminal Code should be amended to give a more comprehensive definition of “organised crime”.</li> <li>• A reversal of the burden of proof regarding property subject to confiscation should be introduced.</li> <li>• A legal authority should be established to take steps to prevent or void actions where the person involved knew or should have known that the authorities would be prejudiced in their ability to recover property subject to confiscation</li> </ul>
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> <li>• A central authority at national level to examine, integrate and update the received lists of persons and entities suspected to be linked to international terrorism before sending them to the financial sector and DNFBP should be introduced.</li> <li>• A domestic mechanism to enact S/RES/1373 (2001) should be implemented to be able to designate terrorists at national level as well as to give effect to designations and requests for freezing assets from other countries.</li> <li>• Procedures for evaluating de-listing requests, for releasing funds or other assets of persons or entities erroneously subject to the freezing and for authorising resources pursuant to S/RES/1452 (2002) should be adopted.</li> <li>• Practical guidance to the financial institutions and DNFBP concerning their responsibilities under the freezing regime as well as for the reporting of suspicious transactions that may be linked to terrorism financing should be issued by the authorities.</li> </ul>
2.5 The Financial Intelligence Unit and its functions (R.26)	<ul style="list-style-type: none"> <li>• Specific criteria should be developed indicating the competent authority to receive the notification from APMLTF which normally starts an investigation.</li> <li>• APMLTF should take into consideration the necessity of expanding their direct access to other authorities’ databases.</li> <li>• An updated List of Suspicious Transactions Indicators should be issued and regularly updated.</li> <li>• a register on reporting entities to be supervised by APMLTF should be maintained.</li> <li>• APMLTF should be staffed sufficiently to supervise the very large number of reporting entities.</li> <li>• The prohibition for the dissemination of information received by APMLTF’s employees, after cessation of working, should be an</li> </ul>

	explicit provision in the law without any time limit.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	<ul style="list-style-type: none"> <li>• The Prosecution Authority should implement a rigorous supervision mechanism in order to avoid unnecessarily returning cases to Police Administration, which may lead to a negative impact on the effectiveness of the system.</li> <li>• The special investigative techniques should be extended to all forms of money laundering to enable law enforcement authorities to ensure a proper investigation.</li> <li>• All law enforcement authorities should continue to strengthen inter-agency AML/CFT training programmes in order to have specialised financial investigators and experts at their disposal.</li> <li>• Further steps need to be taken to eradicate the perception of corruption in law enforcement bodies.</li> </ul>
2.7 Cross Border Declaration & Disclosure	<ul style="list-style-type: none"> <li>• The Customs Administration should be given clear powers to stop individuals and restrain currency in all circumstances.</li> <li>• The Customs Administration should have the legal authority to restrain currency in cases of an administrative offence.</li> <li>• The Customs Administration should take into consideration a system to use reports on currency declaration in order to identify money launderers and terrorists.</li> <li>• The administrative sanctions for false declarations or non-declared currency should be raised considerably. Taking into account the low chance of detection, the fines are not considered to be dissuasive or effective.</li> <li>• In order to increase its effectiveness, the Customs Administration should hire more specialised staff to deal with money laundering and terrorist financing cross-border transportation of currency.</li> </ul>
<b>3. Preventive Measures – Financial Institutions</b>	
Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> <li>• It is the view of the evaluators that the wording of the second point under Article 9 is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. The evaluators consider that <b>”or more”</b> should be added in Article 9, Paragraph 1 number 2 in the LPMLTF.</li> <li>• The LPMLTF should be amended to require CDD to be conducted on wire transactions of €1,000 or more.</li> <li>• The LPMLTF should be amended to require obligors to verify that persons purporting to act on behalf of a customer have the authority to act on behalf of the customer. Article 15 of the LPMLTF should be amended to require the obtaining of copies of the document regulating the power to bind the legal person or arrangement.</li> <li>• The problem of reliance on certificates from the commercial register for CDD purposes should be addressed by establishing procedures to address the limitations of the commercial register.</li> <li>• Article 29.4 of the LPMLTF appears to go further than intended by Criteria 5.9 in that it permits simplified customer verification</li> </ul>

	<p>in respect of customers to “whom an insignificant risk of money laundering or terrorist financing is related” which could include a broader range of customers than those envisaged in Criteria 5.9. Article 29.4 should be amended to bring it into line with the essential criteria.</p> <ul style="list-style-type: none"> <li>• The FATF definition (“<i>Beneficial owner</i> refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.”) should be incorporated into the LPMLTF and a requirement to identify and verify the “ultimate” beneficial owner should be included.</li> <li>• Article 25 of the LPMLTF is very specific and does not cover a number of the specified categories as set out in Criteria 5.8, namely all non-resident customers, private banking, legal persons or arrangements such as trusts that are personal assets holding vehicles and companies that have nominee shareholders or shares in bearer form. The evaluators consider that the LPMLTF should be amended to fully reflect all of the categories in Criteria 5.8.</li> <li>• Risk guidelines in accordance with Criteria 5.12 should be completed and published.</li> <li>• A specific clause should be inserted into the LPMLTF requiring obligors to consider making a suspicious transaction report in circumstances where they have been unable to conduct satisfactory CDD. Likewise there should also be a clause requiring obligors to terminate a business relationship in circumstances where they have been unable to conduct satisfactory CDD. This is particularly relevant in circumstances where CDD has not been possible for existing customers where there are one or more linked transactions amounting to €15,000, etc..</li> <li>• There needs to be a specific requirement for obligors to assess and consider the risks of technological developments as part of their risk analysis. This should also be introduced in the guidelines to be produced by the supervisory bodies.</li> <li>• It is the view of the evaluators that the requirements of Criteria 5.17 are essentially met although the wording of the first point above is too precise and could be interpreted to read that only transactions of exactly €15,000 require CDD. Furthermore, the requirement is for CDD to be conducted when “a transaction of significance takes place.” and in the context of Criteria 5.17 it is considered that this is more appropriate wording. Overall the evaluators consider that a separate clause should be inserted into the LPMLTF to specifically deal with the issue of CDD on existing customers.</li> <li>• The lack of awareness as regards PEPS and the consequent lack of proper procedures to address the risk should be addressed through proper training to be followed by the establishment of adequate procedures to address this risk.</li> <li>• Article 25 of the LPMLTF should be amended to extend the</li> </ul>
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	<p>requirement to all cross-border correspondent banking and other similar relationships.</p> <ul style="list-style-type: none"> <li>• A requirement for financial institutions to have policies and procedures to address the risk of misuse of technological developments in ML/TF schemes should be introduced.</li> <li>• Regulations should clearly establish the obligation to obtain information on the purpose and intended nature of the business relationship for non-face to face business.</li> </ul>
3.3 Third parties and introduced business (R.9)	<ul style="list-style-type: none"> <li>• The Montenegrin authorities should consider amending legislation to specifically prohibit financial institutions from relying on intermediaries or other third parties to perform specified elements of the CDD process.</li> </ul>
3.4 Financial institution secrecy or confidentiality (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> <li>• There is no requirement that transaction records should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity in accordance with the requirements of essential criteria 10.1.1. The LPMLTF should be amended to take this requirement into account.</li> <li>• The requirements of Special Recommendation VII should be incorporated into the legislation of Montenegro.</li> </ul>
3.6 Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> <li>• Financial institutions should be required to examine as far as possible the background and purpose of unusual transactions. Enforceable requirements to set forth the finding of such examinations in writing should equally be provided. In addition specific enforceable requirement should be put in place for financial institutions to keep such findings available for authorities and auditors for at least five years.</li> <li>• Financial institutions should be required to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations. Effective measures should be put in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries and consideration should be given to the development of appropriate countermeasures as set out in the essential criteria to Recommendation 21.</li> </ul>
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<ul style="list-style-type: none"> <li>• The reporting obligation should be extended to include money laundering reporting obligations if the transaction has already been performed.</li> <li>• The Book of Rules, should be endorsed in law with sanctions for breaches in order to become “other enforceable means”.</li> <li>• A provision should be introduced to ensure that the names and personal details of staff of financial institutions that make a STR are kept confidential by APMLTF.</li> <li>• APMLTF should provide regular general feedback to all obligors which should contain: <ul style="list-style-type: none"> <li>(a) statistics on the number of disclosures, with appropriate</li> </ul> </li> </ul>

	<p>breakdowns, and on the results of the disclosures;</p> <p>(b) information on current techniques, methods and trends (typologies); and</p> <p>(c) sanitised examples of actual money laundering cases.</p>
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> <li>• Requirements should be developed that require financial institutions to put in place screening procedures to ensure high standards when hiring employees.</li> <li>• The inspection procedures that have been introduced by the Central Bank should be adopted by other financial services supervisors.</li> </ul>
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	<ul style="list-style-type: none"> <li>• Although APMLTF provides general information on criteria for detection of suspicious activity as required in the LPMLTF guidelines referring to specific AML/CFT risk factors and measures to mitigate such risks should also be provided.</li> <li>• Typologies should be developed and presented to reporting entities.</li> <li>• There is a need to provide more guidance on AML/CFT issues, with particular focus on the non-banking sector.</li> </ul>
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> <li>• The requirements of Special Recommendation VI need to be implemented.</li> <li>• The Montenegrin authorities should introduce legislation to enforce the licensing/registration of all MVT service providers together with appropriate sanctions.</li> </ul>
<b>4. Preventive Measures – Non-Financial Businesses and Professions</b>	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> <li>• Trust and Company Service Providers should be designated as obliged parties.</li> <li>• For casinos, CDD should be required above the €3,000 threshold.</li> <li>• There should be a clear requirement for casinos to link the incoming customers to individual transactions.</li> <li>• Effective systems for monitoring and ensuring compliance with CDD requirements across most of the DNFBP sectors need to be developed.</li> <li>• DNFBPs need to be made aware of their obligations regarding PEPs. Specific guidelines, aimed at DNFBPs should be developed. It is also recommended that a training programme be undertaken concerning the risks and controls necessary concerning dealings with politically exposed persons.</li> <li>• A requirement should be introduced for DNFBPs to have policies in place to prevent the misuse of technological developments in ML/TF.</li> <li>• More attention need to be given to raising awareness and enforcing compliance in casinos</li> </ul>
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> <li>• The obligation to report suspicious transactions that have been performed should be explicitly provided for in either law or regulation.</li> <li>• A prohibition against tipping off should be made specifically</li> </ul>

	<p>applicable to lawyers.</p> <ul style="list-style-type: none"> <li>• More targeted training to sectors that pose the greatest risk should be considered.</li> </ul>
4.3 Regulation, supervision and monitoring (R.24-25)	<ul style="list-style-type: none"> <li>• A comprehensive register of all reporting entities should be developed by APMLTF.</li> <li>• Guidelines to assist DNFBPs in implementing and complying with respective AML/CFT requirements are, at should be developed. Adequate and appropriate feedback on suspicious transaction reporting for DNFBPs should be provided.</li> </ul>
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> <li>• Montenegro has extended its AML/CFT obligations to other non-financial businesses, however, a regulatory and supervisory framework needs to be developed to ensure that FATF Recommendations 5, 6, 8 to 11, 13 to 15, 17 and 21 are being adhered to by these non-financial businesses.</li> <li>• A risk analysis to determine which other non-financial businesses and professions are at greatest risk of being misused for money laundering and/or terrorist financing should be undertaken. Based upon the results of such analysis, the authorities of Montenegro should direct priority outreach and educational efforts to those other non-financial businesses at the highest levels of risk.</li> </ul>
<b>5. Legal Persons and Arrangements &amp; Non-Profit Organisations</b>	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> <li>• The acquisition of information on beneficial owners by the agencies and institutions which deal with clients from abroad seems to be less effective. Considering the very intensive involvement of foreign legal entities on the Montenegrin real-estate market and rather poor information on beneficial ownership in such entities, this might present a considerable risk of abuse of such legal entities for money laundering and terrorist financing and it is recommended that financial institutions and DNFBPs be reminded to apply the same standards to overseas customers as to domestic.</li> <li>• Consideration should be given to the risk of foreign bearer shares being sold in Montenegro.</li> </ul>
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> <li>• Montenegro should conduct a review of the adequacy of its legal framework that relates to NPOs that can be abused for terrorism financing.</li> <li>• Montenegro should implement measures to ensure that terrorist organisations cannot pose as legitimate NPOs.</li> <li>• Montenegro should also reach out to the NPO sector with a view to protecting the sector from terrorist financing abuse. This outreach should include i) raising awareness in the NPO sector about the risks of terrorist abuse and the available measures to protect against such abuse; and ii) promoting transparency, accountability, integrity, and public confidence in the</li> </ul>

	<p>administration and management of all NPOs.</p> <ul style="list-style-type: none"> <li>• Montenegro should take more proactive steps to promote effective supervision or monitoring of NPOs. Authorities should ensure that detailed information on the administration and management of NPOs are available during the course of an investigation or on request internationally. Montenegro should also implement effective sanctions for violations of oversight measures or rules by NPOs or persons acting on behalf of NPOs.</li> </ul>
<b>6. National and International Co-operation</b>	
6.1 National co-operation and coordination (R.31)	<ul style="list-style-type: none"> <li>• Formal arrangements for co-operation between policy makers, FIU, law enforcement and supervisory bodies at a strategic level for AML/CFT should be developed.</li> <li>• At the operational level, the evaluators recommend that additional formal agreements be concluded in order to define the type of information to be exchanged, timeliness of the exchange, the names of contact person, etc.. The Montenegrin authorities should aim to continue interdepartmental coordination and to release periodically analysis which will enable them to develop and implement policies and activities to combat money laundering and terrorist financing at a national level.</li> <li>• The evaluators recommend that the Montenegrin authorities review periodically the performance of the system as a whole against some key strategic performance indicators and review, collectively, as much as possible, the available statistical information to better carry out each agency's task and enhance AML/CFT framework.</li> </ul>
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> <li>• As was already stated under 2.1 above, the incrimination of money laundering is limited to actions, defined as "business operations", which is narrower than the convention and this formulation should be further refined.</li> <li>• Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place.</li> </ul>
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	<ul style="list-style-type: none"> <li>• With regard to financing of terrorism there are more problems present. Besides the narrower definitions of the financing of terrorism offence, the main shortcoming is inadequate implementation of UN Resolutions, primarily S/RES/1267 (1999). Regarding the incrimination of terrorist financing, the most important outstanding issues are: existing limitation of criminalisation on financing to concrete terrorist offences and, linked to that, inability of the present definition of criminal offence to also include the funds intentioned for terrorist organisations or individual terrorists.</li> <li>• Laws and mechanisms for immediate freezing of the funds belonging to or intended for the designated terrorist organisations or individuals as defined by Resolution S/RES/1267 (1999) should be put in place.</li> <li>• An asset forfeiture fund should be established.</li> </ul>

6.4 Extradition (R.39, 37 & SR.V)	
6.5 Other Forms of Co-operation (R.40 & SR.V)	
<b>7. Other Issues</b>	
7.1 Resources and statistics (R. 30 & 32)	<ul style="list-style-type: none"> <li>• APMLTF needs to enhance the training for its own staff and for reporting entities, in order to increase the awareness and understanding of money laundering and terrorism financing schemes which may be used</li> <li>• There is a need ensure that an international training programme on money laundering and terrorism financing issues is created and implemented.</li> <li>• The evaluators were concerned that there were not sufficient staff in APMLTF to supervise the very large number of reporting entities and recommend that the staff level be raised.</li> <li>• Clear comprehensive and well-structured statistics should be kept systematically. Such statistics should differentiate the amounts of assets, types of measures, duration of measures and primarily request/imposition ratio, etc.. These statistics should then be utilised to measure the effectiveness of the system of confiscation, freezing and seizing of proceeds of crime.</li> </ul>
7.2 Other relevant AML/CFT measures or issues	
7.3 General framework – structural issues	

### **3.2 APPENDIX II – Relevant EU texts**

**Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing**

#### **Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3<sup>rd</sup> Directive):**

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

(a) in the case of corporate entities:

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

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

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

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

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

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

#### **Article 3 (8) of the EU AML/CFT Directive 2005/60/EC (3<sup>rd</sup> Directive):**

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

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

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

##### **Politically exposed persons**

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

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

(b) members of parliaments;

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

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

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

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

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

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

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

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

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

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

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