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

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Mutual Evaluation Report – *Executive Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

CROATIA

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Croatia is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the report was adopted as a third round mutual evaluation at its 26th Plenary (Strasbourg, 31 March – 4 April 2008).

EXECUTIVE SUMMARY

1. Background Information

1. This report provides a summary of the AML/CFT measures in place in Croatia as at the date of the third on-site visit from 25 to 30 September 2006, or immediately thereafter. It describes and analyses the measures in place, and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Croatia's levels of compliance with the FATF 40 + 9 Recommendations.

2. Since the second evaluation in June 2002, Croatia has taken some steps to improve its AML/CFT system. The Law on Prevention of Money Laundering (hereinafter: AML Law), which entered into force on 1 November 1997, had formed the basis for the development of an AML/CFT system in the Republic of Croatia. It was amended by the Act on Amendments to the Prevention of Money Laundering Act which entered into force on 1 January 2004; this amendment was intended to harmonize Croatian legislation with European Union legislation. On the basis of these amendments new Procedures on Implementation of the Law on Prevention of Money Laundering (hereinafter: AML-Bylaw) were issued which entered also into force on 1 January 2004.

3. According to the information provided by the Croatian authorities, the money laundering situation has not changed in Croatia since the last onsite visit. The main sources of illegal income to be laundered are considered to be economic crime offences connected with abuse of authority in economic business operations, and abuse of office and official authority, and abuse of narcotic drugs. As described below at appropriate places, the Croatian legal framework to combat money laundering and terrorist financing suffers in certain areas from quite complicated legislation which requires numerous cross-references to be fully comprehensive. This should be revised to make its application easier and more understandable both for governmental authorities and also for private sector.

4. Turning to the terrorist financing situation, the Croatian authorities are of the opinion that Croatia is not exposed to terrorist threats; so far no terrorist financing cases could be detected. The Croatian government installed a "Counter Terrorism Working Group", which focuses on terrorism and also includes terrorist financing issues; this working group is chaired by the Ministry of Foreign Affairs and European Integration. The authorities seem to be aware of terrorist financing issues, e.g. the FIU received two STRs from banks, which did not specify whether they were related to suspicion of money laundering or terrorist financing, but which were considered by the FIU to be connected with possible terrorist financing because of the indicators described in these STRs; the FIU undertook an analysis of these cases and then forwarded it to other authorities.

5. Nonetheless, Croatia will have to do more to tackle terrorist financing in a satisfactory manner. Financing of terrorism is only to a very limited extent provided for as an autonomous offence and moreover the preventive law addresses the prevention of terrorist financing in an insufficient way. In 2003, Art. 1 para 1 of the AML Law was amended and the phrase "*and prevention of terrorist financing*" was added. The Croatian authorities explained that there had not been enough time in 2003 to carry out more comprehensive changes in this field and the thought behind this minimalist amendment was that it was to be the easiest way to extend the scope of the entire AML Law to the prevention of terrorist financing. However, the evaluators were not convinced by this argument particularly in the case of provisions in the AML Law which explicitly mention only money laundering. For those articles it is difficult to argue that they could be applied beyond the explicit language of the legal texts.

2. Legal System and Related Institutional Measures

6. The separate money laundering offence (Article 279 of the Criminal Code) is basically in line with international standards and the legislation helpfully contains an explicit provision to ensure that the laundering of foreign proceeds is covered in Croatia. The judges considered that a conviction for the predicate offence was not essential to a successful prosecution for money laundering. Corporate criminal liability had been introduced in Croatia since the last evaluation and successful prosecutions had been achieved in respect of legal persons, though not as yet in money laundering cases. However, some inconsistencies with the international instruments exist and raise some uncertainties which may impede the practical implementation of the provisions. One uncertainty is that the scope of the money laundering offence is unnecessarily limited to "*banking, financial or other economic operations*". Even if the term "*other economic operations*" were to be widely interpreted, the scope of this provision does not cover all the physical (material) elements as required by the international standards.

7. Concerning money laundering proceedings, there have only been 2 cases (involving 5 persons) that resulted in a conviction for money laundering since it was separately criminalised in 1996. In the period of 2002-2006 (up to the time of the on-site visit), the State Attorney's Office issued indictments against 14 persons. In spite of these numerous indictments, from 2003 until the on-site visit in 2006, there were no convictions or final decisions in any money laundering case. At the time of the onsite visit, there were 15 indictments[1] pending before courts (covering laundering on behalf of others, as well as "own proceeds" laundering) and one of these cases dated back 8 years. The main reason for this deficient situation was the backlog generally in criminal cases; furthermore the Croatian authorities referred to "*long-lasting court investigations, partially caused because of lack of experience and lack of specific education, particularly in economic crime offences as predicate offences for money laundering offence"* and the lack of competent forensic financial experts as impeding factors. The Croatian authorities are aware of these deficiencies and should continue to address these significant problems.

8. Confiscation of pecuniary gain, in money laundering and proceeds-generating criminal cases, is provided for and the provisions appear wide enough to cover value confiscation, confiscation of indirect proceeds and substitute assets and include confiscation from third parties. Voiding contracts is provided for as part of the special forfeiture regime in money laundering offences, but not as part of the general forfeiture regime. The criminal confiscation provisions which cover illicit pecuniary gain would be insufficient to confiscate legitimate funds directed to the financing of terrorism in any such prosecution. It is positive, however, that in cases of organised crime, since 1 October 2006 it was possible to reverse the burden of proof in establishing proceeds that can be forfeited after conviction. The specialised prosecutorial body "USKOK" (Office for the Suppression of Corruption and Organised Crime) has yet not achieved any money laundering conviction.

9. Though the complex legal structure to forfeit proceeds of crime after conviction seemed to be sound, there was little practice which could be pointed to and a general absence of statistical data on the number of confiscation orders in major proceeds-generating cases. A much greater emphasis needs to be given to the taking of provisional measures at early stages of financial investigations to support more confiscation requests upon conviction. More training on these issues is required particularly for law enforcement and the judiciary.

10. The United Nations Convention on the Suppression of Terrorist Financing has been ratified. Financing of terrorism is not provided for as an autonomous offence. Numerous provisions were

[1] There have been altogether 22 persons indicted since money laundering was criminalized, out of which 5 have already been convicted and 2 acquitted.

pointed to in Croatian legislation to cover terrorist financing. Different provisions are applicable depending on whether a terrorist act or a related offence is associated with ”domestic” or ”international” terrorism, which results in problems for the system. “Terrorist financing” in the sense of the Terrorist Financing Convention appears to be punishable only if related to terrorist *acts* of an *international* character while other forms of financing terrorism are apparently not covered. Financing of *domestic* terrorism is, however, provided on a more restricted basis with a typical aiding-and-abetting approach. So far these provisions have never been tested before the court (no criminal proceedings, indictments or convictions) and there have been no investigations initiated against anyone in relation to any offence said to cover terrorist financing. As a result, there is no case-law or practice on the exact scope of the current provisions.

11. Though the Croatian authorities pointed to various provisions, the evaluation team came to the conclusion that there are no legal provisions specifically implementing UNSC Resolutions 1267 and 1373 in terms of roles, responsibilities and conditions. Nonetheless, it needs to be noted that despite this deficient legal base, some results had been achieved: bank accounts were checked, transactions suspended and assets frozen by court decisions.

12. The Croatian FIU, the Anti-Money Laundering Department (hereinafter the AMLD), is an administrative FIU and was established in 1998. It has no investigative powers and its main task is to gather information on transactions with a view to submitting reports to the authorized bodies (State Attorney’s Office and law enforcement bodies). Since the last evaluation, the FIU’s IT system has been considerably enhanced. There were 17 staff in place at the time of the on-site visit and 5 vacancies. Though Croatia undertook some steps to reinforce the unit with recruitment of additional staff, the actual number of staff seems somewhat insufficient. The AMLD indicated a need to recruit experts in analytics, statistics, IT technology, financial market, securities market and investment funds. Moreover, as was already indicated in the 2nd round report, there is a high turnover of staff. Notwithstanding this difficult staff situation, the AMLD sends a steady flow of reports to law enforcement.

13. The FIU is an active member of the Egmont Group and appears to provide generally timely and helpful assistance to other FIUs. Moreover, it has the capacity to exchange information with all types of FIU. The Department appears to be fully operational. Considering the role of the AMLD in the Croatian AML/CFT system it can be concluded that the AMLD satisfactorily fulfils its obligations. It exercises in an efficient way its core responsibilities in steering, coordinating and evaluating the reporting system and analysing the received reports. The prosecutors and Police with which the evaluators met expressed that they are satisfied with the overall work of the AMLD and that the reports received are of good quality for further proceedings. The examiners, however, noted that the FIU does not have its own separate budget. Though this does not appear to be a problem at present, in the examiners’ view a separate budget may strengthen its independence. Of more concern is the lack of sufficient and adequate feedback to reporting entities. The FIU does not give case specific feedback to the reporting entities, but general feedback information is given once per year to only banks in connection with cases opened by the AMLD based on transaction reports from the particular bank, which also contains typologies and money laundering techniques that can be found in cases. No case specific feedback (even general) is given on such occasions and there is no feedback at all with bodies other than banks.

14. The AML Law and the AML By-law provide the legal basis for the obligations of the reporting entities to file a report to the AMLD if one or both of the following provisions exist a) a transaction raises a suspicion of money laundering; b) the amount of the transaction exceeds a certain threshold. As noted, this system is quite complex and requires numerous cross-references in order to be fully comprehensible, which makes it very difficult to determine the full scope of the obligations; this causes a significant risk that the reporting institutions may misunderstand their obligations. Attempted transactions are only partially covered, and in an indirect manner. The FIU was concerned about over-reporting of suspicious transactions based on objective

indicators which they had issued to the financial sector and supervisory bodies. They are now directing the reporting entities to focus more on subjective indicators for suspicious transactions and have revised their guidance to the reporting institutions in this regard. The number of reports coming from the non-banking sector was considerably low; efforts should be undertaken to raise the awareness of the risks associated with money laundering in this sector.

15. The AML Law addresses terrorist financing only in a limited way and, as noted, this is a significant deficiency with regard to the reporting obligation regime. As the relevant provisions of the AML Law dealing with suspicious transaction reporting only refer to the suspicion of money laundering (Art. 4 para 5; Art. 8 para 3), it is difficult to interpret these provisions beyond their clear language and one has to assume that the STR regime provided by the AML Law does not extend to the prevention of terrorist financing. However, the FIU issued a list of indicators which should serve as a basis for reporting institutions to report suspicious transactions and which also contains indicators related to terrorist financing. Nonetheless, it is questionable whether there is a clear legal basis for the FIU to do so; the AML By-law (which again only refers to suspicion of money laundering but not to terrorist financing) gives the FIU the authority to issue a list of indicators (Art. 12).

3. Preventive Measures – financial institutions

16. Turning to the preventive side, numerous key elements of FATF Recommendation 5 which need to be covered either in Law or Regulation (marked with an asterisk in the 2004 Methodology) or otherwise by other enforceable means are not provided for in Croatian laws, regulations or enforceable guidance.

17. The Croatian AML/CFT framework is not based on a risk assessment. Neither the AML Law nor other regulations provide for financial institutions measures to be based on the degree of risk attached to particular types of customers; business relationships; transactions and products. More specifically, enhanced scrutiny regarding establishing relations with high-risk customers, such as foreign correspondent banks and politically exposed persons (PEPs), is not required by law, regulation or other enforceable means. There are no provisions that require financial institutions to establish customer profiles, conduct CDD on a continuing basis and to detect and analyze all complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose. However, in practice it seems that internal rules and procedures in those banking institutions which are owned by foreign banks are based on their parent banks' compliance and CDD procedures, and thus could be more in line with the FATF Recommendations, notwithstanding current Croatian requirements (in this context it is worth mentioning that the assets of six of the largest foreign owned banks exceed 85 % of total banking sector assets). Nonetheless, the evaluators could find no familiarity with the issue of PEPs in the financial sector.

18. A certain deficiency of the Croatian AML/CFT system is the situation concerning anonymous accounts, numbered accounts and accounts in fictitious names. Concerning non-residents' bearer (domestic and foreign) currency savings accounts, residents' bearer foreign currency accounts and coded bearer foreign currency accounts, the existing legislation seems to be now in line with international standards. However, though such accounts should have been closed after 2003, the Croatian authorities do not have complete information that demonstrate the extent to which this has been done. For residents' accounts in domestic currency, there is no single act or subordinate legislation that explicitly prohibits the opening of anonymous Kuna accounts or coded bearer Kuna accounts. Concerning anonymous savings books, the new Civil Obligations Act, which entered into force on 1 January 2006, prescribes that a saving book may only be registered in the name of a person. Thus, as from 1 January 2006 issuing a bearer saving book is not allowed in the

Republic of Croatia. However, there are no provisions which would require the closing of existing bearer passbooks.

19. Despite the fact that the preventive law and secondary legislation requires all reporting entities to establish the identity of the "beneficial owner", no definition of this term is provided by any of the relevant Croatian legislative acts. As a result, financial institutions normally would not go further than collecting information at the second level in respect of owners of a legal entity. It thus appears that Croatian law does not require adequate transparency concerning beneficial ownership and control of legal persons.

20. In general, for identification of natural persons the reporting institutions can use for verification of identification of natural persons passports or a personal I.D. card. However, some legal provisions allow the use (sometimes only for certain situations) of other documents which are described in various ways using the terms: "*other relevant identification card*", "*other public I.D. documents*" "*other appropriate public document*" or "*other adequate government identification*". However, none of these terms is further defined elsewhere. The legislation does not specifically identify which documents these are, what quality they need to have, from which authority they have to be issued, etc. Thus, it is left to the discretion of the reporting entities what they consider appropriate.

21. Till December 2006, fit and proper requirements for qualified owners and members of the management board of foreign exchange offices were quite limited and criminal convictions other than for money laundering were no obstacle to the obtaining of a licence. The evaluators were advised that after the onsite visit, namely on 14 December 2006, the Act on Amendments to the Foreign Exchange Act (NN 132/2006) entered into force, which provides enhanced requirements. Now the requirement that qualified owners and members of the management board of foreign exchange offices should have "*no history of criminal offence against the values protected by international law, payment transactions and operations security, document authenticity or of criminal offences as defined in Foreign Exchange Act*" covers a broader range of crimes.

22. The evaluation team was advised that at the time of the on-site visit only one global money remittance company, namely Western Union, conducted its business through 2 agents (Croatian Post Office and one bank). The annual amount of funds transferred in this way was estimated at 11 million EUR. The FEI supervised so far only once (in 2006) the activities of Western Union in one bank. The absence of a registration or licensing regime and general legal provisions for the supervision regarding money remittance providers poses serious ML/FT risks for Croatia. Also, for companies issuing debit/credit cards, no special licensing or registration system exists. As a consequence, there are also no requirements to prevent criminals or their associates from holding or being the beneficial owners of a significant or controlling interest or holding a management function, including in the executive or supervisory boards, councils, etc in such entities. Though these companies provide their services mainly via banks and this kind of business is then an element of the general licence for banks, two companies issuing debit/credit cards operate autonomously and are not covered by a banking licence. So far, only one company has been supervised in 2001 and in 2003 by the FEI.

23. Supervision in the banking sector is diverse and divided between various bodies: the Ministry of Finance is the supervisory body of Savings and Loan Cooperatives; the CNB supervises the opening of accounts and transactions both in domestic and foreign currency for AML purposes; the Foreign Exchange Inspectorate (FEI) does this only with respect to accounts and transactions in foreign currency; and housing savings banks are supervised and licensed exclusively by the CNB. Though the evaluators were advised that there should be no overlap in the area of supervision of accounts and transactions in foreign currency because both the CNB and the FEI exercise this supervision only according to the competence given by law, the examiners were concerned that a more even and unified approach to supervisory issues should be in place across the whole banking sector. The sharing of examination methodologies could assist.

24. The Croatian Financial Services Supervisory Agency (HANFA) succeeded and merged on 1.1.2006 the Croatian Securities Commission, the Agency for the Supervision of Pension Funds and Pension Insurance and Directorate for the Supervision of Insurance Companies. It is responsible for the supervision of all legal and natural entities that deal with the provision of financial services, financial market advising, sales, brokerage activities and asset management for users of financial services. This means that HANFA has to supervise the operations of large range of entities. A more coordinated approach to supervision across the whole financial sector is encouraged.

4. Preventive Measures – Designated Non-Financial Businesses and Professions

25. DNFBP are covered under the AML Law. Both casinos and real estate agents are held to the same standards on identification, verification and suspicious transaction reporting requirements as financial institutions. However, these DNFBP are in the same position as the financial institutions in that the full requirements of FATF Recommendations 5, 6 etc are not covered by law, regulation or other enforceable means. All DNFBP, including lawyers, accountants and public notaries, appear to be conducting sufficient client due diligence of physical persons in accordance with the laws regulating their individual sectors. However, it seems that their obligation to report transactions regardless of thresholds, as required by Article 8(3) of the AML Law, is not understood and therefore not generally followed. Furthermore, though the FIU has reached out to various sectors within the DNFBP, there appears to be minimal ongoing communication as evidenced by the lack of dissemination of both guidance and UN lists of designated persons. Finally, even though the AML Law does not designate a specific agency responsible for supervision of the DNFBP, the Tax Administration has taken on this responsibility. Nevertheless, only its office for supervision of games of chance conducts regular on-site visits. Any inspections pertaining to real estate, lawyers, notaries, accountants or car dealerships are the direct result of a targeted request from the AMLD, instead of being conducted on a regular basis.

5. Legal Persons and Arrangements & Non-Profit Organisations

26. There are various forms of enterprises established in Croatia for the purpose of undertaking business and they have to be registered by the court registry. The registration process itself is a specific activity performed by commercial courts regulated by the Court Registry Act. There are only formal checks verifying whether the submitted documentation is complete. The registering court is only obliged to determine whether the application contains all requirements and if the stipulated documents have been attached. Consequently, the court is not authorized to engage in determining the authenticity of the documents or of their content. Details of shareholders, i.e. members of limited liability companies are, as noted above, available on the public Court Register. In case of joint stock companies, data on shareholders are available at the Central Depository Agency (CDA) on the request of entitled persons and state bodies only (except for data concerning the identity of the 10 largest owners of each security, which are accessible to public). Judicial and administrative bodies including, *inter alia* courts, state attorneys, Police, the AMLD or the tax authority have the right to access, within their competence provided by law and on the basis of a written request, any data kept by the CDA.

27. As the preventive law and secondary legislation only requires all reporting entities to establish the identity of the "beneficial owner" but does not define this term, there is insufficient transparency concerning beneficial ownership and control of legal persons. Thus, it will be a difficult and cumbersome procedure for competent authorities to obtain the necessary information, for example, by searching the premises of a company in order to find the relevant documents etc. Certainly, the Croatian authorities can rely on investigative powers of law enforcement to determine the ultimate owners of the company from its internal records. However; this procedure, especially in case of

shareholders who are legal persons and/or with residence or seat abroad, cannot be carried out in a timely way (e.g. where mutual legal assistance is required) and doubts may remain whether information obtained by this route is adequate, accurate and verifiable.

28. There has been no formal review of the adequacy of laws and regulations that relate to the NPO sector concerning entities that can be abused for the financing of terrorism, even though there is a base to build upon, as there is some financial transparency and reporting structures are in place.

6. National and International Co-operation

29. The cooperation between policy makers, the AMLD, law enforcement and supervisors in the AML/CFT area seems appropriate. The various bodies have signed Memoranda of Understanding and they also participate in co-ordination groups. Information exchange seems to work. The FIU has access to various databases of other bodies which shows a good level of co-operation.

30. Croatia is able to provide a wide range of mutual legal assistance including, pursuant to Art. 3(1)1 of the MLA Act, "*procuring and transmitting articles to be produced in evidence, service of writs and records of judicial verdicts, appearance before the court of witnesses for testimony and other acts necessary to carry out the court proceedings*". Considering that, as it was discussed above, the provisions of the Criminal Procedure Act and the Law on USKOK can also be applied in proceedings conducted for the execution of a letter rogatory, it is beyond question that the powers of competent authorities required under Recommendation 28 are generally available for use in response to requests for mutual legal assistance.

31. Requests are executed in accordance with national procedures and those stipulated in international treaties. Nevertheless, domestic judicial authorities are required to comply with any formalities and procedures expressly indicated in the request as necessary, pursuant to the law of the requesting state (Art. 10).

32. As far as mutual legal assistance is concerned, the MLA Act contains no rules that would require dual criminality. All that is required in this context, according to Art. 1(2), is that assistance should only be provided "*in respect of criminal acts the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting state"* - apparently regardless of whether such an act would be punishable under Croatian criminal law. The evaluators were not informed of any further provision in Croatian law that would make mutual legal assistance subject to unreasonable, disproportionate or unduly restrictive conditions – on the contrary, affording such assistance "in the widest sense" is a key principle of the law (Art. 4). Though money laundering and, to the very limited extent it is covered by Articles 187a and 153 of the Criminal Code, the financing of terrorism are extraditable offences and the law, at least in principle, allows for a wide interpretation of dual criminality. Deficiencies in the criminalization of terrorist financing may nevertheless pose a significant obstacle to executing extradition requests related to such offences.

TABLE 1. Ratings of compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating[2]
Legal systems		
1. Money laundering offence	**PC**	• Some of the legislative provisions need further clarification, particularly: - Precise requirements for extra-territorial offences in respect of dual criminality. - It is unclear if indirect proceeds deriving from property other than money is covered. • The scope of the money laundering offence is limited to "banking, financial or other economic operations". • Significant backlogs both in general terms and especially in money laundering cases are seriously threatening the effectiveness of the AML system. • There have been no convictions or final decisions in any money laundering case since 2003.
2. Money laundering offence Mental element and corporate liability	**LC**	• Significant backlogs both in general terms and especially in money laundering cases are seriously threatening the effectiveness of the AML system. • There have been no convictions or final decisions in any money laundering case since 2003. • No prosecutions or convictions of legal entities for money laundering which raises a concern on effective implementation of corporate criminal liability.
3. Confiscation and provisional measures	**PC**	• The confiscation regime is still far too complicated which may hamper its effective application. • The number of confiscations is too small (there had been no confiscation in money laundering cases during the period under evaluation) which questions the effectiveness of the system. • Confiscation of proceeds appears, at least in terms of procedural rules, only discretionary and the same goes for instrumentalities of money laundering offences. • The general confiscation regime covers indirect proceeds only in specific cases (i.e. the pecuniary equivalent of ill-gotten money, securities or objects). • The specific confiscation regime for money laundering cases does not allow for value confiscation. • The general value confiscation regime is - restricted to "money, securities or objects" and does not cover any other sorts of property, like real estate or property rights,

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

		- in its amount limited to the pecuniary equivalent of the ill-gotten assets. • There is – apart for money laundering cases – no general authority to take steps to prevent or void contractual or other actions where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation. • A clearer provision for freezing orders *ex parte* or without prior notice would be beneficial. • Provisional measures are not taken regularly.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**LC**	• The AML Law does not seem to provide a clear legal basis to lift bank secrecy for STRs in respect of terrorist financing.
5. Customer due diligence	**NC**	• Anonymous accounts and accounts in fictitious names are only prohibited for certain types of accounts; where it is forbidden it is unclear how many of these accounts existed before 2003 and how many of them were closed afterwards. • There is no legal obligation which covers customer identification - when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; - when the financial institution has doubts about the veracity or adequacy of previously obtained identification data; - when there is a suspicion of terrorist financing. • Croatian legislation does not provide for a concept of "beneficial owner" as required by the Methodology. • The documents which can be used for verification of identification are not sufficiently determined by Croatian Law. • There is no requirement regarding: - the purpose and nature of the business relationship, - ongoing CDD, - enhanced CDD or - conducting CDD on existing customers; • The Croatian preventive system does not provide a "risk based approach", requiring financial institutions to perform enhanced CDD measures for higher risk categories of customers, business relationships, transactions and products. • The exemptions from identification which are stipulated by the AML Law and the AML By-law raised concerns.
6. Politically exposed persons	**NC**	Croatia has not implemented any AML/CFT measures concerning the establishment of customer relationships

		with politically exposed persons (PEPs).
7. Correspondent banking	**NC**	Recommendation 7 is addressed only to a very limited extent (partially criterion 7.1).
8. New technologies and non face-to-face business	**NC**	There is no legal obligation requiring financial institutions to have in place or take measures to prevent the misuse of technological developments in AML/CFT schemes and to address the specific risks associated with non-face to face business relationships or transactions.
9. Third parties and introducers	**N/A**	Recommendation 9 is not applicable to the Croatian AML/CFT system.
10. Record keeping	**LC**	• There is no requirement in law or regulation to keep documents longer than five years if requested by a competent authority. • Apart from the banking sector, the record keeping provisions do not mention collecting or maintaining account files or business correspondence.
11. Unusual transactions	**NC**	• Recommendation 11 has not been implemented.
12. DNFBP – R.5, 6, 8-11	**NC**	• Essential Criterion 5.7 is not covered by law, regulation or other enforceable means. • Essential Criteria 5.6, 5.8 and 5.17 are not implemented across the board. • Recommendations 5-11 do not apply to lawyers, notaries and other independent legal professions when they carry out the specified transactions. • There is no authority for competent authorities to request the reporting institutions to keep all necessary records on transaction longer than five years and there is no mention of collecting or maintaining account files or business correspondence. • Recommendations 6, 8 and 9 are not covered by law nor are they implemented. • For casinos, the documents which are necessary for verification of identification are not determined. • Casinos are not obliged to apply CDD measures when their clients engage in financial transactions equal or above 3 000 EUR/USD. • there is no sound legal basis to oblige lawyers, accountants and public notaries to identify their clients. • There is no law which obliges accountants to perform CDD measures.
13. Suspicious transaction reporting	**PC**	• There is no clear obligation to report STRs on terrorism financing. • Attempted transactions are only partially and in an indirect manner covered. • The STR reporting regime contains exemptions for certain transactions, regardless whether there is a suspicion for terrorist financing.

		• Low numbers of STRs outside the banking sector raises issues of effectiveness of implementation.
14. Protection and no tipping-off	**NC**	• There is no protection from other sorts of criminal charges or civil lawsuits than from liability for breach of banking secrecy rules. • It is not clear if the safe harbour provisions cover also good faith reporting and when no illegal activity actually occurred. • There is no clear legal basis for protection in the case of reporting a suspicion of terrorist financing. • There is no direct and explicit sanctioning for "tipping off".
15. Internal controls, compliance and audit	**PC**	• Clear provision should be made for compliance officers to be designated at management level. • There is no general legal requirement for financial institutions to maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures, policies and controls. • There are no general formal obligations imposed on financial institutions regarding screening procedures to ensure high standards when hiring employees.
16. DNFBP – R.13-15 & 21	**NC**	• There is no obligation to file an STR when there is a reason to suspect financing of terrorism. • The number of reports from DNFBP is very small and indicates a lack of awareness and understanding from this sector. There are misunderstandings and uncertainties in various areas, particularly: - It was unclear to DNFBP that the 200 000 Kuna threshold does not exempt reporting entities from submitting STRs. - The circumstances under which lawyers and notaries are exempted from reporting suspicious transactions because of legal professional privilege/secrecy are not sufficiently clear. • The safe harbour provisions for lawyers and notaries to protect them from criminal or civil liability for reporting their suspicions in good faith are not sufficiently clear. • For lawyers, public notaries and accountants no specific "tipping off" provisions exist. • The head of compliance is not required to be at the management level. • There are no requirements for an independent audit function to test compliance and there are no screening measures in place for the employees of heads of compliance or "responsible persons." • Reporting institutions do not seem to give special attention to transactions or business relationships with individuals from countries which do not

		sufficiently apply the FATF Recommendations, nor does it appear that the reporting institutions have been advised of which countries have weak AML/CFT systems.
17. Sanctions	**PC**	• The AML Law does not provide a clear legal basis for sanctions concerning infringements in the context of terrorist financing. • The AML law does not provide a sanctioning regime for directors or senior management. Also the sectoral laws seem to have no such provisions with regard to violations of AML/CFT obligations. • The majority of AML/CFT infringements can only be sanctioned by the AML Law and can only result in fines; a comprehensive sanctioning regime providing for proportionate and dissuasive sanctions is missing.
18. Shell banks	**PC**	• There is no legally binding prohibition on financial institutions to enter or continue correspondent banking relationships with shell banks nor is there any obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used by shell banks.
19. Other forms of reporting	**C**	
20. Other DNFBP and secure transaction techniques	**PC**	• No analysis has been undertaken which non-financial businesses and professions (other than DNFBP) are at risk of being misused for money laundering or terrorist financing. • There seems to be no strategy on the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.
21. Special attention for higher risk countries	**NC**	• In the case of all transactions (with persons from or in countries which do not or insufficiently apply FATF Recommendations) which have no apparent economic or visible lawful purpose, there is no specific requirement on the financial institutions to examine the background and purpose of such transactions and set out their findings in writing and to make them available to the competent authorities. • There are no mechanisms in place to apply counter measures.
22. Foreign branches and subsidiaries	**PC**	• The current provision requiring financial institutions to apply AML/CFT measures to foreign subsidiaries consistent with home country requirements is not fully operational. • There is no provision that requires financial institutions to inform their home country supervisor when a foreign subsidiary or branch is unable to observe appropriate AML/CFT measures.
23. Regulation, supervision and	**PC**	• There is no clear legal basis to cover CFT in the

monitoring		course of supervision. • Not for all types of financial institutions exists legislation to prevent all criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function. • HANFA in the course of its supervision focuses more on the detection of non-reported suspicious transactions than evaluating the effectiveness of the whole anti-money laundering system of the obliged entities. • No system in place of registering and/or licensing MVT services. • There is no special licensing or registration regime for companies issuing credit/debit cards.
24. DNFBP - Regulation, supervision and monitoring	**NC**	• Croatia does not have an effective system for monitoring and ensuring compliance with AML/CFT requirements among DNFBP. • Apart from casinos, the Tax Administration is not supervising DNFBP on AML/CFT issues. • The AMLD is the only entity able to sanction reporting institutions for not complying with AML/CFT requirements, and its only available tool is the pecuniary sanction. A broader range of proportionate and appropriate sanctions is missing. • In the absence of statistics about the sanctions implied, there is a reserve on effectiveness.
25. Guidelines and Feedback	**PC**	• Guidance is not issued for general compliance with AML/CFT requirements, only for filing STRs. • Apart from the general feedback to banks, the AMLD does not give general and sufficient feedback to the reporting entities.
Institutional and other measures		
26. The FIU	**LC**	• The AML Law provides only in its Art. 1 a reference to terrorist financing and contains no further provision in this regard. As a result there is no clear competence of the AMLD in this area which could affect its overall efficiency as the national centre for receiving, analysing and disseminating all potential disclosures concerning suspected terrorist financing activities. • The suspicious transaction report form of the AMLD relates only to money laundering but not to terrorist financing. • The high rate of turn over of staff could cause difficulties to the efficient work of the FIU.
27. Law enforcement authorities	**LC**	• There have been no convictions or final decisions in any money laundering case since 2003 (effectiveness).
28. Powers of competent authorities	**C**	
29. Supervisors	**LC**	• No general power in the whole financial sector to

		supervise CFT issues.
30. Resources, integrity and training	**LC**	• The AMLD has not sufficient staff to cover all its tasks satisfactorily. • The fast turnover of staff causes deficiencies in the capabilities of the AMLD. • Insufficient staff and training for both prosecutors and judges. • Neither the AMLD nor the Department for Financial System has sufficient resources to exercise supervision in a satisfying manner.
31. National co-operation	**C**	
32. Statistics	**PC**	• No authority keeps comprehensive and detailed statistics containing precise figures of money laundering investigations and prosecutions (particularly in terms of the number of cases) also providing information on the nature of the respective money laundering offences and the predicates involved. • The evaluators were not provided with any kind of statistics for mutual legal assistance issues. • No statistics on the results of the reports disseminated to other institutions (investigations, indictments, convictions, persons involved, cases). • No comprehensive statistics on information exchange by supervisory bodies.
33. Legal persons – beneficial owners	**PC**	• Croatian law does not require adequate transparency concerning beneficial ownership and control of legal persons.
34. Legal arrangements – beneficial owners	**N/A**	As the Croatian system does not allow to establish a (foreign or domestic) trust, Recommendation 34 is not applicable.
International Co-operation		

35. Conventions	**PC**	**Implementation of the Palermo and Vienna Conventions**
		• The scope of the money laundering offence is limited to "banking, financial or other economic operations".
		• It is unclear if indirect proceeds deriving from property other than money is covered.
		Implementation of the Terrorist Financing Convention
		• The present incrimination of terrorist financing appears not wide enough to clearly sanction
		  • the provision or collection of funds for a terrorist organization for any purpose, including legitimate activities
		  • the collection or provision of funds with the unlawful intention that they should be used in full or in part by an individual terrorist for any

		purpose (as above) and • - as far as domestic terrorism is concerned - the collection of funds with the intention or in the knowledge that they should be used in full or in part to carry out terrorist acts as referred to in Art. 2(a) and (b) of the Terrorist Financing Convention, irrespective of whether or not the funds are actually used to (attempt to) carry out a terrorist act.
36. Mutual legal assistance (MLA)	**LC**	• The definitional problems with the domestic offences intended to cover the financing of terrorism would severely limit mutual legal assistance based on dual criminality.
37. Dual criminality	**LC**	• Because financing of terrorism is insufficiently, if at all, criminalized in the current domestic legislation, the requirement of dual criminality for extradition would mean that not all kinds of terrorist financing offences would be extraditable.
38. MLA on confiscation and freezing	**LC**	• In the complete absence of statistics it is not possible to determine whether and to what extent Croatia provides effective and timely response to foreign requests concerning freezing, seizure or confiscation. • Croatia has not considered establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes. • There are no arrangements for coordinating seizure or confiscating actions with other countries. • Croatia has not considered authorising the sharing of confiscated assets with other countries when confiscation is a result of coordinated law enforcement action.
39. Extradition	**LC**	• In the absence of proper statistics it is not possible to determine whether extradition requests are handled without undue delay.
40. Other forms of co-operation	**LC**	• The AML Law does not provide a satisfactorily legal basis to cooperate in terrorist financing cases.
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• Croatia has failed to implement several provisions of the Terrorist Financing Convention, notably an autonomous terrorist financing offence. • There is no legal structure for the conversion of designations under S/RES/1267(1999) and its successor resolutions as well as S/RES/1373(2001). • A comprehensive and effective system for freezing without delay by all financial institutions of assets of designated persons and entities, including publicly known procedures for de-listing etc. is not yet in place.

		• There is no system for effectively communicating action taken by the authorities under the freezing mechanisms to the financial sector and DNFBP.
SR.II Criminalise terrorist financing	**PC**	• Financing of terrorism is only to a very limited extent provided for as an autonomous offence. • The present incrimination of terrorist financing appears not wide enough to clearly sanction - the provision or collection of funds for a terrorist organization for any purpose, including legitimate activities; - the collection or provision of funds with the unlawful intention that they should be used in full or in part by an individual terrorist for any purpose (as above) and - - as far as domestic terrorism is concerned - the collection of funds with the intention or in the knowledge that they should be used in full or in part to carry out terrorist acts as referred to in Art. 2(a) and (b) of the Terrorist Financing Convention, irrespective of whether or not the funds are actually used to (attempt to) carry out a terrorist act.
SR.III Freeze and confiscate terrorist assets	**NC**	• A comprehensive system for freezing without delay by all financial institutions of assets of designated persons and entities, including publicly known procedures for de-listing etc. is not yet in place.
SR.IV Suspicious transaction reporting	**NC**	• There is no clear obligation in law or regulation to report STRs on terrorism financing.
SR.V International co-operation	**PC**	• The definitional problems with the domestic offences intended to cover the financing of terrorism would severely limit mutual legal assistance based on dual criminality. • The lack of a comprehensive domestic incrimination of financing of terrorism is a serious obstacle to extradition possibilities. • The AML Law insufficiently addresses financing of terrorism which may hamper its applicability concerning mutual legal assistance in relation to financing of terrorism offences.
SR.VI AML requirements for money/value transfer services	**NC**	• No system in place of registering and/or licensing MVT service operators. • MVT service operators are not subject to the applicable FATF Recommendations. • There is only indirect monitoring of MVT service operators with regard to compliance with the FATF recommendations. • There are no sanctions applicable to MVT service operators.
SR.VII Wire transfer rules	**PC**	• There is no comprehensive requirement for ordering financial institutions to verify that originator information is accurate and meaningful. • There is no obligation to verify the identity of a

		customer for all wire transfers of EUR/USD 1000 or more. • Financial institutions are not required to have in place risk-management systems to identify and handle wire transfers that lack full originator information, aimed at detecting transfers of suspicious nature that may result in making an STR report. • At the time of the on-site visit, no specific enforceable regulations existed for the Croatian Post which acts as an agent for a global money remittance company. • The FEI at the time the of on-site visit did not perform inspections of the Croatian Post. • There are no procedures in place for banks and the Croatian Post Office dealing with "batch transfers". • There are no provisions requiring intermediary financial institutions to maintain all the required originator information with the accompanying wire transfers.
SR.VIII Non-profit organisations	**NC**	• No special review of the risks and not any sort of ongoing monitoring of the NPO sector have been undertaken. • Financial transparency and reporting structures are insufficient and do not amount to effective implementation of criteria VIII.2 and VIII.3.
SR.IX Cross Border declaration and disclosure	**PC**	• In the case of discovery of a false declaration of currency or bearer negotiable instruments or a failure to declare them, Customs authorities have the authority only in limited situations to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use. • When it comes to legally carrying things in or out of the Republic of Croatia and there is a suspicion of criminal activity, Customs does not have the power to seize these things. • There is no explicit provision allowing Customs to stop/restrain currency or bearer negotiable instruments in the case there is a suspicion of money laundering or terrorist financing.