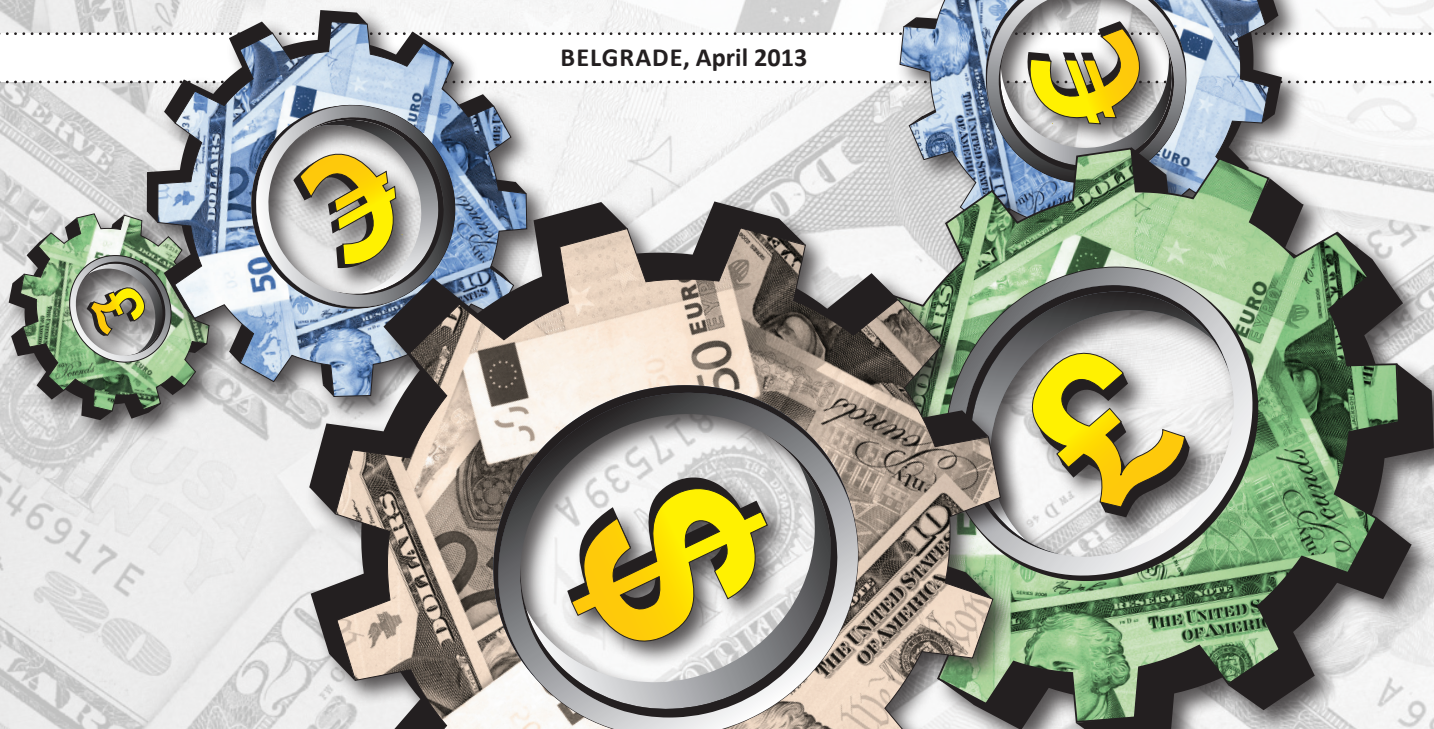




# NATIONAL RISK ASSESSMENT OF MONEY LAUNDERING IN THE REPUBLIC OF SERBIA



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The MOLI-Serbia Project provided logistical support throughout the NRA exercise as well as guidance and feedback to Serbian authorities on this NRA document based on international standards and guidelines.

The National ML/TF Assessment Tool developed and provided by the World Bank was used by Serbian authorities as the main instrument in this self assessment exercise. The World Bank team's role was limited to: 1) delivery of the tool; 2) providing guidance on the technical aspects of the tool; 3) review of draft NRA documents and providing feedback to assist in proper use of the tool. The data, statistics, and information populated into National ML/TF Assessment Tool templates, as well as the findings, interpretations, and judgments under the scope of National Risk Assessment process belong to Serbian authorities and do not reflect the views of the World Bank. ■

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# CONTENTS

|   |           |
|---|-----------|
| <b>INTRODUCTION</b>   | <b>11</b> |
| <b>NATIONAL RISK ASSESSMENT</b>   | <b>12</b> |
| NATIONAL RISK ASSESSMENT OF MONEY LAUNDERING<br>IN THE REPUBLIC OF SERBIA – PREPARATION PROCESS                               | 13        |
| RISK ASSESSMENT   | 14        |
| <b>SUMMARY</b>  | <b>15</b> |
| <b>(SYSTEM THREATS AND VULNERABILITIES)</b>   | <b>15</b> |
| <b>THREATS</b>  | <b>15</b> |
| CRIMINAL OFFENCES WITH A HIGH LEVEL OF MONEY LAUNDERING RISK  | 15        |
| <i>Tax evasion</i>  | 15        |
| <i>Illicit production and circulation of narcotics – Article 246</i>  | 15        |
| <i>The criminal offence of abuse of office – Article 359</i>  | 16        |
| <i>Identified typology</i>  | 16        |
| <i>Determining the value of proceeds of foreign origin that may be laundered in the country</i>                               | 16        |
| <i>The system vulnerability at the national level</i>   | 16        |
| SECTORAL VULNERABILITY  | 17        |
| <i>Financial sector</i>   | 17        |
| <i>Banks</i>  | 17        |
| <i>The vulnerability of designated legal entities and individuals outside the financial sector</i>                            | 17        |
| <i>Real estate agents and individuals - developers</i>  | 17        |
| <i>Proposed actions – conclusions (mitigation of consequences of money laundering)</i>  | 18        |
| <i>New national strategy for the prevention of money laundering and terrorism financing</i>                                   | 18        |
| <i>Abuse of office – Article 359</i>  | 19        |
| <i>System vulnerability</i>   | 20        |
| <b>PRESENTATION OF RESULTS</b>  | <b>22</b> |
| THREATS AND VULNERABILITIES OF THE ANTI-MONEY LAUNDERING SYSTEM   | 22        |
| <i>Risk analysis</i>  | 22        |
| <i>Threats</i>  | 23        |
| <i>Tax evasion</i>  | 24        |
| <i>Illicit production and circulation of narcotics</i>  | 25        |
| <i>Abuse of office</i>  | 26        |
| <i>Undue influence or abuse and corruptive behaviour during the proceedings<br/>for criminal offences of money laundering</i> | 26        |
| <i>System vulnerability</i>   | 26        |
| <i>Local cooperation</i>  | 27        |
| <i>International cooperation</i>  | 28        |
| <i>The value of proceeds of foreign origin that may be laundered in the country</i>   | 28        |
| <i>Carrying money across the border</i>   | 28        |
| <i>Foreign exchange payment operations – suspicious transactions</i>  | 29        |
| <i>Foreign trade – typological practices</i>  | 29        |
| <b>SECTORAL VULNERABILITY</b>   | <b>30</b> |
| FINANCIAL SECTOR VULNERABILITY  | 30        |
| <i>Banks</i>  | 31        |
| <i>Capital market</i>   | 32        |

---

## CONTENTS

---

|   |           |
|---|-----------|
| <i>Exchange offices</i>   | 33        |
| <i>Money transfer agents</i>  | 33        |
| <i>Factoring and forfeiting</i>   | 34        |
| <i>Life insurance</i>   | 34        |
| <i>Voluntary pension funds</i>  | 34        |
| <i>Financial leasing</i>  | 34        |
| <b>VULNERABILITY OF THE NON-FINANCIAL SECTOR</b>  | <b>35</b> |
| <i>Real estate agents</i>   | 35        |
| <i>Casinos</i>  | 35        |
| <i>Lawyers</i>  | 35        |
| <i>Accountants and auditors</i>   | 36        |
| <i>Notaries</i>   | 36        |
| <i>Pawnshops</i>  | 36        |
| <i>Non-governmental organisations</i>   | 36        |
| <b>DATA TRANSPARENCY</b>  | <b>36</b> |
| <b>ACTION PLAN</b>  | <b>37</b> |
| <i>Conclusions</i>  | 37        |
| 1. <i>Poorly kept statistics</i>  | 37        |
| 2. <i>Insufficient knowledge</i>  | 37        |
| 3. <i>Database connection, centralisation and networking</i>  | 37        |
| 4. <i>Problem of coordination of work of government authorities</i>   | 38        |
| 5. <i>New national strategy for combating money laundering and terrorism financing</i>  | 38        |
| <b>ANNEXES</b>  | <b>39</b> |
| <b>ANNEX 1 – MODULE 1</b>   | <b>39</b> |
| <b>CONSIDERING THE ISSUE OF PROCEEDS OF CRIME</b>   | <b>39</b> |
| <b>INTRODUCTION</b>   | <b>39</b> |
| <i>The Incidence of the aforementioned criminal offences</i>  | 40        |
| <i>Determining Proceeds of Crime at National Level</i>  | 42        |
| <b>CRIMINAL OFFENCES WITH A HIGH LEVEL OF MONEY LAUNDERING RISK</b>   | <b>44</b> |
| <i>Tax evasion - Article 229, Non-payment of withholding tax Article 229-a</i>  | 44        |
| <i>Illicit production and circulation of narcotics – Article 246</i>  | 45        |
| <i>The criminal offence of abuse of office – Article 359</i>  | 48        |
| <b>CRIMINAL OFFENCES WITH A MEDIUM LEVEL OF MONEY LAUNDERING RISK</b>   | <b>50</b> |
| <i>The criminal offence of abduction – Article 134</i>  | 50        |
| <i>Criminal Offences Against Property</i>   | 50        |
| <b>CRIMINAL OFFENCES WITH A LOW LEVEL OF MONEY LAUNDERING RISK</b>  | <b>52</b> |
| <b>DETERMINING THE AMOUNT OF PROCEEDS OF CRIME OF FOREIGN ORIGIN WHICH CAN BE LAUNDERED IN SERBIA</b>   | <b>54</b> |
| <b>ACTION PLAN</b>  | <b>60</b> |
| <b>ANNEX 1</b>  | <b>61</b> |
| <b>CRIMINAL OFFENCES WITH A LOW LEVEL OF MONEY LAUNDERING RISK (ANALYSIS FOR INDIVIDUAL CRIMINAL OFFENCES)</b>                                      | <b>61</b> |
| <i>The criminal offence of aggravated murder – Article 114, paragraph 1 items 4 and 5</i>   | 61        |
| <i>Criminal offences against economic interests – counterfeiting money – Article 223</i>  | 61        |
| <i>Counterfeiting and misuse of payment cards – Article 225</i>   | 61        |
| <i>The criminal offence of illegal production, possession, carriage and circulation of firearms and explosive materials – Article 348 of the CC</i> | 61        |
| <i>The criminal offence of human trafficking - Article 388</i>  | 61        |

## CONTENTS

|   |           |
|---|-----------|
| ANNEX 2   | 62        |
| <b>ANNEX 2 – MODULE 2</b>   | <b>64</b> |
| <b>REPORT ON SYSTEM VULNERABILITY AT THE NATIONAL LEVEL</b>   | <b>64</b> |
| <i>Summary</i>  | 64        |
| <i>Political strategy</i>   | 64        |
| <i>Criminalisation of money laundering</i>  | 64        |
| <i>Reporting suspicious transactions</i>  | 65        |
| <i>International cooperation in criminal matters</i>  | 66        |
| <i>Integrity of prosecutors for financial crime, presiding judges and officers in charge of investigations of financial crime</i> | 66        |
| <i>Capacities of prosecutors for financial crime, presiding judges and officers in charge of financial crime investigations</i>   | 67        |
| <i>Local cooperation</i>  | 68        |
| <i>Criminal sanctions</i>   | 68        |
| <i>Legislation in the area of asset recovery</i>  | 68        |
| <i>Orders (decisions) on the recovery of assets</i>   | 69        |
| <i>Standards and practices of accounting and auditing</i>   | 69        |
| <i>Infrastructure for identification</i>  | 70        |
| <i>Availability of independent sources of information</i>   | 70        |
| <i>Transparency of businesses and trusts</i>  | 71        |
| <i>Availability of tax information</i>  | 72        |
| <i>Informal (grey) economy</i>  | 72        |
| ANNEX 1 – MODULE 2  | 73        |
| ANNEX 2 – MODULE 2  | 74        |
| ANALYSIS OF EFFECTIVENESS AND EFFICIENCY IN THE IMPLEMENTATION OF CRIMINALISATION OF MONEY LAUNDERING                             | 74        |
| ANNEX 3 – MODULE 2  | 75        |
| COMPETENCE OF THE ADMINISTRATION FOR THE PREVENTION OF MONEY LAUNDERING   | 75        |
| ANNEX 4 – MODULE 2  | 76        |
| <i>CASH TRANSACTIONS AND SUSPICIOUS TRANSACTIONS 2008 – 2012</i>  | 76        |
| <i>COMPARATIVE OVERVIEW OF INFORMATION FORWARDED</i>  | 76        |
| <i>COMPARATIVE OVERVIEW OF INFORMATION FORWARDED TO PROSECUTOR'S OFFICES IN 2011 AND 2012</i>                                     | 77        |
| ANNEX 5 – MODULE 2  | 78        |
| ANALYSIS OF THE LEGAL FRAMEWORK IN THE AREA OF MUTUAL LEGAL ASSISTANCE  | 78        |
| ANNEX 6 – MODULE 2  | 80        |
| ANALYSIS OF THE SITUATION REGARDING THE INTEGRITY OF PROSECUTORS FOR FINANCIAL CRIME AND PRESIDING JUDGES                         | 80        |
| ANNEX 7 – MODULE 2  | 82        |
| ANALYSIS OF THE LEGAL FRAMEWORK FOR THE RECOVERY OF PROCEEDS OF CRIME INCLUDING THE STATISTICS                                    | 82        |
| ANNEX 8 – MODULE 2  | 84        |
| AVAILABILITY OF TAX INFORMATION   | 86        |

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## CONTENTS

---

|   |            |
|---|------------|
| ANNEX 9 – MODULE 2  | 86         |
| INFORMAL (GREY) ECONOMY   | 86         |
| <b>ANNEX 3 - MODULE 3</b>   | <b>88</b>  |
| <b>BANKING SECTOR VULNERABILITY</b>   | <b>88</b>  |
| <b>INTRODUCTION</b>   | <b>88</b>  |
| <i>Financial sector</i>   | 88         |
| <i>Banking sector</i>   | 88         |
| BANKING SECTOR VULNERABILITY  | 91         |
| GENERAL INPUT VARIABLES   | 92         |
| <i>Laws and by-laws on the prevention of money laundering and terrorism financing (preventive measures and supervision)</i> | 92         |
| <i>The quality of supervision regarding the prevention of money laundering and terrorism financing</i>                      | 93         |
| <i>Market pressure towards adherence to the AML standards</i>   | 96         |
| <i>Commitment to good corporate governance</i>  | 97         |
| <i>Penalties</i>  | 100        |
| <i>Fulfilment of obligations arising from the anti-money laundering regulations</i>   | 101        |
| <i>Integrity of bank officers</i>   | 102        |
| <i>Knowledge of bank officers</i>   | 102        |
| <i>Compliance functions</i>   | 103        |
| <i>Identification infrastructure</i>  | 105        |
| <i>Availability of independent information sources</i>  | 106        |
| <i>Transparency of businesses and trusts</i>  | 106        |
| INPUT VARIABLES FOR SELECTED SPECIFIC PRODUCTS AND SERVICES:<br>VOLUME, INHERENT RISKS AND SPECIFIC CONTROLS                | 108        |
| <i>Banking products</i>   | 108        |
| <i>Specific input variables for specific products</i>   | 108        |
| <i>Product volume</i>   | 108        |
| <i>Average amount of transactions for products</i>  | 109        |
| <i>The profile of the customers using the product</i>   | 109        |
| <i>Other characteristics of product or service vulnerability</i>  | 110        |
| <i>Existence of adequate specific controls for a given product</i>  | 110        |
| <i>Scores for all products</i>  | 111        |
| ANNEX 1 – MODULE 3  | 113        |
| BASIC INFORMATION   | 113        |
| <i>Selected parameters of the Serbian banking sector</i>  | 113        |
| <i>Assets</i>   | 113        |
| <i>Liabilities and capital</i>  | 115        |
| <i>Profitability</i>  | 116        |
| <i>Training</i>   | 116        |
| <i>List of banks</i>  | 117        |
| ANNEX 2 – MODULE 3  | 118        |
| ASSESSMENT OF COMPLIANCE WITH THE FATF<br>RECOMMENDATIONS RELATING TO THE FINANCIAL SECTOR<br>(MONEYVAL REPORT)             | 118        |
| <b>ANNEX 4 – MODULES 4, 5 AND 6</b>   | <b>121</b> |
| <b>ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT<br/>(FINANCIAL INSTITUTIONS OTHER THAN BANKS)</b>                   | <b>121</b> |



## CONTENTS

|  |            |
|--|------------|
| THE BASIS AND OPERATING METHOD OF ANALYSIS<br>OF SECTOR VULNERABILITY ASSESSMENT MODULES           | 121        |
| MODULE 4: SECURITIES SECTOR (CAPITAL MARKET)   | 121        |
| <i>Data on capital market participants</i>   | 121        |
| <i>Data on reporting entities for the first six months of 2012</i>                                 | 121        |
| <i>The size and turnover volume of the securities sector (capital market)</i>                      | 121        |
| SUPERVISION OF BONDS CONDUCTED BY THE SECURITIES AND EXCHANGE COMMISSION (SEC)                     | 125        |
| <i>Sector risk and vulnerability assessment</i>  | 126        |
| <i>Money laundering risk factors that are and will still be present in the capital market</i>      | 126        |
| LIFE INSURANCE MARKET IN THE REPUBLIC OF SERBIA  | 127        |
| <i>The market size and turnover volume of the life insurance sector</i>                            | 127        |
| <i>Supervision</i>   | 130        |
| <i>Money laundering threats – challenges for insurance companies:</i>                              | 131        |
| LICENSED EXCHANGE OFFICES AND BANKS  | 131        |
| <i>Sector size and turnover volume</i>   | 131        |
| <i>Inspection measures</i>   | 131        |
| SERVICE OF MONEY TRANSFER IN INTERNATIONAL PAYMENTS  | 131        |
| <i>Analysis of the sector size and turnover volume</i>   | 131        |
| <i>Inspection measures</i>   | 132        |
| FACTORING AND FORFEITING IN INTERNATIONAL PAYMENTS   | 132        |
| <i>Analysis of the sector size and turnover volume (number of transactions)</i>                    | 132        |
| THE VOLUNTARY PENSION FUND SECTOR  | 133        |
| <i>Sector size and turnover volume in the financial market</i>                                     | 133        |
| <i>Volume of turnover (number of transactions)</i>   | 133        |
| <i>Inspection measures</i>   | 133        |
| VULNERABILITY SCORE OF THE VOLUNTARY PENSION FUND SECTOR   | 133        |
| FINANCIAL LEASING COMPANIES  | 133        |
| <i>Sector size and turnover volume in the financial market</i>                                     | 133        |
| <i>Inspection measures</i>   | 134        |
| VULNERABILITY SCORE OF THE SECTOR OF FINANCIAL LEASING PROVIDERS                                   | 134        |
| <b>ANNEX 5 – MODULE 7</b>  | <b>135</b> |
| <b>VULNERABILITY OF DESIGNATED LEGAL ENTITIES<br/>AND INDIVIDUALS OUTSIDE THE FINANCIAL SECTOR</b> | <b>135</b> |
| DESCRIPTION OF THE SITUATION   | 135        |
| RISK ASSESSMENT  | 136        |
| <i>Casinos</i>   | 136        |
| <i>Organisation of games of chance via the Internet</i>  | 136        |
| <i>Real estate agents and individuals acting as developers 0.69</i>                                | 136        |
| <i>Lawyers</i>   | 137        |
| <i>Auditors</i>  | 137        |
| <i>Accountants</i>   | 138        |
| <b>PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT<br/>OF THE ANTI-MONEY LAUNDERING SYSTEM</b>   | <b>140</b> |
| LIST OF ACRONYMS:  | 165        |
| <b>TERMS</b>   | <b>166</b> |



# INTRODUCTION

The need for a different approach in the prevention of money laundering and terrorism financing was recognised by the Republic of Serbia back in 2009 when it passed the Law on the Prevention of Money Laundering and Terrorism Financing. This approach is based on the money-laundering risk analysis and assessment that the reporting entities perform under the Law for each customer and business relationship and based on which they perform their obligations in accordance with the Law. The Republic of Serbia thus complied with the international standards in the field of prevention of money laundering and terrorism financing adopted by the Financial Action Task Force – FATF and with the relevant legal regulations of the European Union.

The decision on the implementation of national money-laundering risk assessment was made by the Standing Coordination Group for supervising the implementation of the National Strategy for Combating Money Laundering and Terrorism Financing on 8 December 2011. The obvious improvement of the system, which was a result of the risk-based approach, as well as the revision of the FATF recommendations, which was in progress at that time, gave an impetus to the competent government authorities to conduct a comprehensive analysis of the risks to which the PML/TF system in the Republic of Serbia was exposed (National Risk Assessment – NRA). By adopting the revised FATF recommendations in February 2013, the implementation of national risk assessment became a binding international standard.

The purpose of implementing the National Risk Assessment is to assist the Government in efficiently distributing the resources that it allocates to combating money laundering and ensuring that the measures taken are proportionate to the risks identified.

The National Risk Assessment was conducted as part of the so far most important and most valuable project for the prevention of money laundering and terrorism financing in the Republic of Serbia – MOLI Serbia, worth EUR 2,265,000. The project was funded by the European Union from the IPA pre-accession funds, with the participation of the Republic of Serbia and the Council of Europe, which implements this project. We are also grateful to the World Bank experts, whose methodology was used in conducting the risk analysis, for their wholehearted assistance and advice, as well as the OSCE Mission to Serbia for their support in the process of preparing the National Risk Assessment. Many government authorities that are directly or indirectly part of the anti-money laundering system invested great efforts in producing the document that is now before the reader. In addition to government authorities, the private sector was consulted in the risk analysis and assessment, which contributed to the comprehensiveness of the assessment.

Finally, it should be said that the work on the money-laundering risk analysis and assessment does not end with the publication of this report, but that it just begins. The report is the basis for further identification of risks and vulnerabilities in the anti-money laundering system, so its regular updating is necessary. The important assessments and conclusions of this report will also be of great benefit in the development of the national strategy for the prevention of money laundering and terrorism financing for 2013-2018. ■

**ALEKSANDAR VUJIČIĆ**  
Director

Administration for the Prevention of Money Laundering

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# NATIONAL RISK ASSESSMENT

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According to the amended and revised FATF recommendations adopted in February 2012, the preparation of the National ML/TF Risk Assessment is an international standard. Recommendation 1 calls on countries to identify, assess and understand the ML/TF risks they face. According to this recommendation, the governments should designate an authority or mechanism that will coordinate steps for risk assessment. Identification, assessment and understanding of the money laundering risks are essential parts of the implementation and development of the PML/TF system in the country. This system includes laws, other regulations, enforcement measures and other measures taken to mitigate ML/TF risks.

The aim of the risk assessment is to reach conclusions as to which sectors and actions in the system of a country carry a potentially higher money laundering risk and which carry a lower risk, so that the government could adequately respond to them and mitigate or fully eliminate them. Risk assessment at the national level is the basis for efficient allocation of resources in combating money laundering and terrorism financing. If an increased risk is identified in certain areas of the country, the resources should be directed precisely to these areas instead of the areas in which lower risks were identified. The National Risk Assessment will differ from country to country because legal systems of countries are very diverse, their population differs, as well as their social culture, standard of living, types of crime etc. However, what is common to all risk assessments is the fact that they are based on risk-based approach and that the whole system is analysed and investigated during risk assessment with the intention of identifying the money laundering sources and methods.

Risk may be understood as a function of three factors: threat, vulnerability and consequence. Ideally, risk assessment involves making judgments about threats, vulnerabilities and consequences.

Threat is a person or group of persons, objects or activities that have the potential to cause harm to e.g. the country, society, economy, etc. In the context of money laundering, it involves criminals, the means that they possess, the environment in which predicate criminal offences were committed and within which the proceeds of crime are acquired, their size and amount. Vulnerability includes all those things that could be used in the event of threat or parts of the system that could facilitate the effect of the threat. Vulnerability is the focus on the factors that represent vulnerability in the PML/TF system and the supervision system or on certain characteristics of the country itself. The consequence is related to the impact or damage that money laundering or terrorism financing could have or cause. ■



# National Risk Assessment of Money Laundering in the Republic of Serbia

## – preparation process

The decision to prepare a National Risk Assessment of Money Laundering in the Republic of Serbia was made at the meeting of the Standing Coordination Group on 8 December 2011 while the revision of the FATF (Financial Action Task Force) recommendations was in progress.

The Administration for the Prevention of Money Laundering, as the central authority for combating money laundering, was the key player and coordinator in the process of preparing the National Risk Assessment of Money Laundering. However, in addition to the Administration, other authorities participated in this lengthy process, which are directly or indirectly part of the anti-money laundering system: the Appellate Court in Belgrade, the Military Security Agency, the Military Intelligence Agency, the Prosecutor's Office for Organized Crime, the Republic Public Prosecutor's Office, the Ministry of the Interior, the Security Information Agency, the Ministry of Justice, the Ministry of Agriculture, Trade, Forestry and Water Management, the Customs Administration and the Tax Administration, the National Bank of Serbia, the Securities and Exchange Commission, the Business Register Agency, the Republic Statistical Office, the Foreign Exchange Inspectorate and the Games of Chance Administration (the latter two now being within the Tax Administration).

In addition to government authorities, the private sector of the system took part in the risk assessment.

The National Risk Assessment of Money Laundering was performed through seven thematically divided units on which representatives of government institutions continuously worked, divided into five task forces: consideration of proceeds of crime, vulnerability to money laundering at the national level, vulnerability of the banking sector, vulnerability of the capital market, the insurance sector and other financial institutions and vulnerability of non-financial businesses and professions (accountants, auditors, lawyers, etc.).

A process coordinator and task force leaders were appointed at the start of the risk analysis. The task forces held regular meetings during the risk assessment preparation process. The participants of the meetings discussed the collected data, exchanged

their views and agreed on the future course of their activities. The task force leaders reported to the Coordinator on the work pace, the problems in their work, their conclusions and identified risks.

The preparation of the comprehensive risk assessment was a large and lengthy task that required maximum engagement of all persons participating in the process. The process of preparing the strategic document lasted for one year and required joint work of all participants and the public and private sectors, in order to provide adequate answers to the questions as to what it is in the system that requires more attention and commitment in the future and what reasons caused some sectors or activities to be more vulnerable and therefore more endangered than others, whether it is the legal norms, the lack of laws, inadequate implementation of the law, supervision, etc. During the preparation of the National Risk Assessment, a large number of workshops, seminars and meetings were organised, which were attended by representatives of government institutions, competent authorities and the private sector.

The Republic of Serbia performed the comprehensive risk assessment according to the World Bank methodology. The instrument for national risk assessment of money laundering, devised and made available by the World Bank, was used for this purpose. The tasks of the World Bank experts were limited to the following activities: 1) delivery of instruments 2) provision of expert advice on the technical aspects of instruments 3) review of the draft documents that are the results of the National Risk Assessment and provision of advice for the purpose of correct use of the instruments. The data, statistics and information included in the forms of the instruments for National Risk Assessment of Money Laundering, as well as the findings, interpretations and evaluations in the national risk assessment process belong to the competent authorities of the Republic of Serbia and do not reflect the views of the World Bank.

The Republic of Serbia also participated in the preliminary risk assessment by the International Monetary Fund. Given that the methodologies had different approaches, the participants' work on both methodologies contributed to better risk identification, higher-quality conclusions and identification of critical sectors and activities.

The results of both methodologies were used when making final conclusions and assessment of risk in the system.

After a year of extensive work and analysis of vulnerabilities and threats, the Republic of Serbia completed its first assessment of the money laundering risk. Political, social, cultural, economic (e.g. standard of living), demographic and other factors of significant impact on the system were taken into account during the assessment preparation.

The risk assessment is not a one-time task and will be constantly upgraded and updated.

The National Risk Assessment of Money Laundering is a strategic document and forms the basis for the preparation of the National Strategy for Combating Money Laundering and Terrorism Financing. Below is a brief overview (summary) of the identified threats and vulnerabilities, as well as certain activities that should be urgently undertaken. This is followed by a presentation of threats and vulnerabilities through a review of the anti-money laundering system of the Republic of Serbia, as

well as the answers to the questions as to what circumstances had an impact on the high-risk activities. The reports prepared by task forces are also attached.

The very end of the document summarizes the activities to be undertaken and an action plan that proposes a series of concrete activities and measures to make the anti-money laundering system work better.

Only a year ago, it would have been difficult to give the answer to the above question so concisely and clearly or, on the other hand, the answer would have been based on the perceptions of individuals and would have differed from institution to institution, depending on the position it had in the anti-money laundering system. In addition to enabling all participants in the anti-money laundering system to make a selection of high-risk activities, the National Risk Assessment provided the answer to the question why exactly the selected activities are defined as risky, as well as proposed the actions aimed at eliminating these risks or at least reducing them to an acceptable level.

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### RISK ASSESSMENT

The assessed risks are the following:

1. **criminal offences presenting a high risk of money laundering:** tax evasion, illicit production and circulation of narcotics, abuse of office
  2. **high impact on system vulnerability:** low number of judgements for money laundering and uncoordinated actions of government authorities
  3. **major system deficiency:** statistics are not integrated or not kept at all; the lack of electronic data entry and the lack of networked information systems and databases of government authorities
  4. **high vulnerability of the financial sector:** banks
  5. **vulnerable activity in the non-financial sector:** real estate trade
-

# SUMMARY (system threats and vulnerabilities)

## THREATS

### CRIMINAL OFFENCES WITH A HIGH LEVEL OF MONEY LAUNDERING RISK

From the aspect of money laundering, tax evasion, illicit production and circulation of narcotic drugs and the criminal offence of abuse of office are characterised as high-risk criminal offences i.e. as predicate (prior) criminal offences that pose the highest risk in terms of proceeds from the commission of these offences.

#### TAX EVASION

Criminal offences connected with taxation are tax evasion - Article 229, non-payment of withholding tax – Article 229-a and the criminal offence referred to in Article 173 of the Law on Tax Procedure and Tax Administration. The share of this criminal offence in the total number of reported criminal offences is 15.49%. It is one of the most widespread forms of financial non-compliance of legal entities in the Republic of Serbia. The payment of tax and other charges that present public revenue is most often evaded by presenting false turnover through “phantom companies”, forging documents and bringing smuggled goods or illegally manufactured goods into legal trade flows through companies. The high level of tax evasion is also caused by the fact that a significant part of business activity is conducted in cash with the aim of tax evasion. According to the observations of the Tax Administration, cash transactions in significant amounts are conducted in businesses dealing with foreign trade, purchase of secondary raw materials and agricultural products, as well as in the entities engaged in the construction industry. In view of deficiencies in the definition and interpretation of the action of committing the basic criminal offence of tax evasion expected to be addressed in the near future when the Criminal Code is amended, and as indicated by a large number of these criminal offences, they have been found to involve substantial proceeds. Insight into certain cases points to the amount of evaded tax of several tens of millions of dinars, and the fact that of the total number of indicted, some 40% were indicted for aggravated forms of this criminal offence.

### ILLICIT PRODUCTION AND CIRCULATION OF NARCOTICS – ARTICLE 246

It is among the “high-risk” offences as regards the threat of laundering money which presents proceeds from its commission. As with the criminal offences against property, a major limitation in calculating the value of such proceeds is a lack of precise statistical data, especially as regards the amount of proceeds of this criminal offence, in view of the fact that the prices of certain narcotics and psychotropic substances on the illegal market are formed according to differing criteria. The amount of proceeds of criminal offence of illicit production and circulation of narcotics could be calculated approximately if the quantity of seized narcotics in a given period is multiplied with the price of those narcotics on the illegal market. An adjustment factor should also be the price at which offenders purchase narcotics in the illegal market, which they later circulate illegally so that the margin between the price at which narcotics are purchased and the proceeds from their illicit circulation could be expressed as the value of illegally acquired proceeds of this criminal offence. This data, however, is difficult to obtain. The value of the heroin, as the most common narcotic drug in the illegal market of Serbia, seized in the January-December 2011 period, would therefore be around EUR 1,297,300.00, which could then, after applying the stated adjustment factor (the purchase price of the narcotics) present the amount of proceeds that criminals might seek to launder through the financial and non-financial sector. By analysing the types and values of the seized assets, it can be concluded that the assets acquired from the commission of the criminal offence referred to in Article 246 of the CC are generally used to purchase real estate (houses, apartments, commercial facilities, construction land), movable assets (passenger and freight motor vehicles, valuables), and to a lesser extent securities. Data from the studies conducted by the Republic Statistical Office of the Republic of Serbia were used to determine the share of the estimated consumption of illicit goods and services, i.e. consumption of narcotics, in GDP in 2003 (0.34%), in 2004 (0.34%), in 2005 (0.36%), and in 2006 (0.33%).

## SUMMARY (system threats and vulnerabilities)

### THE CRIMINAL OFFENCE OF ABUSE OF OFFICE – ARTICLE 359

The significant number of persons indicted and convicted of this criminal offence shows that it is the most widespread offence against official duty, and the basic criminal offence of corruption. Statistical reports of the Republic Public Prosecutor's Office point to a small number of seizures and confiscations (recoveries) of proceeds. It can be concluded from operational data and direct insight into cases that criminal proceedings for corruption in public enterprises, the health-care sector, the judiciary, the real sector (criminal offences of giving and receiving bribes and abuse of office), with the total proceeds of over 75 million euros, are conducted before the Prosecutor's Office for Organised Crime. The following criminal offences: **embezzlement** – Article 364, **accepting bribes** - Article 367, **giving bribes** - Article 368, as well as the most frequent criminal offence of corruption - abuse of office, for the reasons listed, can be considered as "high-risk" criminal offences..

### DETERMINING THE VALUE OF PROCEEDS OF FOREIGN ORIGIN THAT MAY BE LAUNDERED IN THE COUNTRY

The role of Serbian nationals and foreigners as co-offenders, as well as foreign nationals as perpetrators of criminal offences abroad, and the amount of proceeds of crime which can be laundered in Serbia, is significant. This can be concluded from the report of the Prosecutor's Office for Organised Crime, especially with regard to criminal offences of organised crime. The criminal offence of narcotics trafficking, i.e. illicit production and circulation of narcotics is particularly important, and can be linked with concrete countries (Albania, the Netherlands, Belgium, Sweden, Turkey, Bulgaria). Based on information from concrete cases, perception and literature, investments in the country made by persons known to be offenders, especially in the privatisation procedure, foreign trade and construction, can be said to be far from insignificant.

| Amount of acquired proceeds                | Abuse of office,<br>Article 359 of the CC | Embezzlement,<br>Article 364 of the CC |
|--|---|--|
| up to RSD 450,000.00                       | 478                                       | 200                                    |
| from RSD 450,000.00<br>to RSD 1,500,000.00 | 27  | 25                                     |
| over RSD 1,500,000.00                      | 26  | 6                                      |

### IDENTIFIED TYPOLOGY

When it comes to identified money laundering typology, it is most often "self-laundering", or laundering the money or property that the offender himself/herself acquired by committing a criminal offence. Taking into account that most of the transactions go through banks, personal and business accounts, cash accounts for the purchase of securities, real estate trade and similar, the sector which is at greatest risk is the banking sector, while the highest investment is made in real estate and business activities.

### THE SYSTEM VULNERABILITY AT THE NATIONAL LEVEL

The legal and institutional framework was completed primarily by criminalising money laundering in the Criminal Code and adopting a comprehensive preventive law – the Law on the Prevention of Money Laundering and Terrorism Financing, as well as by passing a series of other laws and by-laws. This judgment may be supported by independent assessments by the Council of Europe MoneyVal Committee and other international organisations. Effective implementation of this legal framework is an area where improvement is necessary, and a step forward is certainly the strengthening of institutional capacity primarily by increasing the knowledge level.



The vulnerability of the system increases due to several open questions in connection with judgments rendered in connection with money laundering to which jurisprudence must provide an answer in the future. Most of the judgments relate to money laundering in concurrence with a predicate criminal offence and not to money laundering for third parties or the so-called professional money laundering. One reason for the small number of judgments is also the insufficient level of education and information of prosecutors engaged in investigating these criminal offences and judges. Better coordination among all government authorities participating in this battle against money laundering is necessary in addition to training. Strengthening the prosecutor's role in all of these mechanisms is essential. The prosecutor should assume the role of coordinator and leader in the proceedings.

# Sectoral vulnerability

## FINANCIAL SECTOR

The risk assessment in the financial system of the Republic of Serbia was performed for the banking sector, the securities sector, the insurance sector, the sector of financial leasing service providers, the sector of voluntary pension funds, exchange offices, factoring and forfeiting and money transfer agents.

Banks are designated as the most vulnerable sector and therefore the riskiest relative to the other sectors that were assessed. The risk assessment is not given in absolute terms but in comparison to the other sectors in which the risk assessment was performed.

## BANKS

The overall assessment of risk to which the banking sector of the Republic of Serbia is exposed is medium-risk level. The banks in Serbia have a special place in the PML/TF system due to their importance in the financial system and the fact that they account for a large portion of the financial market. A large number of customers and huge financial flows that create opportunities for hiding illegal transactions make the banking sector very attractive for money laundering. An additional factor

that motivates criminals to use the banking sector for transferring illegally acquired funds is the possibility of transforming them into different products that banks offer to their customers.

The banking sector is exposed to the money laundering risk primarily because of its size and importance in the entire financial sector, as well as because of the large number of its customers and of the transactions carried out on their behalf. Banks do business with numerous customers, some of whom may attempt to conceal the true identity and origin of funds.

Generally, the system of supervising the management of the ML/TF risk is well set up in banks. Further progress can be achieved through consistent inspection based on the assessment of the money laundering risk to which each bank is exposed.

## THE VULNERABILITY OF DESIGNATED LEGAL ENTITIES AND INDIVIDUALS OUTSIDE THE FINANCIAL SECTOR

The assessment of the money laundering risk through the non-financial segment of the system of the Republic of Serbia was made in the following sectors: games of chance, auditors, accountants, lawyers and real estate agents.

## REAL ESTATE AGENTS AND INDIVIDUALS - DEVELOPERS

The highest money laundering risk in the non-financial sector is in the real estate industry, especially when taking into account the fact that many individuals in Serbia appear as developers and then sellers of newly built property. There are 394 such individuals according to the data of the Tax Administration. The real estate construction industry carries an increased money laundering risk because payments for construction material may be made in cash. The Typologies of Money Laundering issued by the Administration in 2012 specify that one of the typological methods of money laundering in Serbia is money laundering through real estate. They mostly specify as a typical example of money laundering the investment of large amount of cash by an individual - developer, followed by the sale of such property and hiding of the illegal origin of the money invested in the construction. These are also factors that increase the money laundering risk in this area.

The legal regulation of this sector is insufficient. There is no special law that would regulate real estate sales, although there have been numerous

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## SUMMARY (system threats and vulnerabilities)

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discussions about the work on this law; instead, the general provisions of the law on contracts and torts apply to real estate sales.

### **NEW NATIONAL STRATEGY FOR THE PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING**

In order for the conducted analysis and observed system characteristics to produce results in the future in terms of better resource allocation and increased efficiency and effectiveness, as well as in order to achieve the ultimate goal of preventing

dirty money from being brought into the financial system of the Republic of Serbia, it is necessary to take certain actions as soon as possible. One of the activities that the Administration for the Prevention of Money Laundering, as the central authority in this fight, will immediately undertake is the preparation of a new national strategy for combating of money laundering and terrorism financing, which will take into account all the risks identified during this process, as well as the comprehensive plan of activities to be undertaken.

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### **PROPOSED ACTIONS – CONCLUSIONS (MITIGATION OF CONSEQUENCES OF MONEY LAUNDERING)**

1. **Poorly kept statistics:** it is necessary to introduce a single methodology for preparing reports of all relevant government authorities and electronic data management where this method does not exist.
  2. **Insufficient knowledge:** Specific knowledge needed by the participants that are part of the system must be raised to a higher level for the purpose of combating money laundering as successfully as possible. It is necessary to prepare a comprehensive training programme and plan for the participants in combating money laundering (training institutionalisation). Intensified training would also undoubtedly contribute to an increase in the number of convictions for money laundering by the courts.
  3. **Database connection, centralisation and networking:** Formal method of data exchange undoubtedly causes lower efficiency and effectiveness in resolving money laundering cases. Centralisation of data management, as well as integration of different databases would undoubtedly lead to a faster resolution of money laundering cases, as well as faster action in the event of emergency.
  4. **Problem of coordinating the work of government authorities:** Better coordination is necessary between all government authorities participating in combating money laundering. The upcoming prosecutorial investigation, which is prescribed by the new Criminal Procedure Code, will certainly contribute to this.
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**SUMMARY (system threats and vulnerabilities)**

| <b>Threats - vulnerability<br/>Risk assessment</b>   |        | <b>Characteristics of assessed<br/>risk level / vulnerability</b>   | <b>Necessary activities</b>   |
|--|--------|---|---|
| <b>Criminal offences connected with taxation: tax evasion – Article 229, non-payment of withholding tax – Article 229-a and the criminal offence referred to in Article 173 of the Law on Tax Procedure and Tax Administration</b> | high   | The most widespread form of lack of financial discipline<br>Grey economy<br>Offences with large proceeds  | Amendment to regulations<br>Increased inspection of persons   |
| <b>Illicit production and circulation of narcotics</b>   | high   | Prevalence<br>Significant amount of proceeds<br>Connection with organised criminal groups   | Task forces<br>Strengthening local and international cooperation<br>Strategy for Combating Organised Crime  |
| <b>Abuse of office – Article 359</b>   | high   | Basic and most frequent corruption offence<br>Corruption in public enterprises, health care, judiciary, real sector                                 | Strategy for Combating Corruption<br>Efficiency of court proceedings  |
| <b>System vulnerability</b>  | high   | Small number of judgments<br>Coordination of work<br>Networked databases<br>Lack of statistics  | Increase the education level<br>Working teams<br>Prosecutorial investigation<br>Networked systems<br>Electronic data entry  |
| <b>Banks</b>   | medium | The largest number of customers<br>Large number of transactions<br>Large number of products<br>Use of codes for payment purpose<br>Good supervision | Additional education on risk assessment and analysis<br>Case study presentations<br>Monitoring new products and services<br>Raising the importance of compliance officers |

## SUMMARY (system threats and vulnerabilities)

| <b>Other financial institutions</b> |            |   |   |
|-------------------------------------|------------|---|---|
| Capital market                      | medium-low | Reduced number of trade transactions<br>Cash accounts with banks  | Implementation of new regulations<br>Monitor the events such as company takeover and FOP transactions<br>Coordinated activities of supervisory authorities (the Securities and Exchange Commission and the National Bank of Serbia)<br>Education on the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing |
| Life insurance                      | low        | Small value of concluded contracts supervision  | Monitor new products and services<br>On-site supervision  |
| Licensed exchange offices and banks | medium     | Large number of registered entities<br>Used for the dirty money layering phase<br>Only cash is in circulation       | Intensify the inspection of compliance  |
| Money transfer                      | medium     | Small value of transactions<br>The services are used by the persons associated with human trafficking and narcotics | Intensify the inspection  |
| Factoring and forfeiting            | low        | Factoring of receivables with maturity of up to one year<br>All transactions go through the banking system          | Intensify the inspection  |
| Voluntary pension funds             | low        | Position in the financial market<br>Low penetration   | On-site and off-site supervision<br>Education   |
| Financial leasing companies         | low        | Balance sheet total of EUR 568.2 million  | Perform on-site supervision   |

## SUMMARY (system threats and vulnerabilities)

| <b>Legal entities and individuals outside the financial sector</b>            |             |  |  |
|---|-------------|--|--|
| Casinos   | medium      | System in place<br>Cash is in circulation<br>Unclear provisions of the Law on Games of Chance  | Amendments to the Law  |
| Organisation of games of chance via the Internet                              | medium-high | Unclear provisions of the Law on Games of Chance   | Amendments to the Law  |
| Real estate agents and developers   | medium-high | Most of dirty money is invested in construction industry and investments<br>Payment in cash for construction material<br>No special law that regulates real estate trade | Amendments to legislation<br>Intensified inspection of operation<br>Inspection of compliance |
| Lawyers engaged in activities related to managing the assets of their clients | medium-low  | Regulations are not implemented<br>Lack of awareness of being an reporting entity  | Education<br>Inspection of compliance  |
| Auditors  | low         | Licences for compliance officers<br>Awareness of being an reporting entity<br>Supervision  | Continue on-site supervision of operation  |
| Accountants   | medium-low  | Licences for compliance officers<br>On-site and off-site supervision   | Education<br>On-site supervision   |

# PRESENTATION OF RESULTS

## THREATS AND VULNERABILITIES OF THE ANTI-MONEY LAUNDERING SYSTEM

### RISK ANALYSIS

The anti-money laundering system started to be built when the first Law on the Prevention of Money Laundering came into force in 2002. The Financial Intelligence Unit of the Republic of Serbia, now the Administration for the Prevention of Money Laundering, was established then as well.

The Administration for the Prevention of Money Laundering performs financial intelligence activities: collecting, processing, analysing and forwarding information, data and documents to the competent authorities and performs other tasks relating to the prevention and detection of money laundering and terrorism financing, in accordance with the Law on the Prevention of Money Laundering and Terrorism Financing. In the course of the analysis, the Administration also collects additional data, both from reporting entities and from other government authorities and, in the event of any suspicion of money laundering, forwards the data and information on this to the competent authorities, most often to prosecutor's offices. In 2012 alone, the Administration forwarded to prosecutor's offices a total of 112 reports on suspicion of money laundering.<sup>1</sup>

According to the Law on the Prevention of Money Laundering and Terrorism Financing<sup>2</sup>, reporting entities are: banks, exchange offices, investment fund management companies, voluntary pension fund management companies, providers of financial leasing, insurance companies, insurance brokerage companies, insurance agencies and insurance

agents that have a licence to perform life insurance activities, persons dealing with postal services, broker-dealer companies, organisers of special games of chance in gaming establishments, organisers of games of chance organised via the Internet, phone or in another way through telecommunication networks, and auditors. Reporting entities are also considered to be any entrepreneurs and legal entities that deal with intermediation in real estate trade, provision of accounting services, tax consulting, intermediation in the conclusion of lending transactions and provision of loans, factoring and forfeiting, standing surety and provision of money transfer services. The activities and measures for the prevention and detection of money laundering and terrorism financing prescribed by this Law are also performed by lawyers and lawyers' partnerships. The Administration for the Prevention of Money Laundering issues a licence to compliance officers and their deputies. The licence is issued based on passing the professional exam consisting of a general part and a special part. The knowledge of the Law and the regulations adopted based on the Law is tested in the general part and the knowledge of the anti-money laundering system in the area specific to the particular reporting entity is tested in the special part. The effectiveness of licenses was demonstrated from the very start of their application. The licensing of compliance officers contributed to an increased awareness of reporting entities of the PML/TF system and improved the quality of their operation.

The Administration has significant databases that are used in the processes of cash flow analysis. However, the Administration addresses other government authorities with formal requests for additional data necessary for further analysis. A direct access to the databases of government authorities through creation of information networks would contribute to the efficiency of data collection and exchange, which is the basis of involvement of the Administration as a financial intelligence unit.

Taking into account that the Administration not only performs the analysis of suspicious transactions but is also in charge of coordinating the entire anti-money laundering system, undoubtedly the most important and biggest problem of the Administration is the lack of administrative capacity for the performance of all assigned tasks. Although the problem with the number of employees was formally solved by increasing it to 40, the Administration cannot employ that many employees

<sup>1</sup> All details about the operation and authority of the Administration for the Prevention of Money Laundering are available at [www.apml.org.rs](http://www.apml.org.rs)

<sup>2</sup> The text of the Law on the Prevention of Money Laundering and Terrorism Financing as well as all other by-laws of the Administration for the Prevention of Money Laundering are published on the website of the Administration for the Prevention of Money Laundering at [www.apml.org.rs](http://www.apml.org.rs)

## PRESENTATION OF RESULTS

because of the lack of premises. Back in 2009, the MoneyVal Committee evaluators stated in their assessment that the Administration performed all financial intelligence activities as efficiently as possible considering the office space and the number of employees. More precisely, they pointed out that the premises were not adequate for the needs of employees and recommended that the Republic of Serbia should take all measures to provide adequate technical, financial and other conditions to the Administration.

It is necessary to improve technical conditions, as previously pointed out, so that the Administration could continue further improvement and innovation of its information capacities, which are of essential importance for processing large quantities of data.

The criminal offence of money laundering is prescribed by the Criminal Code and its definition is harmonised with all international standards, which points to an unambiguous conclusion that the vulnerability to this crime is insignificant. The prosecution of the criminal offences of money laundering is within the subject-matter jurisdiction of higher courts and therefore higher public prosecutor's offices, of which there are 26 in total in Serbia.

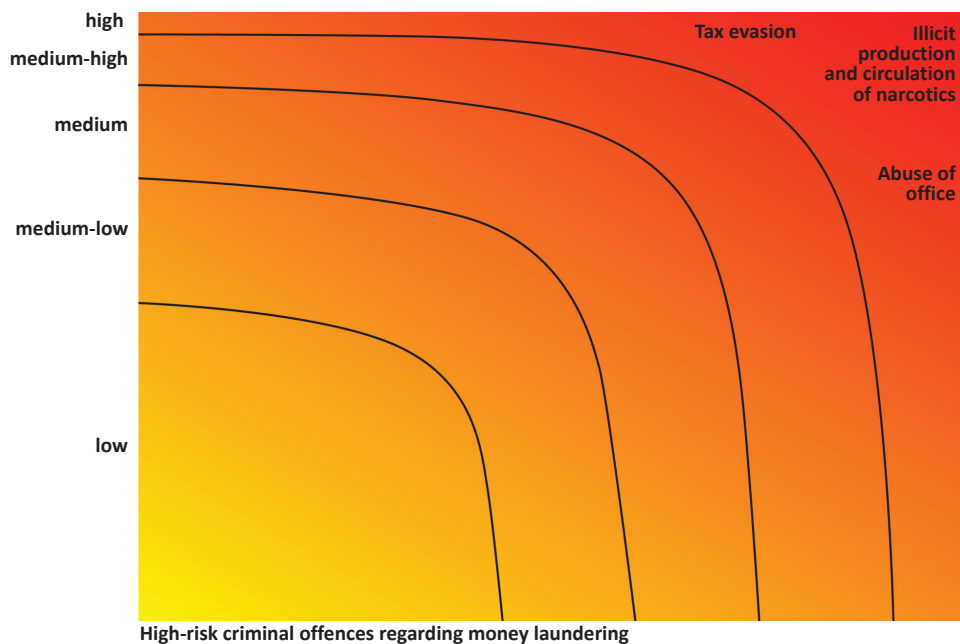
According to the 2011 Report of the Republic Public Prosecutor's Office, the most frequent criminal offences are thefts (aggravated theft, grand larceny,

robbery etc.), illicit production and circulation of narcotics, abuse of office, illegal production, possession, carriage and circulation of firearms and explosives and tax evasion or, more precisely, non-payment of the withholding tax. Most of the judgments were passed for these criminal offences as well. In 2011, according to the data of the Republic Public Prosecutor's Office, 56 persons were reported, 45 persons were investigated, 14 persons were indicted and 1 judgment was passed for the criminal offence of money laundering.

Seizure and confiscation of criminal assets is prescribed by the Criminal Code, the Criminal Procedure Code and the Law on the Recovery of Criminal Assets. The Directorate for Management of Seized and Confiscated Assets manages the recovered assets with due care and diligence. The value of the assets managed by the Directorate is around EUR 350 million. The Directorate for Management of Seized and Confiscated Assets received 9 decisions on seizure of criminal assets from money laundering.

### THREATS

From the aspect of money laundering, tax evasion, illicit production and circulation of narcotics and the criminal offence of abuse of office are characterised as high-risk criminal offences i.e. as predicate (prior) criminal offences that pose the highest risk in terms of proceeds from the commission of these offences.





### TAX EVASION

Tax evasion, as a high-risk predicate criminal offence for money laundering, accounts for 15.49% of the total number of reported criminal offences. The findings from some cases indicate that the evaded tax amounts to tens of millions of dinars, as well as that around 40% of the total number of indicted were charged with more serious forms of this criminal offence. The MoneyVal Report also states that, when it comes to tax evasion, it is one of the most widespread forms of financial non-compliance of legal entities in the Republic of Serbia.

The payment of tax and other charges that present public revenue is most often evaded by presenting false turnover through “phantom companies”, forging documents and infiltrating smuggled goods or illegally manufactured goods into legal trade flows through companies. The activities performed in the so-called “grey zone” also cause a high risk of this criminal offence: legal entities that avoid registering the legal activity in which they are engaged (evading tax obligations and social security obligations), manufacturers engaged in illegal activity and manufacturers that intentionally underreport income with the aim of evading or reducing the income tax, the value added tax and the social security contributions. Grey economy is present in many fields of economic activity: in the construction industry, foreign trade, textile and footwear trade, trade in secondary raw materials, agricultural production, etc. Public administration corruption and inefficiency, high tax burdens, insufficient inspection (market inspection, tax inspection, etc.), low risk relative to expected reward, high unemployment, low wages and decreased standard of living are most often mentioned as causes of informal economy.

The high level of tax evasion is also caused by the fact that a significant part of business activity is conducted in cash with the aim of tax evasion. According to the observations of the Tax Administration, cash transactions in significant amounts are conducted in businesses dealing with foreign trade, purchase of secondary raw materials and agricultural products, as well as in the entities engaged in the construction industry. These activities are those characterised as high-risk when it comes to evading tax payment. A large amount of cash is diverted from legal cash flows and the money is further used for funding various other forms of grey economy.

In the Republic of Serbia, many transactions are conducted in cash in legal activities as well. Many bulletins state that Serbia is still a cash intensive country and, according to some studies, around 30% of trade is still conducted in cash.

The Law on the Prevention of Money Laundering and Terrorism Financing restricts cash transactions to EUR 15,000. The total amount of suspicious transactions where the transactions were made in cash, regardless of whether it was cash deposit or withdrawal, was EUR 59,234,161.72 in 2011. Considering that, in addition to suspicious transactions, the reporting entities must report to the Administration all cash transactions in the amount of EUR 15,000 or more, the number of cash transactions reported to the Administration was 262,460 in 2011, while their number slightly increased in 2012 to 268,173.

If we look at the total amount of suspicious transactions conducted based on trade in goods and services in the country, their total amount was EUR 36,822,659.00 in 2011. By analysing the transactions reported as suspicious and conducted based on trade in goods and services, it was observed that most of them have tax evasion as predicate criminal offence. These are most frequently attempts to transfer money through the accounts of several legal entities, suspected to be phantom companies, based on trade in goods and services, so that it would eventually be withdrawn by one or more related individuals. A practice was also observed of establishing legal entities registered for the purchase of secondary raw materials. The legal entities are only used for the withdrawal of cash from the account and quickly shut down after reaching a turnover of RSD 4 million. The funds that are removed from the account based on trade in goods and services most often end up in the accounts of individuals, who then immediately withdraw them in cash.

Regarding tax evasion, it is worth pointing out transactions that are made based on deposits of founder's loans for company liquidity, with identified suspicious circumstances of that act. The total amount of transactions conducted based on founder's loans in 2011 was EUR 7,392,629.85 in the case of non-cash transactions, while the total amount was EUR 6,645,804.68 in the case of cash deposits in corporate accounts. Founder's loan for company liquidity is a legally permitted and non-taxable form of assistance to company, but the experience from the analysis of suspicious transactions indicates that, precisely for this reason, this basis is very often abused for the purpose of depositing dirty money, but also bringing it into legal circulation.

The Administration for the Prevention of Money Laundering has good cooperation with the Tax Administration, but a direct access to the Tax Administration databases, as well as an electronic connection of the systems of these two authorities would undoubtedly contribute to more efficient re-

## PRESENTATION OF RESULTS

sponse. Upon notification of the Administration, a quick field visit by tax auditors is necessary, which would allow fast detection of illegal activities, if any, and then preventive action in coordination with the Prosecutor's Office, with the aim of preventing the entry of dirty money into the legal payment system and seizure of proceeds.

### ILLICIT PRODUCTION AND CIRCULATION OF NARCOTICS

Illicit production and circulation of narcotics is also a high-risk offence from the aspect of money laundering. The amount of proceeds from this criminal offence could be estimated if the quantity of seized narcotics in a given period is multiplied by the price of these narcotics in the illegal market, but with an adjustment factor, i.e. the price at which the drugs were purchased. Calculated in this way, the value of heroin seized from January to December 2011, as the prevalent narcotic in the illegal market, would be around EUR 1,297,300.00. This is also a potential amount of dirty money from the sales of heroin only, i.e. the money that the criminals would want to launder through financial and non-financial sectors. It may be concluded by analysing the type and value of the seized assets that the proceeds of crime are used for purchasing real estate (houses, apartments, commercial facilities

and construction land), movable property (passenger and freight vehicles, valuables), as well as for investing in securities.

In the SECI Report on Drug Seizures (South-eastern European Cooperative Initiative, SECI), Serbia is mentioned as a country in which considerable quantities of heroin were seized. The Drug Situation Analysis Report South Eastern Europe, UNODC, Paris Pact, states that a gradual shift of the drug smuggling corridor was performed by placing much more importance on the corridor passing through Romania and Hungary relative to the previously used corridor through Serbia. There are indicators showing that large quantities of heroin are stored in Kosovo for further distribution to Western Europe through the Albanian ports, Montenegro and Bosnia and Herzegovina. The instability of Kosovo borders is abused for smuggling goods and narcotics.<sup>3</sup>

A study conducted by the Republic Statistical Office for the period 2003-2006 is also interesting, stating that the share of estimated consumption of illicit goods and services, i.e. consumption of narcotics, in GDP was 0.34 in 2003, 0.34 in 2004, 0.36 in 2005 and 0.33 in 2006. It is certainly necessary to repeat such study, considering the large amount of proceeds that, according to the estimates, come from this criminal offence.

<sup>3</sup> Drug Situation Analysis Report South Eastern Europe, UNODC, Paris Pact, November 2011

| <b>The assessment of demand and supply of drugs and their impact on GDP</b> |              |              |              |               |
|---|--------------|--------------|--------------|---------------|
|   | 2003.        | 2004.        | 2005.        | 2006.         |
| <b>Number of users</b>  |              |              |              |               |
| Heroin  | 7023         | 7803         | 8671         | 9634          |
| Cocaine   | 2659         | 2954         | 3282         | 3647          |
| Marijuana   | 58444        | 64940        | 72156        | 80173         |
| Ecstasy   | 2608         | 2897         | 3219         | 3577          |
| Amphetamine   | 7295         | 8106         | 9006         | 10007         |
| <b>Total</b>  | <b>78029</b> | <b>86700</b> | <b>96334</b> | <b>107038</b> |
| <b>Consumption in millions of euros</b>                                     |              |              |              |               |
| Heroin  | 41.7         | 46.3         | 51.4         | 57.1          |
| Cocaine   | 6.0          | 6.6          | 7.4          | 8.2           |
| Marijuana   | 9.9          | 11.0         | 12.3         | 13.6          |
| Ecstasy   | 0.8          | 0.9          | 1.0          | 1.1           |
| Amphetamine   | 2.4          | 2.7          | 3.0          | 3.3           |
| <b>Total</b>  | <b>60.8</b>  | <b>67.5</b>  | <b>75.0</b>  | <b>83.4</b>   |
| <b>% of GDP – expenditure side</b>  |              |              |              |               |
| <b>Output in millions of euros</b>  |              |              |              |               |
| Heroin  | 35.8         | 39.8         | 44.3         | 49.2          |
| Cocaine   | 3.9          | 4.3          | 4.8          | 5.3           |
| Marijuana   | 7.7          | 9.7          | 9.4          | 10.6          |
| Ecstasy   | 0.7          | 0.8          | 0.9          | 1.0           |
| Amphetamine   | 1.8          | 1.9          | 2.2          | 2.4           |
| <b>Total</b>  | <b>49.9</b>  | <b>55.5</b>  | <b>61.6</b>  | <b>68.5</b>   |
| <b>% of GDP – production side</b>   | <b>0.28</b>  | <b>0.28</b>  | <b>0.29</b>  | <b>0.27</b>   |

## PRESENTATION OF RESULTS

According to the data of the Prosecutor's Office for Organised Crime of the Republic of Serbia, members of a group were suspected of smuggling narcotics of over 5,400 kg of cocaine seized in several individual actions in Italy, Brazil, Argentina and Uruguay.

The Drug Situation Analysis Report South Eastern Europe states that the main corridor through which cocaine is transported to Serbia starts in Latin America, goes through the countries of Western Europe and ends in Serbia. According to the same report, there are some criminal groups from Serbia and Montenegro that have direct contacts with cocaine suppliers from South America (Brazil, Argentina, Colombia and Venezuela). The purchase price of this cocaine is between USD 5,000 and USD 6,000 per kilogram. Cocaine starts from South American ports in Argentina, Brazil, Paraguay and Colombia and is delivered mainly to the Western European ports (Antwerp, Rotterdam, Hamburg, Bremerhaven and Gioia Tauro). The profit generated by selling narcotics is laundered in different ways and most often brought into legal circulation through investments in real estate and the construction industry. In order to prevent and combat laundering of proceeds from narcotics trafficking, the Balkan countries have improved their co-operation in terms of investigating and detecting channels for laundering proceeds from drug trafficking, and the best example of this is the joint effort of the police authorities of the former Yugoslav republics in an operation named „Balkan Warrior“, which was aimed at arresting and prosecuting members of the main criminal groups for narcotics trafficking, as well as seizing the proceeds thus acquired. It also states the information that the Serbian police found and seized narcotics worth about EUR 2 million.<sup>4</sup>

### ABUSE OF OFFICE

Criminal offences of embezzlement, accepting bribes, giving bribes as well as the most frequent corruption offence, abuse of office, are also assessed as high-risk criminal offences.

Abuse of office is the most frequent criminal offence committed against official duty and a basic corruption criminal offence. However, it was observed in the statistical reports of the Republic Public Prosecutor's Office for 2011 that there were few pronouncements of measures of proceeds recovery. The 2011 operating data show that criminal proceedings are conducted before

the Prosecutor's Office for Organised Crime for corruption in public enterprises, health care, judiciary and real sector (for criminal offences of giving and accepting bribes and abuse of office) by which proceeds of over EUR 75 million were acquired.

In addition, according to the data of the Administration for the Prevention of Money Laundering, abuse of office is the predicate criminal offence that is the most prevalent in the data collection proceedings initiated by government authorities, in most cases prosecutor's offices and the police, on suspicion of money laundering. In 2012 alone, the Administration exchanged a total of 59 letters with different government authorities regarding this corruption offence.

One of the big problems is the public perception regarding the prevalence and level of corruption. Namely, the Republic of Serbia dropped on the 2011 list of the *International Transparency* NGO and ranks 86th among 183 countries, with a corruption index score of 3.3. According to the *TI Institutions Judicial Independence Index* of this NGO, Serbia ranks 128th among 142 countries, with an index score of 2.4 out of the maximum 7 points for 2011. Although the study does not fully reflect reality, it is to some extent an indicator of the current situation. There should be an investigation into the causes of these assessments, as well as what the critical areas are because of which Serbia still ranks low on the list of this organisation.

### UNDUE INFLUENCE OR ABUSE AND CORRUPTIVE BEHAVIOUR DURING THE PROCEEDINGS FOR CRIMINAL OFFENCES OF MONEY LAUNDERING

Based on the previous experience, it may be concluded that there have so far been no serious cases of undue influence or abuse and corruptive behaviour during the proceedings for criminal offences of money laundering. On the other hand, this is contributed by small number of proceedings conducted for the criminal offences of money laundering relative to other criminal offences.

### SYSTEM VULNERABILITY

The capacity of prosecutors in combating money laundering is constantly improving in financial and technical terms, but the technical resources in terms of information technology, networking and availability of databases of individual prosecutor's offices with each other as well as with some other

<sup>4</sup> Drug Situation Analysis Report South Eastern Europe, UNODC, Paris Pact, November 2011

## PRESENTATION OF RESULTS

authorities are still insufficient and require further improvement, financial and technical, to prosecute the cases of this type more efficiently.

On the other hand, the vulnerability of the system is increasing due to several open issues regarding the judgments rendered for money laundering, noting that there is a positive trend when it comes to the number of criminal proceedings and convictions. There currently are a total of 27 proceedings against more than 200 persons in Serbia, and a total of 26 convictions, of which 13 were final, have been issued since the coming into force of the criminalisation of criminal offence of money laundering.

Judicial office holders are generally aware of the importance and harmfulness of money laundering. One reason for the small number of judgments is also an insufficient level of education and familiarity of prosecutors, staff engaged in investigating these criminal offences and judges.

We may also take as indicative the study of the Administration for the Prevention of Money Laundering that analysed 13 judgments for the criminal offence of money laundering, of which 8 are acquittals and 5 are convictions. The convictions relate to concurrence of money laundering with another criminal offence, most often abuse of office, which is characterised as a high-risk criminal offence for money laundering. The geographical distribution of money laundering cases is very narrow as well. The convictions were imposed in Belgrade and Novi Sad, and they were most often “self-money laundering”, or laundering the money acquired by the offender himself/herself by committing a criminal offence. Most of the judgments relate to money laundering in concurrence with a predicate criminal offence and not to money laundering for third parties or the so-called professional launderers. It has also been observed that the legal provisions on the criminal offence of money laundering were not applied sufficiently in some cases (the offence was only defined as a criminal offence of tax evasion although it could have been identified as a criminal offence of money laundering).

It is necessary to increase the education level for the purpose of better understanding of money laundering problems. Trainings for prosecutors and judges were organised in the past as part of different projects funded by the European Union, USAID, OSCE, the Council of Europe and others. The basic shortcoming of such action is that the training takes place sporadically, on

a case-by-case basis once the funding and conditions have been provided. A training centre, which would be established within the Administration for the Prevention of Money Laundering, would certainly help overcome this problem. The trainings would be held regularly and tailored to the needs of the participants in the anti-money laundering system.

### LOCAL COOPERATION

Better coordination between all government authorities participating in this effort is necessary in addition to training. Some of the mechanisms that are being developed in the area of local cooperation, such as the appointment of contact persons (liaison officers) from different government authorities who take part in money laundering cases proved to be very useful. For many years now the Administration has been appointing contact persons to cooperate with government authorities but, on the other hand, other authorities should also assign persons who would be in charge of contact and work on the cases related to money laundering. In addition to liaison officers, it is very important to form working groups for specific cases of money laundering, where the people from government authorities would directly cooperate and exchange information about the cases. Strengthening the prosecutor's role in all of these mechanisms is essential. The prosecutor should assume the role of coordinator and leader in the proceedings. In addition, prosecutorial investigation, which starts to apply, gives the leading role to the prosecutor, who will assume the leading role in proving criminal offence. Prosecutorial investigation will undoubtedly accelerate and facilitate the whole process regarding the coordination and work of government authorities on detecting money laundering cases. An example of good local cooperation is the work of the Standing Coordination Group for supervising the implementation of the National Strategy for Combating Money Laundering and Terrorism Financing, which was formed in 2009. Furthermore, this Group's work is very important when it comes to proposing measures for the improvement of the PML/TF system and improving the cooperation and information exchange among the competent government authorities, as well as giving opinions and expert explanations to the competent government authorities. It was the Standing Coordination Group that made the decision on the development of the National Risk Assessment as a crucial document for further strategic action in combating money laundering.

### INTERNATIONAL COOPERATION

In parallel with local cooperation, it is necessary to continue working on the development of international cooperation. Efficient and timely international information exchange, considering the fact that money laundering is a criminal offence that knows no borders, is a necessary condition for solving money laundering cases and detecting criminal activities. International cooperation is particularly important when it comes to drug trafficking as a high-risk criminal offence for money laundering. The existing legislation in the Republic of Serbia (the Criminal Code, the Law on the Recovery of Criminal Assets, the Law on the Prevention of Money Laundering and Terrorism Financing, the Law on Mutual Legal Assistance in Criminal Matters, etc.) along with bilateral and multilateral conventions provide a satisfactory legal basis for cooperation with other countries in terms of money laundering and terrorism financing.

The Administration for the Prevention of Money Laundering, as a member of the Egmont Group (an association of financial intelligence units of 131 countries) exchanges intelligence information with other financial intelligence units through a secure system. The information may only be exchanged in the case of suspicion of money laundering or terrorism financing. The significance of this exchange in solving money laundering cases is huge. In 2012, in the course of its work on the cases and cash flow analysis, the Administration sent 116 requests to foreign financial intelligence units. In the course of the same year, the Administration acted upon 70 requests of foreign financial intelligence units.

The Administration signed 38 memoranda of cooperation with financial intelligence units of foreign countries, which is also of extreme importance for the Administration's information exchange and international cooperation.

Taking into account that the criminals from the former Yugoslav republics easily and quickly connect with each other (similar cultural, historical and linguistic heritage), regional cooperation is essential for good operation of the anti-money laundering system. It was one of the reasons for establishing a regional conference of financial intelligence units of former Yugoslav countries, which were later joined by Albania. At the conference, held once a year since 2007, there is an exchange of experiences of countries in money laundering cases, typological cases and problems

in the work that are of significance in monitoring financial flows, all for the purpose of detecting illegal actions. The conferences contributed to faster and more efficient information exchange, greater trust among the units and fast actions when it comes to specific cases and prevention of inflow of dirty money into legal cash flows.

According to the data of the Ministry of Justice, the total number of cases involving mutual legal assistance in 2011 was 195 (the total number of received and sent requests) for the purposes of criminal proceedings. Criminal offences of money laundering and terrorism financing are criminal offences that are subject to extradition in accordance with the Law on Mutual Legal Assistance. Three letters rogatory were sent from the Ministry of Justice in 2011 and the first half of 2012 for conducting criminal proceedings for money laundering. As regards extradition, one extradition request was submitted to Montenegro in 2011 for one individual who was later extradited, and in 2012 Italy requested extradition of one individual, who was later extradited.

### THE VALUE OF PROCEEDS OF FOREIGN ORIGIN THAT MAY BE LAUNDERED IN THE COUNTRY

The major importance of international links and fast information exchange is also demonstrated by the data on the value of proceeds of foreign origin that may be laundered in the country. It has been estimated that the proceeds are very significant, particularly when it comes to criminal offences of organised crime. The data from specific cases indicate that the criminal offence of drug trafficking is especially important and may be linked with Albania, the Netherlands, Belgium, Sweden, Turkey and Bulgaria.

### CARRYING MONEY ACROSS THE BORDER

According to the data of the Customs Administration, the value of declared physical currency and bearer negotiable payment instruments upon entering, transiting or exiting the country in 2011, for the euro alone, was EUR 23,474,170.00. The Law on the Prevention of Money Laundering and Terrorism Financing requires the money carried across the border in the amount of EUR 10,000.00 or more to be declared. If the person fails to declare the funds when carrying them across the border, the Customs Administration will seize these funds and initiate misdemeanour proceedings in which proof of the origin of funds is presented. After the judgment, the funds are partly of fully confiscated.

## PRESENTATION OF RESULTS

In 2011, the customs authorities issued 74 certificates of seized physical currency and bearer negotiable payment instruments in the total amount of EUR 2,171,240.00 and USD 1,072,533.00. Of the total amount, EUR 1,919,850.00 and USD 1,069,433.00 were seized upon exiting.

When it comes to organised criminal groups, criminals take less and less risk when carrying money across the border. Namely, they will rather declare, according to the Law, the amount they carry and thus avoid the risk of seizure.

### **FOREIGN EXCHANGE PAYMENT OPERATIONS – SUSPICIOUS TRANSACTIONS**

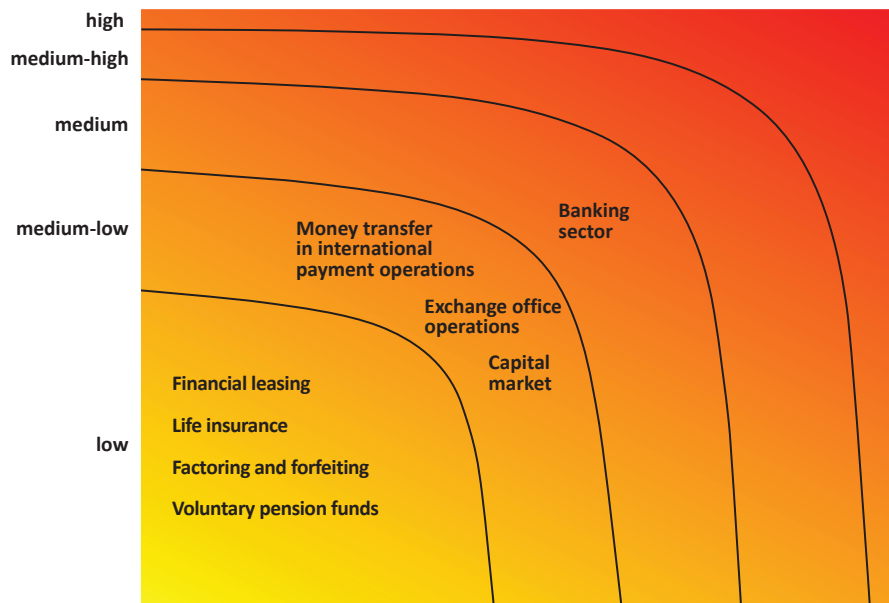
Suspicious transactions reported to the Administration by reporting entities and related to foreign exchange payment operations and cross-border money transfers also indicate the importance of international links. The total amount of funds transferred from Serbia in 2011 was EUR 57,587,085.08 and the total amount of money transferred to the country was EUR 78,350,896.37. It should be noted here that the amounts should be taken in relative terms, considering that the reporting entities reported the same persons several times, so there may be duplication of data. However, when it comes to cross-border money transfers, these data are indicative of the risks in the following areas: most of the transactions relate to transfers based on trade in goods and services; these are followed by increasing the deposits of non-residents, foreign capital deposits that do not increase equity, deposits based on long-term loans, deposits based on investments in the capital market, etc. When it comes to non-residents, the analysis of transaction participants has also established that, in addition to transfers through offshore destinations such as Cyprus, Delaware and Belize, a significant number of transactions, in the case of non-resident accounts, are carried out with the United States, the Netherlands, Canada, Austria, Slovenia, Montenegro, Bosnia and Herzegovina and Hungary.

According to a report of the National Bank of Serbia of 31 December 2011, there are 115,374 non-resident customers in total in the banking sector of Serbia. The share of non-residents from high-risk countries is 4.3%. Foreign individuals account for 14% of the total number of individuals that are founders of companies in the Republic of Serbia, while foreign legal entities account for 31% of the total number of legal entities that are founders of companies.

### **FOREIGN TRADE – TYPOLOGICAL PRACTICES**

In this regard, increased attention should be paid to foreign trade. The Administration also analysed import and export activities of legal entities in Serbia in the past on suspicion of manipulation in goods invoicing and possible money laundering. As for import activities, the subjects of analysis were legal entities that import goods from the neighbouring European countries from goods manufacturers, where the goods are invoiced by the companies based in offshore locations and registered for information or consulting service activities. In addition, on suspicion of money laundering, the Administration analysed export activities of legal entities, i.e. “reductions in export prices”. The analysis also included transactions of companies operating within a holding company or a group, multinational companies where there may be transfer price manipulations, taking into account that these prices are free from the impacts prevalent in the market. It is not uncommon for companies to use transfer prices to achieve a competitive position in the market, but also for tax evasion, evasion of corporate income tax payment or for tax base reduction. This necessitates adequate supervision and inspection of documents, on the one hand, and good international cooperation in terms of information exchange, on the other. However, what is of primary importance regarding the flow of dirty money in foreign trade is the joint action of the Tax Administration, the Customs Administration and the Administration for the Prevention of Money Laundering, under the coordination of prosecutor’s offices. Only this can enable quick and preventive reaction and prevent possible inflow of dirty money.

# SECTORAL VULNERABILITY



Financial sector vulnerability

## FINANCIAL SECTOR VULNERABILITY

Sectoral analysis was also undoubtedly significant for the risk assessment. Great attention was focused on data processing and analysis of both financial and non-financial systems of the Republic of Serbia. The sector risk assessments should by no means be understood in absolute terms, i.e. that specific sectors are risky or that they are not. The presented assessment of

sectoral vulnerability indicates a higher or lower risk of specific sector compared to other sectors. For example, certain indicators and features of the banking system suggest that banks are more vulnerable compared to other sectors when it comes to money laundering, but this is absolutely not to say that the banking sector is risky in absolute terms.

### Tabular presentation of vulnerability assessment by sector

| Financial sector   |                    |
|--|--------------------|
| <b>Banks</b>   | medium             |
| <b>Other financial institutions</b>                                |                    |
| Capital market   | medium-low         |
| Life insurance   | low                |
| Licensed exchange offices and banks                                | medium             |
| Money transfer   | medium             |
| Factoring and forfeiting   | low                |
| Voluntary pension funds  | low                |
| Financial leasing companies  | low                |
| <b>Legal entities and individuals outside the financial sector</b> |                    |
| Casinos  | medium             |
| Organisation of games of chance via the Internet                   | medium-high        |
| <b>Real estate agents and individuals acting as developers</b>     | <b>medium-high</b> |
| Lawyers  | medium-low         |
| Auditors   | low                |
| Accountants  | medium-low         |



### BANKS

Due to their significance in the financial system, banks in Serbia also have a special place in the PML/TF system. In addition, they are undoubtedly the most important reporting entity under the Law by the very fact that they are the largest player in the financial segment of the system (banks account for 92.4% of the value of assets of the entire financial sector), as well as that they have the largest number of customers and that most of the transactions are performed through the banking system. Currently, 32 banks operate in the Republic of Serbia.

The banking sector is vulnerable to the money laundering risk primarily due to its size and importance within the entire financial sector, as well as because of the large number of customers and transactions conducted on their behalf.

In general, the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing in the banking sector is at quite a high level. The banks have risk management systems in place and a high level of understanding of their obligations and duties related to the prevention of money laundering. Most of the bank customers, i.e. 60% of them, are classified in the medium-risk category, while 0.51% of the customers are classified in the high-risk category.

In general, the system of supervising the management of the money laundering and terrorism financing risk in the banks is well set up. Further progress may be achieved in consistent application of inspection based on the assessment of the money laundering risk to which each bank is individually exposed.

With the use of cash on a decrease, the banks are still vulnerable to the possibility of being abused by criminals by hiding the beneficial owners through complicated ownership structures, as well as by the increasing use of technological developments in the payment system (e-banking, card business and similar). Hence the enduring significance of the procedures that regulate the actions and measures of monitoring and knowing customers, including the "Know Your Customer" principle, as well as the permanent training of bank personnel to be able to recognise the situations related to suspicion of money laundering or terrorism financing.

The analysis has shown that the level of activity is highest in corporate transaction accounts and corporate credit products followed by retail current

accounts and loans, which indicates an increased risk of these products being used in money laundering. The prevalence of wire transfers in the banking sector of Serbia also indicates an increased risk of abuse for the purpose of money laundering. If transaction frequency is taken as indicator, this could indicate an increased risk of these products being used in money laundering. Looking at the product risk level from different aspects, it has been established that the transactions related to corporate loans are the riskiest from the aspect of average transaction amount, while corporate accounts, corporate credit products and e-banking are the riskiest from the aspect of customer profile. Cash transactions are present to a significant extent in retail deposit operations (mostly medium-term and short-term savings), where foreign officials and persons with interests in offshore zones or tax havens appear as customers.

The analysis of suspicious transactions reported by banks to the Administration in previous years has also found that a large number of transactions relate to transfers between legal entities based on trade in goods and services, credit facilities in the country as well as abroad, loans between legal entities and lending transactions with owners aimed at boosting company liquidity.

The use of payment codes of the National Bank of Serbia for domestic and foreign exchange payment operations is disputable when it comes to banking operations and poses a major problem in the work and transaction analysis by the Administration for the Prevention of Money Laundering. Namely, some codes are defined too broadly and for that reason frequently abused to transfer money (e.g. Grounds 90, description of the second transaction), with the intention of hiding the true purpose of transaction. E-banking is on the rise and therefore its use is increasingly hard to supervise. Thus it is hard to follow the transaction reason and purpose, because even the transactions based on loans and owner's loans, for which there is a reason code, are often not presented according to correct nomenclature, with wider-range codes being used. The information systems in most banks are set to take the code description from payment codes automatically and not with the description actually stated in the transfer order, so this circumstance also creates a major problem in the work and analysis and particularly in the efficiency of the Administration. The same is the case with cash transactions.

In 2012, the Administration for the Prevention of Money Laundering analysed the prevalence of

prepaid cards. Based on the data obtained from the banks, it has been concluded that the interest in these types of cards is low, as well as that any frequent use of prepaid cards (especially the deposits of large amount) would become very suspicious.

A shortcoming in the system operation is also the fact that the bank management, as has been demonstrated based on the previous experience and work, still fails to pay due attention to these organisational units in the bank, deeming this sector to be unprofitable. The resources available to the people engaged in detecting money laundering are still insufficient. Although the bank information systems are generally at quite a high level, they are mostly used for monitoring suspicious transactions, but it has been observed that the information systems fail to provide sufficient support to the money laundering risk management process and that they lack sufficiently developed software for the analysis of suspicious transactions.

In the future, the training in the banking sector should focus precisely on risk assessment and analysis, case studies, the assessment whether a transaction has elements of suspicion of money laundering, etc.

In 2011, the total suspicious transactions reported by banks amounted to EUR 290,751,836.29. If this amount were compared to GDP for 2011, a 0.093% share would be obtained. A layperson's conclusion would be that this is the share of dirty money in Serbian GDP, but it must be noted that this is suspicion of money laundering reported to the Administration by reporting entities. Further analyses and information exchange with reporting entities and government authorities, as well as other investigative activities will show whether there are grounds for suspicion of money laundering. It can only be said to be money laundering after final judgments are rendered. Although the above information is indicative only, it indirectly points to the quality of suspicious transaction reports. It is necessary to intensify the training of reporting entities in the area of risk assessment and analysis. Namely, in many of the transactions reported, the only motive for reporting was the indicator for identifying suspicious transactions and fear of inspectors, with no further risk analysis and assessment and with no explanation of the reasons for characterising the transaction as suspicious.

With the intention of increasing the quality of bank reporting, in early 2012 the Administration for the

Prevention of Money Laundering held meetings with each of the 32 banks operating in the territory of the Republic of Serbia. The topics of discussion at the meetings were bank suspicious transaction reports, risk assessment and analysis, customer identification and the quality of reporting. Inconsistencies in reports, transaction explanation, analysis methods and possibilities etc. were pointed out to the employees engaged in PML/TF activities. The meetings produced result already in 2012, when the quality of suspicious transaction reports was better and the risk assessment and analysis by bank employees improved significantly.

In addition, in early 2012 the Administration for the Prevention of Money Laundering issued the Typologies of Money Laundering with typical examples of money laundering, which have already demonstrated their effectiveness. They will undoubtedly provide help not only to banks but also to all other sectors in identifying some frequent types of money laundering. The Typologies contain examples of money laundering not only for the banking sector, but also for the capital market, insurance, accountants, auditors, estate agents, exchange offices and lawyers.

### CAPITAL MARKET

In addition to banks, the other segments of the financial system did not remain immune to money laundering, either. The capital market was assessed as medium-risk in terms of money laundering. In 2012, 37 broker-dealer companies, 6 investment fund management companies managing 16 investment funds, 17 authorised banks and 11 custody banks operated in the Republic of Serbia. Custody banks do not have the legal entity status and perform their activities in the capital market as organisational units of commercial banks with an appropriate licence. All financial instruments are paperless and made out to bearer, which reduces the possibility of concealing ownership and is extremely important in terms of money laundering attempts.

The trade in the stock exchange in Serbia is low and exhibits a downward trend (the trading volume decreased around five times in the period from 2007 to 2012). Taking into account the significant reduction in the number of customers, foreign in particular, reduction in the trading volume, as well as the strengthening of the functions of the Securities and Exchange Commission as supervisory authority, the opportunities for illegal economic activities decreased, reducing the opportunities for money laundering as well.

## SECTORAL VULNERABILITY

The share of broker-dealer companies is predominant in share and bond trading, with a 74.57% in total trading. So far, payment operations have not been performed by securities trading brokers, but solely by commercial banks (securities accounts are maintained with the Central Securities Depository and Clearing House, while customers' cash accounts for securities trading are maintained with commercial banks). On the one hand, such method of account keeping caused the commercial banks to have insufficient information about their customer's business and motives for buying or selling securities ("Know Your Customer") and, on the other hand, it caused the Commission as supervisory authority to have no additional information about cash flows (e.g. securities trading that was preceded by large deposits of cash of unknown origin).

According to the Commission's data, the most frequently observed irregularities in the work of broker-dealer companies are related to omissions in customer identification, keeping the prescribed records, contents and implementation of general enactments. In the future, the emphasis should undoubtedly be put on intensified training of reporting entities in the implementation of legal norms and their proper understanding.

The Administration started to train this group of reporting entities back in 2012, when a large conference of all capital market participants was held in March. Representatives of the supervisory authority and the Administration held a series of lectures relating to various aspects of money laundering. An idea was also initiated for these groups of reporting entities to establish an association that would facilitate the resolution of numerous issues regarding money laundering and terrorism financing and through which they would act in an organised manner. The conference was also attended by a representative of the MoneyVal Committee. The plan is to continue this form of training and develop it into a regular event.

In 2012, the reporting entities reported to the Administration 2 suspicious transactions in the capital market, while in the past – from 2008 to 2010 – this number was higher (10 reports per year on average). On the other hand, in 2012 alone, the Securities and Exchange Commission initiated cash flow analysis for 6 legal entities on suspicion of money laundering. Although this raises the question about the motives of reporting entities and the reasons for not reporting suspicious activities, it is worth remembering that the trading volume is relatively low and sporadic and that many customers of the

agents were assessed as low-risk customers. This also indicates the importance of education when it comes to the methods of transaction analysis and the process of risk assessment and analysis.

During its work on capital market cases, the Administration determined that the actions such as transfer of securities (gifts, bringing in shares as nominal capital in companies and similar) were abused with an intention of bringing the money into legal circulation. The process of targeted company takeover in the past was also assessed as high-risk in terms of money laundering. The same assessment was also given for the activities of purchasing securities with the money transferred from offshore locations and the securities trading transactions through custody accounts, especially if the accounts are kept in the countries in which laws on strong banking secrecy apply or in offshore locations.

Licensed exchange offices and banks, as well as money transfer agents were assessed as medium-risk financial sectors.

### EXCHANGE OFFICES

Only cash is in circulation in the exchange office sector. The experience of the Administration shows that dirty money is not brought into legal circulation through exchange operations, but that exchange operations are very much used for "conversion" of dirty money, i.e. exchange of one currency for another. In the future, the emphasis must be placed on increased inspection of the operation of exchange offices in terms of the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing, but it is also necessary to check the ownership structure of exchange offices. Experience shows that these individuals – owners of exchange offices – were very often connected with individuals from criminal circles and that their exchange offices were only a way of concealing illegal funds more easily, given the high cash turnover in these establishments. In 2011, the Administration did not receive any suspicious transaction reports from exchange offices.

### MONEY TRANSFER AGENTS

Money transfer in international payment operations was also assessed as a medium-risk sector. The total amount of money transferred to Serbia through agents was EUR 206.8 million, while EUR 19.3 million was sent to individuals abroad from Serbia through the Post Office. The average transaction amount is relatively small and is around EUR 300.

During the first six months of 2012, a total of 143 individuals were reported to the Administration on suspicion of abusing the services of money transfer agents for the purpose of illegal activities. It was observed by further analysis that a total of 35 persons were connected with criminal groups and used the agent services for faster and more secure transfer of dirty money. Individual money transfers per person are small, but it is typical that the money is sent to a single beneficiary from numerous foreign countries. The money transfer system is recognised as the method of transferring proceeds of crime, but in relatively small amounts (the value of individual transaction is around EUR 300). According to the Administration's data, money transfer services are most often abused by persons connected with narcotics trafficking and human smuggling.

### **FACTORING AND FORFEITING**

Factoring and forfeiting in international payment operations were assessed as a low-risk sector. Factoring and forfeiting operations are mostly dealt with by the Export Credit and Insurance Agency, commercial banks and few businesses. It mostly involves purchasing receivables with maturity of up to one year. There is no cash in this sector, with all transactions being conducted through the banking system.

The supervisory authority for exchange offices, the entities engaged in factoring and forfeiting in international payment operations and agents providing money transfer services is the Tax Administration (until recently, it was the Foreign Exchange Inspectorate, which is now within the Tax Administration). The inspection level in the past was low.

### **LIFE INSURANCE**

Insurance companies for life insurance, providers of financial leasing and voluntary pension funds were assessed as a relatively low-risk group of reporting entities compared to the other sectors analysed.

Due to its small share in the financial sector of Serbia according to all relevant parameters (number of transactions and financial volume) and especially due to the small share of life insurance premiums in the total premiums, the insurance industry is subject to minimal money laundering risk. Nevertheless, insurance companies develop all the functions required by the regulations concerning the prevention of money laundering and terrorism financing.

Most insurance companies dealing with life insurance are majority owned by foreign capital. The analysis of customers, reports, statistics and the supervision conducted in the past indicates that life insurance transactions were not "attractive" to money launderers. In addition, the level of return on investment is low, investment periods are long and there were no cases in the past of criminals being connected with life insurance business, which all had an impact on determining the vulnerability of the sector. The money is usually paid on an annual basis for premiums, under EUR 1,000 per policy holder on average, which indicates a very low level of capital capacity of the policy holders. However, it is important to add that suspicious transaction reports by insurance companies contributed to making certain persons a subject of analysis by the Administration and, after additional checks and monitoring the cash flows, linking them to persons engaged in illegal activities.

There is hope that, in the near future (5-10 years), life insurance will play a more significant role in the financial market and that we should be prepared for the risks that may arise at that time. For this reason, we have to increase our efforts to develop further and strengthen procedures and policies for the prevention of money laundering and terrorism financing in order to be prepared for the risks that may arise.

Non-life insurance business was also analysed, although the insurance companies engaged in non-life insurance are not reporting entities. Many more frauds were observed here, especially when it comes to the automotive industry, but the money laundering risk is insignificant for the time being.

### **VOLUNTARY PENSION FUNDS**

The activity of voluntary pension funds is not a significant source of the risk of money laundering and terrorism financing, either, i.e. it shows low vulnerability to money laundering because of its position in terms of its total share in the financial market, its share in GDP and the size of contribution payment transactions by VPF members.

### **FINANCIAL LEASING**

Financial leasing is a low-risk sector as well. Providers of financial leasing, 17 of them, operated with total assets of EUR 568.2 million as of 31 March 2012. In the future, on-site supervision should be conducted regarding the compliance with the regulations on the prevention of money laundering and terrorism financing to get a more objective

## SECTORAL VULNERABILITY

picture of the situation in the sector. Mostly off-site examinations of this group of reporting entities have been conducted so far.

### VULNERABILITY OF THE NON-FINANCIAL SECTOR

The highest risk in the non-financial sector is borne by estate agents and individual investors, organisers of games of chance via the Internet and casinos.

### REAL ESTATE AGENTS

Real estate agents were assessed as having a medium-high level of vulnerability relative to other sectors.

Based on the previous analyses, it has been established that most of the dirty money is brought in through the construction industry and investment. The increased risk is also definitely caused by the fact that the payments for construction material can be made in cash, as well as the fact that there is no special law regulating real estate trade and that the general provisions of the law on contract and torts apply.

The analysis of the Administration database for the period from 2009 to the end of 2012 found 170 transactions characterised by banks as suspicious transactions, where real estate trade is stated in their description. A typical case of mon-

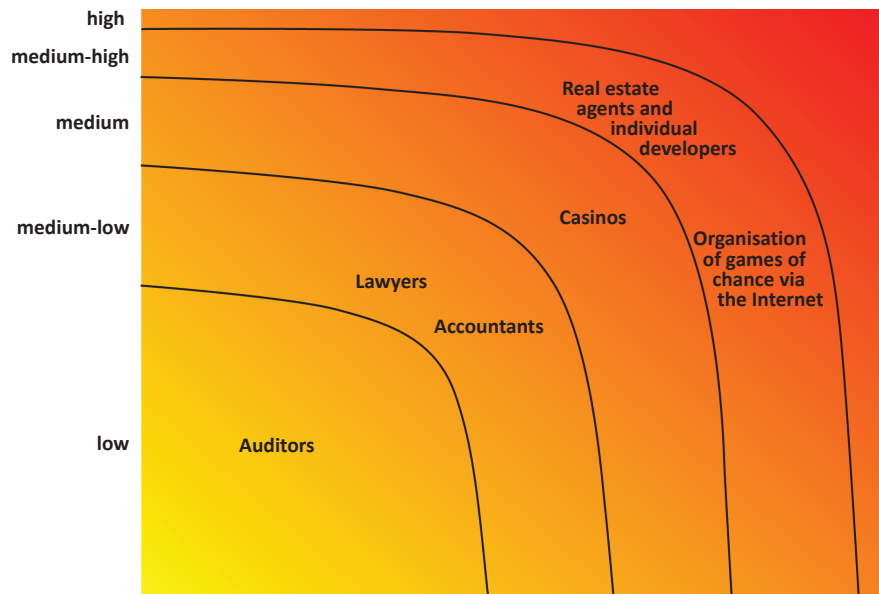
ey laundering is investment of a large amount of money by an individual appearing as a client and a further sale afterwards, which conceals the illegal origin of the money invested in the initial construction works. However, no suspicious transactions were reported to the Administration by real estate agencies.

### CASINOS

Casinos in the Republic of Serbia have anti-money laundering systems in place. In addition to the fact that their business is mostly conducted in cash (purchase and sale of chips), the increased risk in this sector is also caused by unclear provisions of the Law on Games of Chance related to inspection of their operation. The same is the case with organisers of games of chance via the Internet, whose operation is also regulated by the Law on Games of Chance. A total of 28 different persons were reported to the Administration during 2012 for purchase of chips in excess of EUR 15,000.00.

### LAWYERS

Lawyers were the subject of the analysis as well. The target group in the risk assessment were the layers engaged in activities related to managing the assets of their clients. However, when it comes to the implementation of anti-money laundering regulations, it must be emphasised



Vulnerability of designated legal entities and individuals outside the financial sector

that they hardly implement them at all and that very few lawyers have any awareness of the existence of their legal obligations when it comes to money laundering. In the future, the Administration will put the emphasis on raising awareness and importance of the prevention of money laundering among lawyers, which is one of the first activities planned for 2013.

### ACCOUNTANTS AND AUDITORS

Accountants and auditors carry a somewhat lower risk in the non-financial sector. Ever since the Administration assumed the supervision over the compliance with the anti-money laundering regulations, the situation in the auditing and accounting sector has changed significantly and exceptional efforts have been invested in raising accountants' and auditors' awareness of the possibilities of being abused for the purposes of money laundering. Almost all audit companies prepared a risk analysis and implement the measures of knowing and monitoring customers, and 5 suspicious transactions have been reported since the beginning of 2012. The situation is slightly different in accountants. It results from the experience of the Administration, prosecutor's offices and police authorities that the work of accountants is one of the key levers of criminal structures in the money laundering process because it was necessary to create the semblance of legality for certain transactions through accounting after committing a criminal offence. The sign that the system began to develop in the accounting sector as well is that 485 candidates have passed the exam since June, when the first exam for obtaining the licence was held.

The risk assessment also included some structures that are not reporting entities under the Law on the Prevention of Money Laundering and Terrorism Financing, such as notaries, pawnshops and non-profit associations.

### NOTARIES

The estimate is that there will be one notary per 25,000 residents in Serbia, which is around 300 notaries in total. The implementation of the Law on Notaries Public, which was postponed until March 2013, is expected to contribute to combating money laundering as well, particularly when taking into account the position of public notaries in the legal system, as well as the activities they are authorised to perform in the area of real estate trade, but also the activities of safe-keeping money, securities and other valuables.

### PAWNSHOPS

The operation of pawnshops is not regulated by any specific law and pawning takes place according to the general principles of lien. Preliminary results after several targeted inspections by the Market Inspectorate and an analysis of the situation do not indicate any money laundering risk in the operation of pawnshops. Pawned items include movable property, items made of precious metals, artwork and automobiles. When it comes to gold, illegal gold trade and smuggling is a major problem. According to the data of the Customs Administration, 64,634.00 grams of gold and 21 pieces of gold jewellery were seized in 2011 alone. Due attention will be paid to the precious metal market in the future, as well in order to monitor the risk of illegal trade in terms of money laundering.

### NON-GOVERNMENTAL ORGANISATIONS

The Administration conducted a preliminary investigation of the operation of non-governmental organisations and the possibilities of their abuse, primarily for the purposes of money laundering. What was observed as the highest risk and what certainly should be the subject of further studies and increased inspection and supervision is the monitoring of grant spending, i.e. how the funds are spent and if they are misused.

### DATA TRANSPARENCY

Data transparency and publicly available sources of information are essential not only for the operation of reporting entities, but also for the operation of the entire government apparatus that makes up the anti-money laundering system. Data transparency is at a fairly high level when it comes to legal entities, but certain problems have also been observed that impede compliance in some cases, particularly when it comes to customer identification. The data on registered legal entities, entrepreneurs and associations are publicly available on the website of the Business Register Agency. Establishment, integration, termination of the economic entity, status changes and changes in legal form and other data are entered in the Register. However, the problem is the ultimate owner of a legal entity. The founder of a legal entity is registered with the Agency and, if it is an individual, the circle is closed and the situation is clear. However, if the founder is a legal entity, then this information is not obtained. The main objection of all reporting entities, banks in particular, is that this system should be changed. Namely, the necessary activities for corporate



customer identification should be centralised and within the competence of the Business Register. In this way, data transparency would undoubtedly be raised to a higher level and the operation of all structures engaged in the area of money laundering would improve as well. Another problem has been observed in the registration of legal entities and entrepreneurs and it particularly proved to be an aggravating factor in analysing the accounting sector. Namely, a legal entity may register with the Agency for one business activity and perform a completely different activity. It is often the case in accounting agencies to be registered for the provision of consulting services and not for the core activity of accounting business, which prevents the identification of the exact number of these reporting entities, therefore making difficult all other activities in terms of the prevention of money laundering.

Publicly available data in Serbia are also the data from the financial statements of businesses, audited financial statements, the data on the account numbers of legal entities with commercial banks and the data on the shares of persons in joint stock companies, which increases data transparency to a fairly high level.

### ACTION PLAN

#### CONCLUSIONS

At the very end, it can be concluded that the main problems that were singled out in the process of preparing the national risk assessment are common to all participants and require fast action and resolution, and these are:

##### 1. Poorly kept statistics

In order to derive quality conclusions and in order for the risk assessment to be based on verified data, it is necessary to introduce a single methodology for preparing reports of all relevant government authorities. Namely, the statistics kept are not uniform; some authorities keep case statistics by number of persons, some by number of offences, all depending on their internal procedures, which largely impedes deriving conclusions and planning future activities. For example, the Republic Public Prosecutor's Office keeps the statistics by number of persons, while the Ministry of the Interior keeps them by number of cases. In addition, the Ministry of Justice does not keep any special statistics for special criminal offences, nor for special types of mutual legal assistance. In addition, it is necessary to complement the records

of the Directorate for Management of Seized and Confiscated Assets and the Republic Public Prosecutor's Office with the data relating to the value of individually recovered assets per criminal offence. These are just some examples where there are deficiencies in the organisation of statistical data, with many more remaining.

It is also necessary to enable electronic data management where this method does not exist.

##### 2. Insufficient knowledge

Specific knowledge needed by the participants that are part of the system must be raised to a higher level for the purpose of combating money laundering as successfully as possible. It is necessary to prepare a comprehensive training programme and plan for the participants in combating money laundering (training institutionalisation). The education now exists, but it is sporadic. The establishment of a training centre within the Administration is also a significant step. By establishing the training centre, the employees engaged in the activities of identifying money laundering or terrorism financing would, in addition to theoretical form of the training, exchange experience, observe typologies of money laundering and monitor trends through practical examples and case studies from practice, which would contribute to improving the operating methods and techniques of identifying money laundering, as well as the operating methods and techniques of conducting financial investigations and recovering assets. The training would undoubtedly contribute to raising the awareness of all actors of the importance of combating money laundering.

Intensified training would also undoubtedly contribute to an increase in the number of convictions for money laundering by the courts.

##### 3. Database connection, centralisation and networking

Formal method of data exchange undoubtedly causes lower efficiency and effectiveness in resolving money laundering cases. Centralisation of data management, as well as integration of different databases would undoubtedly lead to a faster resolution of money laundering cases, as well as faster action in the event of emergency. It must not be forgotten that the aim of combating money laundering is preventive action, i.e. prevention of money laundering. A direct access to the police databases by the Administration would, inter alia, contribute to more efficient work on cases. The



situation is the same with the Tax Administration databases and the Customs Administration databases. A major problem in the work is the fact that some data are not centralised, as is the case with the property tax paid, which are kept by local self-government units, where their integration would be necessary. The risk assessment has shown that there are many more such examples.

#### **4. Problem of coordination of work of government authorities**

Better coordination is necessary between all government authorities participating in combating money laundering. The upcoming prosecutorial investigation, which is prescribed by the new Criminal Procedure Code, will certainly contribute to this. According to the Code, all authorities participating in the pre-trial proceedings are required to report any action taken for the purpose of detecting criminal offence to the competent prosecutor and are required to act upon any request of the competent public prosecutor. Cooperation should also be intensified between all supervisory authorities for the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing. The meetings that would be held regularly, involving exchange of experiences from conducted inspections, observed irregularities and the method of action and problem resolution would undoubtedly lead to raising the level of supervision over the implementation of the Law to a higher level.

#### **5. New national strategy for combating money laundering and terrorism financing**

In order for the conducted analysis and observed system characteristics to produce results in the future in terms of better resource allocation and increased efficiency and effectiveness, as well as in order to achieve the ultimate goal of preventing the bringing of dirty money into the financial system of the Republic of Serbia, it is necessary to take certain actions as soon as possible. One of the activities that the Administration for the Prevention of Money Laundering, as the central authority in this fight, will immediately undertake is the preparation of a new national strategy for combating of money laundering and terrorism financing, which will take into account all the risks identified during this process.

Enclosed herewith are the studies by working groups and the action plan, as a result of the established circumstances.

### Introduction

We opted for a comprehensive qualitative risk assessment due to inconsistent and incomplete data collection methodology, particularly with respect to the relevant statistical data relating to the value of assets and proceeds kept by the competent authorities. For this reason, in the comprehensive risk assessment, we chose to clarify the risk based on different sources. In the assessment, we also took into account gross national income in the Republic of Serbia and, in order to assess the amount of the proceeds of crime, several criteria were used for the above reasons as follows:

1. The number of criminal offences – incidence (the 2011 Report of the Republic Public Prosecutor’s Office and the 2009 Report of the Republic Statistical Office)
2. The data from specific cases
3. Operational data, “dark figures” and “grey figures” of the above offences
4. The amount of recovered proceeds based on the Law on the Recovery of Criminal Assets (the report of the Directorate for Management of Seized and Confiscated Assets and the report of the Republic Statistical Office)
5. The number of pronounced measures of proceeds recovery within the meaning of Article 91 of the Criminal Code (the report of the Republic Public Prosecutor’s Office)
6. The Moneyval report
7. The Greco report
8. The Transparency Serbia report
9. Technical papers
10. The analysis of the Republic Statistical Office relating to the unobserved economy for 2004-2007
11. The report of the Republic Statistical Office on the incompleteness of gross fixed investment estimate.

By applying the above criteria, we completed the comprehensive risk assessment presented in the analysis.

When it comes to identified money laundering typology, based on our findings from the cases, it is most often “self-laundering”, or laundering the money or property that the offender himself/herself acquired by committing a criminal offence. Transfer of property with the intent to conceal or misrepresent the lawful origin of the property, or conceal or misrepresent the facts about the property, and use of the property with knowledge that it originates from crime are identified as the most frequent methods.

The identified typology based on the detected and processed money laundering cases:

1. In one case, five indicted members of an organised criminal group who are both owners and managers of businesses repeatedly converted and transferred money arising from the criminal offence of illicit production and circulation of narcotics in the total amount of EUR 2,350,000.00 by buying with this money, in collusion with the organiser of the criminal group, socially-owned capital of enterprises in the privatisation process, using fictitious documents and presenting fictitious activities of their companies;
2. In one case, the bribe giver paid for a newly constructed apartment and the bribe taker, in order to conceal the gift received, made an arrangement with a family member to conclude a sales contract with the apartment owner;
3. The company owner (the offender referred to in Article 359 of the CC) receives funds in his company account for goods that were not delivered and services that were not provided to a public enterprise, with only fictitious invoices being made out, pays the money on the basis of pro-forma invoices for alleged advance payments to a foreign supplier – an offshore company whose founder is precisely the owner of the company to which the public enterprise pays the money, with no imports of goods taking place and the founder of the offshore company directing the money to other businesses abroad;
4. The proceeds of an offence referred to in Article 246, paragraph 4, in connection with paragraph 1 of the CC, were paid to an offshore company in the USA. The offshore company to which the

money was paid participated as a consortium member in tenders for the procurement – privatisation of companies in Serbia and after being selected as the best bidder and concluding the contract, the money from an account of the foreign offshore company was paid into the account of another consortium member and a payment is made from the account of the other consortium member, which is a foreign legal entity, for an ownership stake in the enterprise being privatised;

5. The money from a criminal offence referred to in Article 246 paragraph 4 in connection with paragraph 1 of the CC, was given to individuals who make deposits with a bank in the amounts below EUR 15,000 for bank guarantees for a borrower. The borrower applies for a loan from the bank, obtaining it based on the bank guarantees and buying an ownership stake after being selected as the best bidder in the tender for purchase of the enterprise. The borrower is the legal owner of the enterprise, but the beneficial owner is the criminal offender;
6. An injured party against whom a crime of extortion is perpetrated, who owes a criminal offender - extortionist a certain sum of money for interest on a loan and who is at the same time the owner of a company, pays the money, for an alleged purchase of apartments, from the account of his company into the account of the apartment seller – an individual, the extortionist's brother – who is aware of the origin of the money, with the apartment sale contract not implemented. The company that allegedly bought the apartments sells them to another individual who is a member of the same organised criminal group engaging in extortion, with the payment of the sales price into the company account not taking place;
7. An extortionist places the money acquired from extortion as an interest-free loan in the account of a company of which he is the founder and which, using this money, buys apartments on behalf of the company (fake real estate trade contracts are used as the basis for placing the interest-free loan).

Taking into account that most of the transactions go through banks, personal and business accounts, cash accounts for purchase of securities, real estate trade and similar, the sector which is at greatest risk according to our estimate is the banking sector, while the highest investment is made in real estate and business activities.

### THE INCIDENCE OF THE AFOREMENTIONED CRIMINAL OFFENCES<sup>5</sup>

We performed our assessment of the incidence of the aforementioned criminal offences by applying statistical methods, using the following data:

- The reports and records of the Republic Public Prosecutor's Office, which keeps records of criminal reports filed by the police, other authorities, and private citizens, adjusted based on police records, records kept by the tax authorities, and data from the Republic Statistical Office of the Republic of Serbia (RSO).

One shortcoming of the records held by the Public Prosecution is that they are not kept separately for all criminal offences, or by paragraph or item as aggravated forms, so as to make it possible to determine the exact number of less and more severe forms of the same criminal offence, for which reason an adjustment criterion was used – the RSO report for 2009, regarded as representative for others years, given that the report for 2011 has not yet been completed.

<sup>5</sup> Source: Report of the Republic Public Prosecution for 2011  
Report of the Republic Statistical Office for 2009

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| 2011 Report of the Republic Public Prosecutor's Office |   |          |               |          |           |                 |                                    |                                     |
|--|---|----------|---------------|----------|-----------|-----------------|------------------------------------|-------------------------------------|
| TABLE 1  | Criminal offence article  | Reported | Investigation | Indicted | Judgement | Object recovery | Recovery of proceeds of crime (CC) | Recovery of proceeds of crime (RPC) |
|  | Aggravated murder, Article 114  | 78       | 119           | 123      | 100       | -               | -                                  |                                     |
|  | Showing, obtaining and possession of pornographic materials and abusing juvenile persons for pornography, Article 185 | 39       | -             | 38       | 12        | 10              |                                    |                                     |
|  | Unauthorised use of copyrighted work or other work protected by similar right, Article 199                            | 11       | -             | 5        | 27        | 23              |                                    |                                     |
|  | Theft, Article 203, Aggravated theft, Article 204   | 15.687   | 6.349         | 6.724    | 4.857     | 2               |                                    |                                     |
|  | Grand larceny, Article 205, Robbery, Article 206  | 3.787    | 2.310         | 1.995    | 14.017    | 20              |                                    |                                     |
|  | Counterfeiting money, Article 223   | 153      | 90            | 111      | 108       | -               | 2                                  |                                     |
|  | Counterfeiting and misuse of payment cards, Article 225   | 186      | 138           | 83       | 83        | 5               | 1                                  |                                     |
|  | Issuing uncovered cheques and use of uncovered payment cards, Article 228   | 732      | 183           | 242      | 152       | -               | 5                                  |                                     |
|  | Tax evasion, Article 229  | 2.338    | 843           | 1052     | 626       | 3               | 5                                  | 30                                  |
|  | Money laundering, Article 231   | 56       | 45            | 14       | 1         | -               | -                                  | 9                                   |
|  | Illegal trade, Article 243  | 298      | 4             | 175      | 125       | -               |                                    |                                     |
|  | Illicit production and circulation of narcotics, Article 246  | 1734     | 1419          | 1375     | 1501      | -               | 61                                 | 79                                  |
|  | Computer fraud, Article 301   | 21       | 24            | 6        | -         | -               | -                                  |                                     |
|  | Illegal production, possession, carriage and circulation of firearms and explosive materials, Article 348             | 1196     | 609           | 706      | 603       | 370             | -                                  |                                     |
|  | Abuse of office, Article 359  | 4720     | 1546          | 1310     | 704       | 4               | 20                                 | 135                                 |
|  | Violation of law by a judge, public prosecutor or deputy public prosecutor, Article 360                               | 1217     | 2             | 10       | 1         | -               | -                                  |                                     |
|  | Trading in influence, Article 366   | 35       | 7             | 12       | 3         | -               | -                                  |                                     |
|  | Accepting bribes, Article 367   | 106      | 27            | 89       | 55        | 6               | 12                                 | 8                                   |
|  | Giving bribes Article 368   | 161      | 26            | 126      | 32        | -               | -                                  | 7                                   |
|  | Human trafficking, Article 388  | 50       | 45            | 48       | 29        | -               | -                                  | 2                                   |
|  | Trafficking in juveniles for the purpose of adoption, Article 389   | 18       | 5             | 4        | -         | -               | -                                  |                                     |
|  | Theft or weapons or parts of combat equipment, Article 414  | 2        | 1             | 7        | 4         | -               |                                    |                                     |
|  | Divulging a military secret, Article 415  | 4        | -             | 4        | -         | -               | -                                  |                                     |

**Note:** The data presented in the table are the data from the annual report of the Republic Public Prosecutor's Office, the data on the number of judgments are the data on final judgments, while empty fields show that no special records are kept for the criminal offences concerned.

The total number of criminal offences reported against persons known is 111,812, while the total number of criminal offences reported against persons unknown is 33,867, except that these data represent the total number of reported criminal offences committed by persons known and unknown and not only the number of reported criminal offences presented in the table.

### DETERMINING PROCEEDS OF CRIME AT NATIONAL LEVEL

Pursuant to the laws of the Republic of Serbia, proceeds of crime are recovered on the basis of the following:

- Under Article 91 of the Criminal Code (Article 91 paragraph 1: “No one may retain proceeds of criminal offence”); and
- Pursuant to the Law on the Recovery of Criminal Assets (Official Gazette of RS, No. 97/08), (Article 2 prescribes: Provisions of this Law shall apply to all criminal offences of: 1. of organised crime; 2. showing pornographic materials and abuse of children for pornography – CC Article 185 paragraphs 2 and 3; 3. against economic interests – CC Articles 223 paragraph 3, 224 paragraph 2, 225 paragraph 3, 226 paragraph 2, 229 paragraphs 2 and 3, Article 230 paragraph 2 and Article 231 paragraph 2); 4. illicit production, possession and circulation of narcotics (CC Article 246 paragraphs 2 and 3); 5. against public peace and order (CC Article 348 paragraph 3 and Article 350 paragraphs 2 and 3) 6. against official duty (CC Article 359 paragraph 3, Article 363 paragraph 3, Article 364 paragraph 3, Article 366 paragraph 5, Article 367 paragraphs 1 to 3, 5 and 6, Article 368 paragraphs 1 to 3 and 5); 7. against humanity and other goods protected by international law (CC Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Article 379 paragraph 3, Articles 388 to 390 and Article 393).
- For criminal offences referred to in Article 185 paragraphs 2 and 3, Article 230 paragraph 2, Article 348 paragraph 3, Article 350 paragraphs 2 and 3, Article 366 paragraph 5, Article 367 paragraphs 1 to 3, 5 and 6, Article 368 paragraphs 1 to 3 and 5, Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Articles 388 to 390, and Article 393 of the Criminal Code. The provisions of this Law are applied in cases where the proceeds of crime exceed the amount of RSD 1,500,000.00.

Under Article 513 paragraph 1 of the Criminal Procedure Code (CPC), proceeds of crime are determined in criminal proceedings *ex officio*.

Under paragraph 3 of this Article, “if an injured party has submitted a claim for the restitution of criminal assets, or for payment of an amount corresponding to the value of the assets, the proceeds of crime shall be determined only in respect of the part not encompassed by the restitution claim.

The data of the Republic Public Prosecutor’s Office and the Republic Statistical Office present the number of pronounced measures of recovery of proceeds of crime under Article 91 of the CC, but not the amount of proceeds recovered.

For that reason it is necessary to shed light on this aspect by using various sources. Reports of the Republic Statistical Office (RSO), the Ministry of the Interior and the Tax Police were therefore consulted.

In the report of the Republic Public Prosecutor’s Office the recovery of criminal assets under the Law on the Recovery of Criminal Assets is presented according to the number of persons concerned, as in other reports, and all stages (financial investigation, seizure, confiscation, the total value, but only the number of cases by type of criminal offence).

In the report of the Directorate for Management of Seized and Confiscated Assets under the Law on the Recovery of Criminal Assets the following are presented: the number of decisions on recovery of assets, the total value, the values by type of criminal offence, and the value of the assets.

According to the records of the Directorate for Management of Seized and Confiscated Assets and the Republic Public Prosecutor’s Office, five decisions on the seizure of assets under the Law on the Recovery of Criminal Assets were issued in 2009, 89 seizure decisions in 2010, and 77 seizure decisions in 2011.

As regards the confiscation of assets, three decisions on the confiscation of assets were issued in 2010 and one final decision on the confiscation and another ten non-final decisions on the confiscation of assets in 2011.

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| The value of seized and confiscated assets under the Law on the Recovery of Criminal Assets: |                               |                               |                                    |                                    |
|--|-------------------------------|-------------------------------|------------------------------------|------------------------------------|
| TABLE 2  |                               |                               |                                    |                                    |
| Year   | Value of seized assets in EUR | Value of seized assets in RSD | Value of confiscated assets in EUR | Value of confiscated assets in RSD |
| 2009.  | 5.000.000,00                  | 500.000.000,00                |                                    |                                    |
| 2010.  | 235.000.000,00                | 23.500.000.000,00             | 560.000,00                         | 56.000.000,00                      |
| 2011.  | 110.000.000,00                | 11.000.000.000,00             | 425.000,00                         | 42.500.000,00                      |

The total value of assets confiscated in 2010 was about RSD 56,000,000.00 (EUR 560.000,00), of which RSD 50,000,000.00 (EUR 500,000.00) worth of real estate and RSD 6,000,000.00 (EUR 60,000.00) worth of vehicles and vessels.

The total value of assets confiscated in 2011 was RSD 42,500,000.00 (EUR 425,000.00), of which RSD 15,000,000.00 (EUR 150,000.00) of cash, RSD 12,000,000.00 (EUR 120,000.00) worth of real estate, and RSD 15,500,000.00 (EUR 155,000.00) worth of vehicles and vessels.

In assessing the value of recovered proceeds of crime several criteria were used for the previously stated reasons:

- 1) Number of criminal offences – the incidence,
- 2) Data from concrete cases,
- 3) Operational data, “dark figures” and “grey figures”<sup>6</sup> for the aforementioned criminal offences,
- 4) The amount of recovered assets based on the Law on the Recovery of Criminal Assets,
- 5) The number of measures of recovery of proceeds pronounced under Article 91 of the CC.

In view of the above, in analysing risks and vulnerabilities in the area of money laundering prevention, we chose to make a qualitative assessment.

As a base for comparison we used the 2010 gross national income of EUR 28,006.1 million, published by the RSO on 30th April 2012.

**Non-standardised methodology of collecting data, which was also incomplete, in particular in respect of data about the value of assets and the amounts of proceeds of crime from all the authorities relevant for the assessment.**

<sup>6</sup> “The grey figures” of crime encompasses all criminal offences reported but unresolved (against persons unknown), Korupcija – osnovni pojmovi i mehanizmi za borbu protiv korupcije [Corruption – Main Concepts and Anti-Corruption Mechanisms]– Belgrade University School of Law, 2007.

# CRIMINAL OFFENCES WITH A HIGH LEVEL OF MONEY LAUNDERING RISK

## TAX EVASION - ARTICLE 229, NON-PAYMENT OF WITHHOLDING TAX ARTICLE 229-A

Criminal offences connected with taxation are tax evasion - Article 229, and non-payment of withholding tax - 229-a and the criminal offence referred to in Article 173 of the Law on Tax Procedure and Tax Administration.

Under the Criminal Code (CC) of the Republic of Serbia, the activities of the criminal offence of tax evasion concern legally acquired income, but not income acquired by illegal means.

The share of this criminal offence in the total number of reported criminal offences is 15.49%, with an upward trend relative to the previous year (reports filed against 2,238 persons, against 2,215 in 2010) points to the frequency of these criminal offences. The number of judgements rendered (a total of 452 persons were convicted), the small number of measures of recovery of objects – 3 and recovery of proceeds within the meaning of Article 91 of the CC, points to either the incorrectness of statistical data or payment of evaded taxes during criminal proceedings.

Based on available data and taking into account the incidence of this criminal offence and the fact that proceedings for seizure of assets were instituted against 78 persons under the Law on the Recovery of Criminal Assets, that according to a report of the Directorate for Management of Seized and Confiscated Assets, a residential/commercial building, one office unit and a motor vehicle were seized in connection with this criminal offence in 2009; 6 ares of land, a building under construction and an apartment were seized in 2010; and

13 motor cars, EUR 309,682.00, four SUVs, two apartments, three office units, 33 hectares of agricultural land, and shares in a company in 2011; and the perception<sup>7</sup> that this is one of the most widespread forms of financial non-compliance among legal persons in the Republic of Serbia, as well as a large number of different forms of corruption linked with evasion of payment of taxes and other public revenue charges (including reporting non-existent turnover of “phantom companies” to which tax obligations are transferred, forging “phantom company” documentation, often used as counterfeited documentation for goods without a legal origin, bringing smuggled goods and illegally manufactured goods into legal circulation, as concluded from academic and theoretical studies about the basic anti-corruption concepts and mechanisms),<sup>8</sup> and in view of deficiencies in the definition and interpretation of the action of committing the basic criminal offence of tax evasion expected to be addressed in the near future when the Criminal Code is amended, and as indicated by a large number of these criminal offences, they have been found to involve substantial proceeds. Insight into certain cases points to the amount of evaded tax of several tens of millions of dinars, and the fact that of the total number of indicted, some 40% were indicted for aggravated forms of this criminal offence.

According to the RSO report, during 2009, of the 293 persons convicted of the criminal offence of tax evasion referred to in Article 229 of the CC, 56 persons were convicted of aggravated forms referred to in paragraph 2 (evading payment of taxes exceeding RSD 1,500,000.00) and 27 in connection with paragraph 3 (evading payment of taxes exceeding RSD 7,500,000.00).

An adjustment criterion that was used was a report – an analysis of the Republic Statistical Office for the 2003-2006 period entitled “The Unobserved Economy – Incompleteness of GDP from the Production Side”, which covers “grey zone” activities that are outside the authorities’ control.

The analysis also includes the following:

- manufacturers who avoid registration – unreported legal activities (in order to avoid taxation and payment of social contributions), which constitutes an adjustment of some 4% of GDP;
- manufacturers who avoid registration because they are involved in illegal activities, making up about 0.8% of GDP,
- manufacturers who intentionally underreport in-

<sup>7</sup> Moneyval report

<sup>8</sup> Korupcija – osnovni pojmovi i mehanizmi za borbu protiv korupcije [Corruption – Main Concepts and Anti-Corruption Mechanisms] – Belgrade University School of Law, 2007.



## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| TABLE 3    |               |             |             |             |
|------------|---------------|-------------|-------------|-------------|
| Heroin (g) | Marijuana (g) | Cocaine (g) | Hashish (g) | Ecstasy (g) |
| 64.865,83  | 99.199,30     | 5.961,60    | 5.468,55    | 48.721,98   |

come in order to avoid or reduce liabilities related to the income tax, VAT and social contributions, constituting some 4.5% of GDP.

In view of all of the foregoing, this criminal offence is rated as one with a **“high-risk level”**.

### ILLICIT PRODUCTION AND CIRCULATION OF NARCOTICS – ARTICLE 246

According to data from a statistical report issued by the Ministry of the Interior of the Republic of Serbia, criminal reports were filed against a total of 1,739 persons in connection with the criminal offence referred to in Article 246 of the CC.

The criminal offence of illicit production and circulation of narcotics (Article 246 of the CC) is among the **“high-risk”** offences as regards the threat of laundering money which represents proceeds from its commission. As with the criminal offences against property, a major limitation in calculating the value of such proceeds is a lack of precise statistical data, especially as regards the amount of proceeds of this criminal offence, in view of the fact that the prices of certain narcotics and psychotropic substances on the illegal market are formed according to differing criteria.

According to the MoI of the Republic of Serbia, the current prices of narcotics on the illegal market in Serbia are as follows: EUR 13,000-18,000 for a kilo of marijuana and EUR 1,300-2,000 for a kilo of skunk. Ecstasy and amphetamines sell for EUR 2,50 a tablet, and an LSD “blotter” is around five euros.

The amount of proceeds of criminal offence of illicit production and circulation of narcotics could be calculated approximately if the quantity of seized narcotics in a given period is multiplied with the price of those narcotics on the illegal market. A adjustment factor should also be the price at which offenders purchase narcotics on the illegal market, which they later circulate illegally, so that the between the price at which narcotics are purchased and the proceeds from their illicit circulation could be expressed as the value of illegally acquired proceeds of this criminal offence. This data, however, is difficult to obtain. The value of the heroin, as the most common narcotics in the illegal market of Serbia, seized in the January-December 2011 period, would therefore be around EUR 1,297,300.00, which could then, after

applying the stated adjustment factor (the purchase price of the narcotics) present the amount of proceeds that criminals might seek to launder through the financial and non-financial sector. By applying the same criterion, it is possible to calculate the value of the other narcotics seized in the illegal market, according to data of the Ministry of the Interior<sup>9</sup>.

In the Prosecutor’s Office for Organised Crime during 2011, members of a single group were suspected of attempting to smuggle narcotics in the total amount of over 5,400 kilos of cocaine, seized in a number of separate actions in Italy, Brazil, Argentina and Uruguay.

According to statistical report released by the Republic Public Prosecutor’s Office for 2011, of the total number of criminal offences in which assets were seized under the Law on the Recovery of Criminal Assets, this measure was applied in connection with the criminal offence of illicit production and circulation of narcotics referred to in Article 246 of the CC in 79 cases.

According to a report of the Directorate for Management of Seized and Confiscated Assets concerning the same criminal offence, assets seized in 2009 included one family house, two apartments and 600 ares of land; in 2010, 19 apartments, 10 cars, land, EUR 297,265.00 EUR and RSD 1,764,533.00 were seized; in 2011, one house, 9 apartments, a safe, 12 cars, one SUV, one retail unit, 4 garages, one vacation apartment, a facility under construction, a vessel, and an office unit. In 2010 one apartment, one vehicle and EUR 146,695.00 were confiscated in connection with the said criminal offence.

By analysing the types and values of the recovered assets, it can be concluded that the assets acquired from the commission of the criminal offence referred to in Article 246 of the CC are generally used to purchase real estate (houses, apartments, commercial facilities, construction land), movable assets (passenger and freight motor vehicles, valuables), and to a lesser extent securities.

According to the data of the Directorate for Management of Seized and Confiscated Assets, the Directorate manages a total of 26,293,304 shares of companies seized from the individuals who committed the criminal offence referred to in Article 246 of the CC, whose value is roughly estimated at EUR

<sup>9</sup> Ibid.

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## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

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1,200,000.00 according to the data from the 2010 Report of the Republic Public Prosecutor's Office published in 2011.

Data from studies conducted by the Republic Statistical Office of the Republic of Serbia<sup>10</sup> were used to determine the share of the estimated consumption of illicit goods and services, i.e., consumption of narcotics, in GDP in 2003 (0.34%), in 2004 (0.34%), in 2005 (0.36%), and in 2006 (0.33%).

During two stages of the aforementioned project, by researching and examining available sources of data and information obtained from competent institutions, technical services and relevant experts, an estimate was made of the proceeds acquired in the 2003-2006 period from sales of narcotics and prostitution in Serbia.

In estimating proceeds from the sales of narcotics, an estimate was made of supply and demand. On the supply side, the estimate was based on data obtained from the criminal police and border police, health-care institutions, on the experiences of other countries, results of international research, and recommendations from the annual reports of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the United Nations Office on Drugs and Crime (UNODC). The estimate of demand was done independently of the supply estimate, and was based on the number of users, street prices and average daily and annual consumption – by type, previously reconciled from the one side and from the other. Based on the estimated number of users, as well as information about average daily doses, prices and purity of the narcotics in the streets, the total quantities for domestic use and the value of the final consumption for 2006 were obtained.

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<sup>10</sup> Republic Statistical Office of Serbia, *Estimate of Illegal Activities in the Republic of Serbia, 2003-2006*

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| Estimated supply – basic data, 2006 |  |                     |                  |                   |                   |  |                                    |  |
|-------------------------------------|--|---------------------|------------------|-------------------|-------------------|--|------------------------------------|--|
| TABLE 4                             |  |                     |                  |                   |                   |  |                                    |  |
|                                     | Average seized quantities (grams, tablets) | Rate of seizure (%) | Domestic use (%) | Import purity (%) | Street purity (%) | Price of imported narcotic (per gr/tablet) EUR | Street price (per gr./tablet), EUR | Average annual consumption (gr./tabl.) |
| <b>Types</b>                        |  |                     |                  |                   |                   |  |                                    |  |
| Heroin                              | 442791                                     | 10                  | 10               | 75                | 17                | 20   | 32.5                               | 182.5                                  |
| Cocaine                             | 9750                                       | 1                   | 10               | 85                | 50                | 30   | 50                                 |  |
| Marijuana                           | 1908869                                    | 30                  | 90               | 85                | 50                | 0.75   | 2                                  | 85                                     |
| Amphetamine                         | 406067                                     | 10                  | 90               | 40                | 20                | 6  | 11                                 | 30                                     |
| Ecstasy tablets                     | 11922                                      | 10                  | 100              | 50                | 15                | 1  | 3                                  | 100                                    |

| Estimated consumption |                 |  |  |                                   |                                |
|-----------------------|-----------------|--|--|-----------------------------------|--------------------------------|
| TABLE 5               |                 |  |  |                                   |                                |
|                       | Number of users | Value of sold narcotics (retail price), in millions of EUR | Value of imported narcotics (purchase price) in mill. of EUR | Output-margin, in millions of EUR | Share of the margin in GDP (%) |
| <b>Types</b>          |                 |  |  |                                   |                                |
| Heroin                | 9634            | 57,1   | 9,0  | 49,2                              | 0,19                           |
| Cocaine               | 3647            | 8,2  | 2,9  | 5,3                               | 0,02                           |
| Marijuana             | 80173           | 13,6   | 3,0  | 10,6                              | 0,04                           |
| Amphetamine           | 10007           | 3,3  | 0,9  | 2,4                               | 0,01                           |
| Ecstasy tablets       | 3577            | 1,1  | 0,1  | 1,0                               | 0,00                           |
| <b>TOTAL</b>          | <b>107038</b>   | <b>83,4</b>  | <b>14,9</b>  | <b>68,5</b>                       | <b>0,27</b>                    |

| Estimated demand                                  |             |             |              |             |              |               |
|---|-------------|-------------|--------------|-------------|--------------|---------------|
| TABLE 6   |             |             |              |             |              |               |
|   | Heroin      | Cocaine     | Marijuana    | Ecstasy     | Amphetamine  | Total         |
| <b>Number of users</b>                            |             |             |              |             |              |               |
| According to EMCDDA and UNODC                     | 9358        | 2611        | 63013        | 4458        | 6401         | 85840         |
| Based on seized amounts                           | 9705        | 4817        | 79465        | 2384        | 12333        | 108705        |
| Based on records                                  | 10112       | 3612        | 81000        | 3421        | 9367         | 107512        |
| <b>Based on estimated supply</b>                  | <b>9634</b> | <b>3647</b> | <b>80173</b> | <b>3577</b> | <b>10007</b> | <b>107038</b> |
| Share in population (age 15-64)                   | 0,19        | 0,07        | 1,58         | 0,07        | 0,20         | 2,10          |
| Average annual consumption in grams <sup>1)</sup> | 182,5       | 45          | 85           | 100         | 30           | xxxxxx        |
| Consumption by user in EUR                        | 5927        | 2248        | 170          | 308         | 330          | 779           |
| <b>Consumption in mill. EUR</b>                   | <b>57,1</b> | <b>8,2</b>  | <b>13,6</b>  | <b>1,1</b>  | <b>3,3</b>   | <b>83,4</b>   |
| <b>% GDP</b>                                      | <b>0,23</b> | <b>0,03</b> | <b>0,05</b>  | <b>0,00</b> | <b>0,01</b>  | <b>0,33</b>   |

1) for ecstasy, tablets

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| Estimated narcotics demand and supply and effect on GDP |              |              |              |               |
|---|--------------|--------------|--------------|---------------|
| TABLE 7   |              |              |              |               |
|   | 2003         | 2004         | 2005         | 2006          |
| <b>Number of users</b>                                  |              |              |              |               |
| Heroin  | 7023         | 7803         | 8671         | 9634          |
| Cocaine   | 2659         | 2954         | 3282         | 3647          |
| Marijuana   | 58444        | 64940        | 72156        | 80173         |
| Ecstasy   | 2608         | 2897         | 3219         | 3577          |
| Amphetamine   | 7295         | 8106         | 9006         | 10007         |
| <b>TOTAL</b>  | <b>78029</b> | <b>86700</b> | <b>96334</b> | <b>107038</b> |
| <b>Consumption in mill. EUR</b>                         |              |              |              |               |
| Heroin  | 41,7         | 46,3         | 51,4         | 57,1          |
| Cocaine   | 6,0          | 6,6          | 7,4          | 8,2           |
| Marijuana   | 9,9          | 11,0         | 12,3         | 13,6          |
| Ecstasy   | 0,8          | 0,9          | 1,0          | 1,1           |
| Amphetamine   | 2,4          | 2,7          | 3,0          | 3,3           |
| <b>TOTAL</b>  | <b>60,8</b>  | <b>67,5</b>  | <b>75,0</b>  | <b>83,4</b>   |
| <b>% GDP-expenditure side</b>                           | <b>0,34</b>  | <b>0,34</b>  | <b>0,36</b>  | <b>0,33</b>   |
| <b>Output in mill. EUR</b>                              |              |              |              |               |
| Heroin  | 35,8         | 39,8         | 44,3         | 49,2          |
| Cocaine   | 3,9          | 4,3          | 4,8          | 5,3           |
| Marijuana   | 7,7          | 9,7          | 9,4          | 10,6          |
| Ecstasy   | 0,7          | 0,8          | 0,9          | 1,0           |
| Amphetamine   | 1,8          | 1,9          | 2,2          | 2,4           |
| <b>TOTAL</b>  | <b>49,9</b>  | <b>55,5</b>  | <b>61,6</b>  | <b>68,5</b>   |
| <b>% GDP-production side</b>                            | <b>0,28</b>  | <b>0,28</b>  | <b>0,29</b>  | <b>0,27</b>   |

### THE CRIMINAL OFFENCE OF ABUSE OF OFFICE – ARTICLE 359

The significant number of persons indicted and convicted of this criminal offence shows that it is the most widespread offence against official duty, and the basic criminal offence of corruption.

Statistical reports of the Republic Public Prosecutor's Office point to a small number of pronounced measures of recovery of proceeds.

According to a report of the Republic Statistical Office for 2009, in connection with the criminal offence of abuse of office referred to in Article 359 of the CC, of the total of 523 persons, 27 (5.2%) were convicted of the aggravated form referred to in paragraph 2 (proceeds exceeding RSD 450,000.00), and 26 persons (5%) for the offence referred to in paragraph 3 (proceeds exceeding RSD 1,500,000.00); a total of 231 persons were convicted of embezzlement referred to in Article 364 of the CC, of which 31 (13.4%) of aggravated forms defined in paragraphs 2 and 3.

The application of the measure of seizure of assets based on the Law on the Recovery of Criminal As-

sets was used as an adjustment criterion. According to that data, of a total of 188 criminal offences against official duty, the measure was pronounced in 135 cases, or around 25% of the total number of applications of this measure.

It proceeds from operational data and direct insight into cases that criminal proceedings for corruption in public enterprises, the health-care sector, the judiciary, the real sector (criminal offences of giving and receiving bribes and abuse of office), with the total proceeds of over 75 million euros, are conducted before the Prosecutor's Office for Organised Crime.

According to a report of the Directorate for Management of Seized and Confiscated Assets on criminal offences of corruption, in 2010 EUR 226,350.00 were seized, and in 2011 five family houses, 19 apartments, three safes, 12 cars, EUR 138,838.00, one orchard, one plot, two land parcels, 15,913 shares, four SUVs, one commercial/residential building and 12 wrist watches.

Furthermore, in connection with criminal offences qualified as organised crime, which also include corruption offences, in 2009 6 apart-

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

ments, one commercial/residential building, 2 vehicles and one office unit were seized; in 2010 31 apartments, 19 vehicles and EUR 717,134.30, and in 2011 2 houses, 20 cadastral parcels, 2 hotels, 2 restaurants, 14 apartments, one retail unit, 5 garages, one office unit, 13 passenger vehicles, one freight vehicle, one vacation apartment, 3 houses, one commercial facility and one company.

In connection with the criminal offence of money laundering, where a number of offences feature as predicate criminal offences (referred to in Articles 246, 359 and 229 of the CC), 6 apartments, two houses, shares in a company, an agricultural farm, 50% of a company's capital, 4 passenger motor vehicles and one van were seized in 2010; and in 2011, one apartment and one garage.

Other reports reviewed in order to get a comprehensive insight into corruption were those of Moneyval, GRECO and Transparency Serbia, and the National Anti-Corruption Strategy for 2011, which states that Serbia slipped down Transparency International's annual national list and was now placed 86, with a corruption perception index of 3.3 (down from 3.5)<sup>11</sup>. In view of the foregoing, the assessment was made by combining the previously mentioned methods and the risk was assessed to be "high".

Based on the general assessment, data and perception, i.e. based on the combined criteria, we assessed criminal offences of corruption as criminal offences with a high-risk level. However, when it comes to the offence of violation of law by a judge, public prosecutor and his/her deputy referred to in Article 360 of the CC, considering all of the criteria that we took into account in our assessment, and especially the number of processed cases (5 persons indicted in 2009, 4 persons in 2010 and 10 persons in 2011, against whom a total of 11 judgements were rendered in the above period) and the absence of data on the proceeds acquired or possibly recovered assets, this criminal offence individually may be assessed as a low-risk criminal offence. By applying the same criteria and based on the first-hand knowledge, the criminal offence of trading in influence referred to in Article 366 of the CC could also be classified into the group of low-risk criminal offences.

According to our assessment, the following criminal offences: **embezzlement** – Article 364, **accepting bribes** - Article 367, **giving bribes** - Article 368, as well as the most frequent criminal offence of corruption - abuse of office, for the reasons listed, can be considered as "high-risk" criminal offences.

<sup>11</sup> Transparency Serbia, GRECO Report, Publications: Combating Organised Crime in Serbia, Institute for Comparative Law, 2008, and Corruption in Serbia 2011, U.N. Office on Drugs and Crime, Vienna.

| The 2009 data of the Republic Statistical Office relating to the number of convicted persons (final judgements): |  |                                     |
|--|--|-------------------------------------|
| TABLE 8  |  |                                     |
| Amount of acquired proceeds  | Abuse of office, Article 359 of the CC | Embezzlement, Article 364 of the CC |
| up to RSD 450,000.00   | 478                                    | 200                                 |
| from RSD 450,000.00 to RSD 1,500,000.00  | 27                                     | 25                                  |
| over RSD 1,500,000.00  | 26                                     | 6                                   |

# CRIMINAL OFFENCES WITH A MEDIUM LEVEL OF MONEY LAUNDERING RISK

## THE CRIMINAL OFFENCE OF ABDUCTION – ARTICLE 134

Based on data collected so far (given that we lack exact data about the share of this criminal offence in the total number of criminal offences reported) and a report of the Republic Statistical Office (hereinafter: RSO) from 2009 (stating that 24 persons were convicted), direct insight about the fact that a major “dark figure” is involved in respect of this criminal offence, as well as processed cases and operational insight, according to our assessment “**medium-risk level**” is involved here, taking into account proceeds from these criminal offences. (According to information from cases handled by the Prosecutor’s Office for Organised Crime, proceeds of crime in one case amounted to some DEM 1.5 million, in another EUR 10,500, and 350,000 EUR in a further case, while in a case processed by a prosecutor’s office of ordinary competence the proceeds were EUR 590,000). Based on the Law on the Recovery of Criminal Assets, in connection with this criminal offence and the criminal offence of murder, as specified above, in 2011 a decision was issued on the confiscation of 5 apartments, one family house and a garage.

## CRIMINAL OFFENCES AGAINST PROPERTY

The Republic Public Prosecutor’s Office’s annual statistical reports do not contain data about the amounts of unlawful proceeds acquired by the commission of criminal offences against property, where one of the qualifying elements is the amount of unlawful proceeds obtained; for the criminal offence of aggravated theft (Article 204 of the CC) the range is between RSD 450,000.00 and RSD 1,500,000.00 for the aggravated form referred to in paragraph 2 of Article 204 of the CC, and over RSD 1,500,000.00 RSD for the most serious form of this criminal offence, covered by paragraph 3 of Article 204 of the CC.

According to a report of the RSO, in 2009 there were a total of 3,416 convictions for aggravated theft referred to in Article 204 of the CC, 74 (2.6%) of persons were convicted of aggravated forms of this offence referred to in paragraph 2 (proceeds over RSD 450,000.00), and 30 persons (0.9%) were convicted in connection with paragraph 3 (proceeds exceeding RSD 1,500,000.00).

A total of 625 persons were convicted of the criminal offence of robbery referred to in Article 206 of the CC, of which 7 persons (1.1%) in connection with paragraph 2 (proceeds exceeding RSD 1,500,000.00).

Of a total of 127 persons convicted of the criminal offence of embezzlement referred to in Article 207 of the CC, 9 persons (7%) were convicted in connection with paragraph 4 (proceeds exceeding RSD 1,500,000.00) .

Of the 867 persons convicted of the criminal offence of fraud referred to in Article 208 of the CC, 18 (2%) were convicted of the most serious form referred to in paragraph 3 (proceeds exceeding RSD 450,000.00).

Of a total of 107 persons convicted in 2009 of the criminal act of extortion referred to in Article 214 of the CC, 15 were convicted of aggravated forms:

**The 2009 data of the Republic Statistical Office relating to the number of convicted persons:**

TABLE 9

| Amount of unlawful proceeds             | Aggravated theft, Article 204 of the CC | Robbery, Article 206 of the CC | Embezzlement, Article 207 of the CC | Fraud, Article 208 of the CC | Extortion, Article 214 of the CC |
|---|---|--------------------------------|-------------------------------------|------------------------------|----------------------------------|
| to RSD 450,000.00                       | 3.312                                   | 618                            | 118                                 | 849                          | 83                               |
| from RSD 450,000.00 to RSD 1,500,000.00 | 74                                      | 18                             | 15                                  |                              |                                  |
| over RSD 1,500,000.00                   | 30                                      | 7                              | 9                                   | 9                            |                                  |

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## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

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9 (14%) in connection with paragraph 2 (proceeds exceeding RSD 450,000.00), and 5 persons (4.7%) under paragraph 3 (proceeds exceeding RSD 1,500,000.00), which points to a small number of aggravated forms in all criminal offences against property.

One of the ways in which it would be possible to establish relatively reliably the total amount of unlawful proceeds acquired from criminal offences against property, which their perpetrators could potentially launder through a state's financial and non-financial sectors, would be to record in statistical reports the amounts of proceeds acquired and the amounts of cash and other objects confiscated from offenders and returned to injured parties, with the difference between the two amounts representing the value of the assets that could be subject to money laundering.

According to the 2010 report of the Directorate for Management of Seized and Confiscated Assets, 5 apartments were recovered in connection with the criminal offence of fraud referred to in Article 208 of the CC, as were 5 apartments and 5 cars in connection with the criminal offence of extortion referred to in Article 214 of the CC, all of them organised crime offences.

Based on the large number of reported and prosecuted criminal offences of robbery and grand larceny, as well as other criminal offences against property, presented cumulatively in the report (total reported: 9,175; investigations requested: 1,375; indictments: 3,128; judgements rendered: 2,329), also taking into consideration data from concrete criminal cases and that in a number of robbery cases (against a considerable number of banks and post offices), prosecuted criminal offences of organised crime for the purpose of committing the criminal offences of theft and aggravated theft in the territory of several countries, the amount of proceeds from the criminal offences against property would place these criminal offences in the category of criminal offences of a **"medium-risk level"**.



## CRIMINAL OFFENCES WITH A LOW LEVEL OF MONEY LAUNDERING RISK

1. The criminal offence of aggravated murder – **Article 114, paragraph 1, items 4 and 5**
2. Criminal offences against economic interests – counterfeiting money – **Article 223**
3. Counterfeiting and misuse of payment cards – **Article 225**
4. Criminal offence of illegal production, possession, carriage and circulation of firearms and explosive materials – **Article 348 of the CC**
5. Criminal offence of human trafficking – **Article 388**
6. Criminal offence of giving and accepting bribes in connection with voting – **Article 156**
7. Criminal offence of abusing the entitlements relating to social security – **Article 168**
8. Criminal offence of mediation in prostitution - **Article 184**, and the criminal offence of showing, obtaining and possession of pornographic materials and abusing juveniles for pornography – **Article 185**
9. Abusing a computer network or communication by means of other technology for the commission of criminal offences against sexual freedom involving a juvenile person – **Article 185-b**
10. Criminal offence of unauthorised use of copyrighted work or other work protected by a related right – **Article 199**
11. Criminal offence of violation of patent rights – **Article 201**
12. Criminal offence of insurance fraud referred to in **Article 208a of the CC**
13. Criminal offence of petty theft, embezzlement and fraud referred to in **Article 210**
14. Counterfeiting securities – **Article 224**
15. Counterfeiting value tokens – **Article 226**
16. Issuing uncovered cheques and the use of uncovered payment cards – **Article 228**
17. Criminal offence of smuggling – **Article 230**
18. Abuse of monopolistic position – **Article 232**
19. Unauthorised use of another’s commercial title and other special designation of goods or services – **Article 233**
20. Abuse of authority in economic operations – **Article 238**
21. Divulging a business secret – **Article 240**
22. Illegal production, and illegal trade – **242 and 243, respectively**
23. Criminal offence of forest theft referred to in **Article 275**, and piracy – **Article 294**

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## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

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24. Criminal offence of computer fraud referred to in **Article 301**
25. Criminal offences of divulging a state secret referred to in **Article 316**
26. Impersonation referred to in **Article 329**
27. Unlicensed practice of law referred to in **Article 342**
28. Criminal offence of illegal organisation of games of chance – **Article 352**
29. Unlicensed practice of a profession referred to in **Article 353**
30. Criminal offences of divulging an official secret - **Article 369**
31. Unlawful production, circulation and possession of weapons whose use is forbidden – referred to in **Article 377**
32. Unlawful killing and wounding of the enemy referred to in **Article 378**
33. Unlawful appropriation of objects from bodies referred to in **Article 379**
34. Violation of sanctions imposed by international organisations – **Article 384-a**
35. Financing terrorism, theft of weapons or parts of combat equipment referred to in **Article 414**
36. Divulging a military secret referred to in **Article 415.**

In view of the number of reported and prosecuted persons in connection with these criminal offences, operational information about the so-called “**dark figure**”,<sup>12</sup> we find that proceeds from the commission of these criminal offence are low, and that the criminal offence has a “**low-risk level**”.

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<sup>12</sup> The “dark figure” of crime represents the perception of committed criminal offences that were not reported to the competent authorities

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

### **DETERMINING THE AMOUNT OF PROCEEDS OF CRIME OF FOREIGN ORIGIN WHICH CAN BE LAUNDERED IN SERBIA**

The role of Serbian nationals and foreigners as co-offenders, as well as foreign nationals as perpetrators of criminal offences abroad, and the amount of proceeds of crime which can be laundered in Serbia, is significant.

This is a conclusion that can be made from the report of the Prosecutor's Office for Organised Crime, especially with regard to criminal offences of organised crime.

The actual number of criminal offences is not large, but the amounts of proceeds from the individual criminal offences are considerable, in view of the subject of the offence.

According to data released by the Prosecutor's Office for Organised Crime for 2011 proceedings have been instituted against five members of an international organised criminal group involved in trafficking marijuana obtained in Albania and transported via Montenegro to Serbia and Germany; against several persons in connection with smuggling cocaine from harbours in the Netherlands and Belgium to Sweden; against 18 persons in connection with illegal purchases of cocaine in South America with the intent to sell in Serbia and western European countries; against 23 persons in connection with illicit production and sale of heroin obtained from Turkey and Bulgaria; proceedings were initiated against 11 persons for illegally crossing the state border and human smuggling, specifically smuggling 15 persons of Albanian nationality across Serbia's border with Hungary; proceedings were initiated against 18 persons in connection with the criminal offence referred to in Articles 350 and 346 of the CC involving smuggling into the Hungarian territory several hundred illegal migrants who are citizens of Afghanistan, Libya, Pakistan, Somalia, Tunisia and Sudan. Proceedings were initiated against 11 persons for the criminal offences of extortion, money laundering, illegal production, possession, carrying and circulation of firearms and explosive materials; against 8 persons for conspiring to commit the criminal offence of theft in the territories of Spain, Italy, Austria, Slovenia, Croatia, the Republic of Serbia and in other European countries, with the subject of theft being motor vehicles, buses and lorries on which identifying markings were altered for the purpose of selling the vehicles in Serbia and other countries; against 4 persons for the criminal offence of abuse of office

consisting of the organisation of illegal production and sale of spirits, generating proceeds amounting to some EUR 900,000.00.

Apart from the aforementioned direct information from concrete cases and the report of the Republic Public Prosecutor's Office, the number of instances in which mutual legal assistance was sought and received is also relevant. During 2011, the total number of cases involving mutual legal assistance is 195 in criminal proceedings, and 177 for the purpose of applying the Law on the Recovery of Criminal Assets.

It proceeds from the foregoing that the criminal offence of trafficking in narcotics, i.e. illicit production and circulation of narcotics is particularly important, and can be linked with concrete countries (Albania, the Netherlands, Belgium, Sweden, Turkey, Bulgaria).

Based on information from concrete cases, perception and literature, investments in Serbia made by persons known to be offenders, especially in the privatisation procedure, foreign trade and construction, can be said to be far from insignificant. According to a report of the National Bank of Serbia dated 31st December 2011, banks in Serbia had a total of 115,374 non-resident clients, of which 106,377 individuals and 8,997 legal persons. Information about the balances in those accounts is not available.

The share of non-resident clients (individuals and legal persons) from high-risk countries in the total number of non-resident clients is 4.3% (4,613 individuals and 400 legal persons).

Non-resident clients account for about 1% of the total number of bank clients, and are the group exposing the banks to the highest money laundering risk.<sup>13</sup>

<sup>13</sup> Report by the National Bank of Serbia, Bank Supervision Department – An analysis of the banks' responses to a questionnaire about their activities in the area of managing the risk of money laundering and terrorism financing, February 2012

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| According to the data of the Customs Administration, the following currencies were declared to the customs authorities upon crossing the border in 2011: |                     |                |                           |                      |
|--|---------------------|----------------|---------------------------|----------------------|
| TABLE 10   |                     |                |                           |                      |
| Summary of declared physical currency and bearer negotiable payment instruments upon entering, transiting or exiting the country – 2011                  |                     |                |                           |                      |
| Currency/Direction   | No. of declarations | Value declared | Total no. of declarations | Total value declared |
| <b>AUD</b>   |                     |                | <b>13</b>                 | <b>566.800,00</b>    |
| entry  | 13                  | 566.800,00     |                           |                      |
| <b>BAM</b>   |                     |                | <b>3</b>                  | <b>696.151,00</b>    |
| exit   | 2                   | 166.150,00     |                           |                      |
| transit  | 1                   | 530.001,00     |                           |                      |
| <b>CAD</b>   |                     |                | <b>7</b>                  | <b>94.000,00</b>     |
| entry  | 7                   | 94.000,00      |                           |                      |
| <b>CHF</b>   |                     |                | <b>33</b>                 | <b>1.345.600,00</b>  |
| entry  | 28                  | 1.275.000,00   |                           |                      |
| transit  |                     |                | 5                         | 70.600,00            |
| <b>DKK</b>   |                     |                | <b>2</b>                  | <b>1.900,00</b>      |
| entry  | 2                   | 1.900,00       |                           |                      |
| <b>EUR</b>   |                     |                | <b>756</b>                | <b>23.474.170,00</b> |
| entry  | 410                 | 13.148.395,00  |                           |                      |
| exit   | 8                   | 204.415,00     |                           |                      |
| transit  | 338                 | 10.121.360,00  |                           |                      |
| <b>GBP</b>   |                     |                | <b>6</b>                  | <b>43.400,00</b>     |
| entry  | 4                   | 27.800,00      |                           |                      |
| transit  | 2                   | 15.600,00      |                           |                      |
| <b>NOK</b>   |                     |                | <b>3</b>                  | <b>1.510.000,00</b>  |
| entry  | 3                   | 1.510.000,00   |                           |                      |
| <b>RSD</b>   |                     |                | <b>3</b>                  | <b>3.941.930,00</b>  |
| entry  | 3                   | 3.941.930,00   |                           |                      |
| <b>RUR</b>   |                     |                | <b>1</b>                  | <b>110.000,00</b>    |
| transit  | 1                   | 110.000,00     |                           |                      |
| <b>SEK</b>   |                     |                | <b>5</b>                  | <b>428.110,00</b>    |
| entry  | 5                   | 428.110,00     |                           |                      |
| <b>USD</b>   |                     |                | <b>57</b>                 | <b>1.688.040,00</b>  |
| entry  | 44                  | 1.277.840,00   |                           |                      |
| transit  | 13                  | 410.200,00     |                           |                      |

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

In the cases of failure to declare the legally stipulated amount of money in excess of EUR 10,000.00 or of reasonable suspicion regarding the origin of money or its purpose, the funds will be seized. In 2011, the customs authorities issued the following number of certificates of seized physical currency and bearer negotiable payment instruments:

- EUR: 70 certificates in the total amount of EUR 2,171,240.00
- USD: 4 certificates in the total amount of USD 1,072,533.00.

| Seized physical currency and bearer negotiable payment instruments – 2011 |                        |                 |                                 |                       |
|---|------------------------|-----------------|---------------------------------|-----------------------|
| TABLE 11  |                        |                 |                                 |                       |
| Currency/<br>Direction  | No. of<br>declarations | Value<br>seized | Total number<br>of declarations | Total value<br>seized |
| <b>EUR</b>  |                        |                 | <b>70</b>                       | <b>2.171.240,00</b>   |
| entry   | 8                      | 251.390,00      |                                 |                       |
| exit  | 62                     | 1.919.850,00    |                                 |                       |
| <b>USD</b>  |                        |                 | <b>4</b>                        | <b>1.072.533,00</b>   |
| entry   | 1                      | 3.100,00        |                                 |                       |
| exit  | 3                      | 1.069.433,00    |                                 |                       |

In 2011, there were 7 seizures of gold in the total amount of 64,634.00 grams and 21 pieces of gold jewellery.

Based on the examination of the data base of the Administration for the Prevention of Money Laundering relating to reporting suspicious transactions by reporting entities, 2,570 suspicious transaction reports were submitted in 2011 and the total amount of reported suspicious transactions was RSD 29,749,156,049.30.

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

| Summary of transactions performed             |                     |                          |                       |
|---|---------------------|--------------------------|-----------------------|
| TABLE 12                                      |                     |                          |                       |
|   | No. of transactions | Amount in RSD            | Amount in EUR         |
| Cash deposits                                 | 1.122               | 2.916.305.090,58         | 28.482.491,68         |
| Cash withdrawals                              | 1.211               | 3.149.256.990,45         | 30.751.670,04         |
| <b>Total cash transactions</b>                | <b>2.333</b>        | <b>6.065.562.081,03</b>  | <b>59.234.161,72</b>  |
| Payment operations in the country – inflows   | 397                 | 3.847.793.245,35         | 37.378.782,13         |
| Payment operations in the country – outflows  | 518                 | 5.355.988.158,87         | 52.292.178,30         |
| Total   | 915                 | 9.203.781.404,22         | 89.670.960,43         |
| Foreign exchange payment operations – inflow  | 370                 | 7.988.618.387,36         | 78.350.896,37         |
| Foreign exchange payment operations – outflow | 582                 | 5.879.527.543,77         | 57.587.085,08         |
| Total   | 952                 | 13.868.145.931,13        | 135.937.981,45        |
| <b>Total transfers</b>                        | <b>1867</b>         | <b>23.071.927.335,35</b> | <b>225.608.941,80</b> |
| <b>Transfer of securities</b>                 | <b>4</b>            | <b>36.277.714,00</b>     | <b>339.783,42</b>     |
| <b>Exchange office operations</b>             | <b>168</b>          | <b>575.388.918,92</b>    | <b>5.568.949,27</b>   |
| <b>Total</b>                                  |                     | <b>29.749.156.049,30</b> | <b>290.751.836,29</b> |

In terms of the number of reported suspicious transactions, the transactions on the following bases are reported most frequently<sup>14</sup>:

### Cash transactions:

1. cash deposits in dinar accounts based on founder's liquidity loan: 354 reports – RSD 678,055,197.58 (EUR 6,645,804.68),
2. cash withdrawals from dinar accounts based on repayment of founder's liquidity loan: 181 reports – RSD 202,900,443.55 (EUR 1,975,783.88),
3. cash deposits in foreign currency accounts of individuals: 430 reports – EUR 12,231,912.12 (RSD 1,254,903,979.18),
4. cash deposits in dinar accounts (transactions upon orders of individuals and "other transactions"): 235 reports – RSD 543,782,039.75 (EUR 5,320,459.60),
5. cash withdrawals from foreign currency accounts of residents: 258 reports – EUR 10,354,772.12 (RSD 1,063,531,855.65)
6. cash withdrawals based on material expenses from corporate dinar accounts: 221 reports – RSD 255,076,144.16 (EUR 2,484,976.28),
7. cash withdrawals from dinar accounts (transactions upon orders of individuals and "other transactions"): 322 reports – RSD 1,129,506,670.91 (EUR 11,058,930.50),
8. cash withdrawals from accounts of non-residents: 148 reports – EUR 4,076,689.07 (RSD 415,867,131.56).

### Cashless transactions – payment operations in the country:

1. cashless payments in dinars based on the sales of goods and services in the country: 457 transactions – RSD 3,768,718,653.47 (EUR 36,822,659.00).
2. cashless transactions with "other transactions" as purpose (loan agreements, investment, founder's loans, leasing, auction purchases of companies and others): 160 transactions – RSD 3,396,510,047.36 (EUR 32,828,453.69).
3. cashless inflows based on ownership income: 37 transactions – RSD 246,316,458.75 (EUR 2,399,033.41),
4. cashless transactions based on founder's liquidity loan: 127 transactions – RSD 752,823,690.02 (EUR 7,392,629.85).

### Cashless transactions – Foreign exchange payment operations:

1. transfers based on imports and exports: 285 transactions – EUR 48,626,632.38 (RSD 4,964,919,621.22),
2. increasing non-resident's stake: 67 transactions – EUR 13,731,894.96 (RSD 1,401,085,210.65),
3. foreign capital deposits that do not increase corporate equity: 29 transactions – EUR 8,256,093.09 (RSD 849,121,176.23),
4. deposits based on long-term loans: 9 transactions – EUR 5,848,882.17 (RSD 601,440,221.70),
5. deposits based on investment in securities: 3 transactions – EUR 6,767,510.30 (RSD 674,380,529.23),
6. investment of foreign capital in domestic companies: 8 transactions – EUR 2,506,917.12,

<sup>14</sup> The summary provides data by code, which are not entirely reliable because some codes are very broadly interpreted and there is overlapping, i.e. the same payment purpose appears in the transaction description in different codes.

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

7. deposits based on capital income: 2 transactions – EUR 2,285,119.71,
8. transfers based on reducing non-resident's share: 31 transactions – EUR 7,202,428.35 (RSD 736,432,586.28).
9. transfers based on payments for market research services: 50 transactions – EUR 2,296,795.54 (RSD 233,179,973.10).
10. transfers based on payments for consulting services: 84 transactions – EUR 4,197,644.45 (RSD 429,702,971.25),
11. based on transfers between foreign currency accounts in the country: 1 transaction – EUR 1,870,000.00 (RSD 187,538,805.00).

According to the available data, 60 cases were opened in the Administration for the Prevention of Money Laundering based on suspicious transaction reports in 2011.

As regards the large number of reported suspicious transactions, it should be noted that, in order to avoid possible penalties for non-compliance, the reporting entities frequently reported the same persons using the same grounds of suspicion of money laundering. In addition, several related deposit and payment transac-

tions were reported, so the same or nearly the same amounts appear both as inflows and as outflows.

Wishing to reduce the number and improve the quality of suspicious transaction reports, in early 2012 the Administration organised working meetings with the compliance officers of all banks. In accordance with the Recommendations for Reporting Suspicious Transactions published by the Administration on its website, the importance of money laundering risk assessment preceding the suspicious transaction report was emphasised at the meetings and there was also a lot of discussion about the moment and manner of reporting. Analysing the year 2012, it may be observed that the number of reported suspicious transactions decreased to one-quarter relative to 2011 and that over 150 pre-analytical reports were prepared and 70 new cases were opened in the Administration by November 2011.

According to data of the Administration for the Prevention of Money Laundering, in 2011 a total of 314 suspicious transactions were reported in which both parties were non-residents, so it may be concluded that in all the said transactions the beneficiary in Serbia or the originator from Serbia is a non-resident individual or legal person with a bank account in a bank in Serbia.

| Deposits in non-resident's accounts were made in the total amount of EUR 12,129,764.63 on the following bases: |  |                     |                      |  |
|--|--|---------------------|----------------------|--|
| TABLE 13   |  |                     |                      |  |
| DEPOSITS   |  |                     |                      |  |
| Grounds code   | Purpose  | No. of transactions | Amount in EUR        | Most frequent originator                         |
| 189  | cash deposit in current account                  | 1                   | 2.166,31             |  |
| 112  | collection from abroad based on goods exports    | 1                   | 98.155,00            | Cyprus   |
| 304  | technical services                               | 1                   | 17.000,00            |  |
| 307  | other unspecified services                       | 1                   | 20.000,00            | Hungary  |
| 502  | increasing the non-resident's share              | 13                  | 2.773.417,63         | Cyprus, USA British Virgin Islands               |
|  | based on agreements and payments of invoices     | 6                   | 403.125,26           | USA, Cyprus                                      |
|  | collection from abroad                           | 36                  | 3.515.453,53         | Cyprus, Switzerland                              |
|  | founder's loans and loans                        | 2                   | 495.000,00           | Cyprus, Slovenia                                 |
|  | fund transfer                                    | 1                   | 1.857.000,00         | Cyprus, Switzerland                              |
| 539  | sale of property abroad                          | 1                   | 109.903,15           | Texas  |
| 600  | wages of residents employed with foreign company | 1                   | 12.000,00            |  |
| 767  | assistance, inheritance –sponsorship             | 3                   | 103.070,28           | Russia, Gibraltar, Venezuela                     |
| 780  | investment in facilities and equipment           | 4                   | 1.303.009,82         | Delaware   |
| 781  | individual remittance                            | 1                   | 199.890,00           | Germany  |
| 797  | cash deposit in foreign-currency savings account | 6                   | 480.146,54           | Canada, USA                                      |
| 898  | cash deposit in account                          | 25                  | 740.409,11           | USA, Montenegro, Austria, Bosnia and Herzegovina |
|  |  | <b>103</b>          | <b>12.129.746,63</b> |  |



## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

According to the available data, most cash deposits and transfers from abroad credited to the accounts of non-residents opened with banks in the territory of the Republic of Serbia were made on the following bases:

1. increasing a non-resident's share, collection from abroad or funds transfer from accounts opened in offshore locations such as Cyprus, the United States and Switzerland in the total amount of EUR 8,145,871.16,
2. investment in facilities, mostly from the United States (Delaware) in the total amount of EUR 1,303,009.82.
3. cash deposits in an individual's foreign currency account or cash deposits in a non-resident's foreign currency account upon the order of a person from the USA, Canada, Montenegro and B&H in the total amount of EUR 1,220,555.65.

It may be concluded by analysing the participants in the transactions that, in addition to companies from offshore locations, individuals that may be assumed to have dual citizenship or citizenship of some of the neighbouring countries often appear as participants.

| <b>Payments in the total amount of EUR 11,409,357.57 were made from the non-residents' accounts opened in the territory of the Republic of Serbia on the following bases:</b> |  |                            |                      |   |
|---|--|----------------------------|----------------------|---|
| TABLE 14  |  |                            |                      |   |
| <b>PAYMENTS</b>   |  |                            |                      |   |
| <b>Grounds code</b>   | <b>Purpose</b>   | <b>No. of transactions</b> | <b>Amount in EUR</b> | <b>Most frequent originator</b>   |
| 102   | reducing the non-resident's share                              | 2                          | 184,233.80           |   |
|   | repayment of loan, credit or founder's loan                    | 4                          | 3,108,267.00         | Canada, Austria, USA, the Netherlands, Cyprus, Bosnia and Herzegovina, Slovenia |
|   | payment abroad   | 21                         | 3,521,647.13         |   |
| 112   | payment of invoice   | 12                         | 484,757.97           | Delaware, Seychelles  |
| 184   | payments by payment card                                       | 4                          | 27,675.00            |   |
| 189   | payments from current account/WU                               | 5                          | 78,739.08            | address in RS   |
| 251   | road transport   | 1                          | 19,450.00            |   |
| 304   | technical services   | 3                          | 41,120.00            |   |
| 305   | consulting services  | 17                         | 178,145.00           | Belize  |
| 307   | other services   | 2                          | 37,068.79            | Hungary   |
| 767   | assistance, inheritance  | 1                          | 7,130.00             |   |
| 894   | payment abroad from foreign currency accounts of non-residents | 1                          | 172,811.11           | Russia  |
| 897   | cash withdrawal  | 9                          | 144,833.53           | Bulgaria, Austria, Montenegro   |
| 898   | withdrawal of foreign currency cash                            | 125                        | 3,321,728.80         | Montenegro, USA   |
| total   |  | <b>207</b>                 | <b>11,327,607.21</b> |   |

According to the available data, most transfers abroad and cash payments from the accounts of non-residents were made on the following bases:

1. reducing the non-residents' shares, repayment of loans, credits or founder's loans crediting accounts opened in Cyprus, the United States, Canada, the Netherlands, Austria, Bosnia and Herzegovina and Slovenia in the total amount of EUR 6,629,914.13,
2. cash withdrawals from foreign currency accounts of individuals or non-residents upon the order of persons from the USA, Montenegro, Austria and Bulgaria in the total amount of EUR 3,466,562.33.

It may be concluded by analysing the participants in the transactions that, in addition to companies from offshore locations, individuals that may be assumed to have dual citizenship or citizenship of some of the neighbouring countries often appear as participants.

In addition, in some cases several related transactions in the same or approximately the same amounts were reported, such as:

- inflow from abroad upon the order of a legal entity, exchange office transaction and deposit in corporate dinar account,
- cash withdrawal upon the order of authorised person, exchange office transaction and deposit in personal account,
- inflow from legal entity and withdrawal from individual's account the next day, etc.

In 2011, more than 10 cases were opened in the Administration for the Prevention of Money Laundering through which analyses were conducted of at least 132 suspicious transactions in which both participants were non-residents.

The Administration do not keep statistics about suspicious transactions where the participants are persons who are non-residents who have bank accounts with banks in the territory of the Republic of Serbia, and the stated data have been obtained for the purpose of establishing indications that non-residents possibly manage illegally acquired assets by using accounts opened in Serbia for these purposes.

The holding of bank accounts and other financial products by foreign nationals in Serbia is important as a criterion for assessing the money laundering risk.

Suspicious transaction reports do not necessarily indicate that money laundering is involved, but may be treated as indications that considerable amounts are deposited in bank accounts or other financial products which are proceeds of crime.

## ACTION PLAN

In order to resolve the problems identified in the performance of this analysis, and with the aim of making a more comprehensive and precise assessment of risks and vulnerabilities in connection with the prevention of money laundering, it is our view that the following should be undertaken:

- The prosecutor's offices should introduce electronic keeping of a register that would contain all the relevant data, in particular the value of proceeds of crime and the assets recovered based on the Law on the Recovery of Criminal Assets, and data bases should be networked;
- A uniform report drafting methodology should be introduced for all relevant public authorities.
- Complete the records of the Directorate for Management of Seized and Confiscated Assets and the Republic Public Prosecutor's Office with the data relating to the value of individually recovered criminal assets.

# ANNEX 1

## CRIMINAL OFFENCES WITH A LOW LEVEL OF MONEY LAUNDERING RISK

(ANALYSIS FOR INDIVIDUAL CRIMINAL OFFENCES)

### THE CRIMINAL OFFENCE OF AGGRAVATED MURDER – ARTICLE 114, PARAGRAPH 1 ITEMS 4 AND 5

Given the total number of reported (78) aggravated murders and the number of convictions (100), and taking into consideration that the law envisages 11 aggravated forms of murder, including two for material gain (according to the RSO, in 2009 a total of 11 persons were convicted of committing a criminal offence for material gain), as well as direct insight into cases and practice, and that in one proceedings assets were seized based on the Law on the Recovery of Criminal Assets, in 2011 5 apartments, 5 passenger motor vehicles, and one confiscation from one person (where there was real concurrence of the criminal offence with that of abduction), proceeds from the commission of this type of criminal offence are low.

- Criminal offence of insurance fraud - **Article 208a**
- Criminal offence of petty theft, embezzlement and fraud - **Article 210**
- Criminal offence of abuse of trust - **Article 216**
- The criminal offence of usury - **Article 217**

### CRIMINAL OFFENCES AGAINST ECONOMIC INTERESTS – COUNTERFEITING MONEY – ARTICLE 223

Apart from statistical data on the incidence of this criminal offence, a report of the National bank of Serbia for 2011 which gives the number of seized counterfeit banknotes and their value: RSD 3,743,760, USD 7,550, EUR 111,850, CHF 200, was also analysed.

### COUNTERFEITING AND MISUSE OF PAYMENT CARDS – ARTICLE 225

In view of the share of this type of criminal offence in the total number of criminal offences that may lead to material gain, and the observed growth trend of that share relative to the previous years, especially the offences within the purview of the Special Department for Cybercrime (nine criminal reports filed in 2010, 29 in 2011, and 10 reports filed in a single month of 2012; it was determined by inspecting concrete cases that four persons had been convicted in 2011 at the Special Department of the Higher Court in Belgrade; proceeds of crime worth a total of 6,602,873,20 RSD were confiscated in that case), the proceeds of this criminal offence are low.

According to an RSO report, 101 persons were convicted in 2009, and for aggravated forms referred to in paragraphs 2 and 3 (providing that proceeds exceed RSD 1,500,000.00) 22 persons were convicted.

### THE CRIMINAL OFFENCE OF ILLEGAL PRODUCTION, POSSESSION, CARRIAGE AND CIRCULATION OF FIREARMS AND EXPLOSIVE MATERIALS – ARTICLE 348 OF THE CC

According to a report of the Directorate for Management of Seized and Confiscated Assets, in connection with the criminal offence referred to in Article 348 of the CC, one house and 2 apartments were seized in 2009, and one apartment in 2010.

### THE CRIMINAL OFFENCE OF HUMAN TRAFFICKING - ARTICLE 388

As regards the criminal offences of illegal crossing of the national border and smuggling people referred to in Article 350, together with the criminal offence of human trafficking referred to in Article 388 and trafficking in juveniles for the purpose of adoption, in view of their incidence, the lack of data, that no measure of recovery of proceeds within the meaning of Article 91 of the CC has been ordered, and that in two cases assets were seized based on the Law on the Recovery of Criminal Assets, based on direct insight into cases and our perception it is our conclusion that the proceeds from this criminal offence are insignificant for the purposes of this assessment.

According to a report of the Republic Statistical Office for 2009, a total of 20 persons were convicted of this criminal offence and further two persons for trafficking children for the purpose of adoption. According to a report of the Directorate for Management of Seized and Confiscated Assets in connection with the criminal offences referred to in Articles 350 and 388, one cadastral plot and 2 houses were seized in connection with these criminal offences in 2010, and during 2011 one office unit, 2 houses, one apartment and one orchard.

An adjustment criterion used was the aforementioned report of the Republic Statistical Office, “The Unobserved Economy – Incompleteness of GDP from the Production Side” and the level of unlawful activities in the form of prostitution, as well as the fact that gross value added is around 0.5% for the 2003–2006 period.

We also viewed human trafficking as a relatively new phenomenon both in the world and in Serbia, often confused or even intertwined with “illegal migrations” for which reason we assessed them together.

## ANNEX 2

| Threat Analysis  |   |   |   |  |  | Money Laundering Threat |        |     |
|--|---|---|---|--|--|-------------------------|--------|-----|
| Area*  |   |   |   |  |  |                         |        |     |
|  | Number of persons reported for a predicate criminal offence | Number of persons investigated for a predicate criminal offence | Number of persons prosecuted for a predicate criminal offence | Number of persons convicted for a predicate criminal crime | Number of persons subject to recovery on any grounds | High                    | Medium | Low |
| <b>Predicate Offences</b>  |   |   |   |  |  |                         |        |     |
| <i>tax evasion, Article 229</i>  | 2,338   | 843   | 1,052   | 626  | 38   |                         |        |     |
| <i>illicit production and circulation of narcotics, Article 246</i>  | 1,734   | 1,419   | 1,375   | 1,501  | 130  |                         |        |     |
| <i>abuse of office, Article 359</i>  | 4,720   | 1,546   | 1,310   | 704  | 159  |                         |        |     |
| <i>embezzlement, Article 364</i>   | 639   | 152   | 288   | 202  | 6  |                         |        |     |
| <i>accepting bribes, Article 367 .</i>   | 106   | 27  | 89  | 55   | 26   |                         |        |     |
| <i>giving bribes, Article 368</i>  | 161   | 26  | 126   | 32   | 7  |                         |        |     |
| <i>kidnapping, Article 134</i>   |   |   |   |  | 1  |                         |        |     |
| <i>theft, Article 203 and aggravated theft, Article 204</i>  | 15,687  | 6,349   | 6,724   | 4,857  | 2  |                         |        |     |
| <i>grand larceny, Article 205 and robbery, Article 206</i>   | 3,787   | 2,310   | 1,995   | 1,417  | 20   |                         |        |     |
| <b><i>aggravated murder for material gain, Article 114 items 4 and 5</i></b>   | <b>78</b>   | 119   | 123   | 100  |  |                         |        |     |
| <b><i>showing, obtaining and possession of pornographic material and exploiting juveniles for pornography, Article 185</i></b> | <b>39</b>   | 38  | 12  | 10   |  |                         |        |     |
| <i>unauthorised use of copyrighted works or works protected by a related right, Article 199</i>                                | 11  |   | 5   | 27   | 23   |                         |        |     |

## CONSIDERING THE ISSUE OF PROCEEDS OF CRIME

|  |                                   |                                       |  |                                    |   |             |               |            |
|--|-----------------------------------|---------------------------------------|--|------------------------------------|---|-------------|---------------|------------|
| <i>counterfeiting money, Article 223</i>   | 153                               | 90                                    | 111  | 108                                | 2   |             |               |            |
| <i>counterfeiting and abuse of payment cards, Article 225</i>  | 186                               | 138                                   | 83   | 83                                 | 6   |             |               |            |
| <i>issuing uncovered cheques and use of uncovered payment cards, Article 228</i>                     | 732                               | 183                                   | 242  | 152                                | 5   |             |               |            |
| <i>illicit trade, Article 243</i>  | 298                               | 4                                     | 175  | 125                                |   |             |               |            |
| <i>computer fraud, Article 301</i>   | 21                                | 24                                    | 6  |                                    |   |             |               |            |
| <i>illegal production and sale of arms, Article 348</i>  | 1,196                             | 609                                   | 706  | 603                                | 370   |             |               |            |
| <i>violation of the law by judges, public prosecutors and deputy public prosecutors, Article 360</i> | 1,217                             | 2                                     | 10   | 1                                  |   |             |               |            |
| <i>trading in influence, Article 366</i>   | 35                                | 7                                     | 12   | 3                                  |   |             |               |            |
| <i>human trafficking, Article 388</i>  | 50                                | 45                                    | 48   | 29                                 | 2   |             |               |            |
| <i>trafficking in juveniles for the purpose of adoption, Article 389</i>                             | 18                                | 5                                     | 4  |                                    |   |             |               |            |
| <i>theft of weapons or parts of combat equipment, Article 414</i>                                    | 2                                 | 1                                     | 7  | 4                                  |   |             |               |            |
| <i>divulging military secrets, Article 415</i>   | 4                                 |                                       | 4  |                                    |   |             |               |            |
|  | <b>Number of persons reported</b> | <b>Number of persons investigated</b> | <b>Number of persons prosecuted for a criminal offence</b> | <b>Number of persons convicted</b> | <b>Number of persons subject to recovery on any grounds</b> | <b>High</b> | <b>Medium</b> | <b>Low</b> |
| <i>money laundering, Article 231</i>   | 56                                | 45                                    | 14   | 1                                  | 9   |             |               |            |

# ANNEX 2 | MODULE 2

## REPORT ON SYSTEM VULNERABILITY AT THE NATIONAL LEVEL

### SUMMARY

The establishment of the anti-money laundering system started when the first Law on the Prevention of Money Laundering came into force and the Federal Commission for the Prevention of Money Laundering was formed on 1 July 2002. The legal and institutional framework was completed primarily by criminalising money laundering in the Criminal Code and adopting a comprehensive preventive law – the Law on the Prevention of Money Laundering and Terrorism Financing, as well as by passing a series of other laws and by-laws. This judgment may be supported by independent assessments by the Council of Europe MoneyVal Committee and other international organisations. Effective implementation of this legal framework is an area where improvement is necessary, and a step forward is certainly the strengthening of institutional capacity primarily by increasing the knowledge level.

#### POLITICAL STRATEGY

Political strategy is an essential element of an efficient anti-money laundering system. Strategy adoption by the Government, which determines and conducts the policy pursuant to Article 123 of the Constitution of the Republic of Serbia, provides the necessary political will for the development of this system.

On 25 September 2008, the Government adopted the National Strategy for Combating Money Laundering and Terrorism Financing (Official Gazette of the Republic of Serbia No. 89/08, hereinafter: National Strategy). The Action Plan for the Strategy Implementation provides for a set of specific measures and activities that should be carried out within specific time limits and whose common goal is to contribute to improving the efficiency of the whole system. The National Strategy and the Action Plan were adopted for the period until October 2013. In April 2009, the Standing Coordination Group for Supervising the Implementation of the National Strategy for Combating Money Laundering and Terrorism Financing (hereinafter: SCG) was established by a Government decision. This body meets regularly and periodically informs the Government of the progress in the implementation of the National Strategy and the Action Plan.

<sup>15</sup> See Annex 1.

Most recommendations from the Strategy and the Action Plan have been implemented, particularly at the legislative and institutional levels. The operating-level recommendations have also been implemented, but it is necessary to develop further the links between government authorities through direct networking of relevant databases with data that is exchanged but also through a more frequent and more ramified use of operating teams composed of representatives of various authorities in specific cases. The vulnerability of the system in this regard will be also treated in the section dedicated to interdepartmental cooperation.

By fulfilling these recommendations, the anti-money laundering system was set up and started to produce results. The effectiveness and efficiency of the system are still the challenges that all government authorities cope with and the most urgent thing to be done at the strategic level is a comprehensive and intensive campaign for raising the awareness of all participants in the system, but also the general public of their obligations and an urgent institutionalisation of professional training and advanced training of all participants. Although the Strategy and the Action Plan provide for this institutionalisation, these recommendations could not be fulfilled due to a lack of financial and technical resources. Although the training within different projects funded by the European Union, the USAID, the OSCE, the Council of Europe and others, as well as the training organised by the Administration were intensified in the previous period, they are still conducted on a case-by-case basis when the necessary funds and other conditions are provided. The establishment of a training centre in the Administration and the institutionalisation of training are the necessary next step in strengthening the system and its efficiency.

#### CRIMINALISATION OF MONEY LAUNDERING

The criminal offence of money laundering is prescribed in Article 231 of the Criminal Code (Official Gazette of RS, Nos. 85/05, 88/05 and 107/05 – correction).<sup>15</sup> This criminalisation is harmonised with the international standards, the so-called Vienna, Palermo, Warsaw and Merida conventions. In its evaluation of this criminalisation, the Council of Europe MoneyVal Committee indicated several minor deficiencies that were addressed by subsequent amendments to the Criminal Code. An unambiguous conclusion may be derived from the criminalisation of this criminal offence that the

vulnerability to this criminalisation is insignificant. By analysing the effectiveness and efficiency in the implementation of this criminalisation in the Republic of Serbia, a conclusion must be made that the vulnerability of the system increases due to several open questions in connection with judgments rendered in connection with money laundering to which jurisprudence must provide an answer in the future. A very positive trend in this area is reflected in an increase in the number of criminal proceedings and convictions. On the other hand, most of these judgments relate to money laundering in concurrence with a predicate criminal offence, most often abuse of office, and not to money laundering on behalf of third parties or so-called professional money laundering. In addition, the geographical distribution of proceedings for money laundering and certain open questions in the explanations of convictions are areas where improvement is necessary. A complete analysis of judgments made for the purposes of the National Risk Assessment is given in Annex 2.

### REPORTING SUSPICIOUS TRANSACTIONS

The Republic of Serbia established a financial intelligence unit by the Law on the Prevention of Money Laundering, which started to apply on 1 July 2002. The Law on the Prevention of Money Laundering and Terrorism Financing passed in 2009 defined the competence of the Administration for the Prevention of Money Laundering. The competences of the Administration are fully in accordance with the international standards in this area, with some being more advanced than these standards.<sup>16</sup>

The Administration has access to numerous databases that it uses in the analysis of suspicious transactions. Nevertheless, a direct access to the databases of government authorities through the IT networking of these databases would significantly contribute to the quality of analysis and, even more importantly, the speed of the work, which is the basis for the operation of the financial intelligence unit. A direct access to the databases kept by the Ministry of the Interior, which the Administration regularly accesses by means of written requests, as well as to the databases of other authorities would contribute to achieving these goals.

The largest and most important problem in the work of the Administration as the financial intelligence unit of the Republic of Serbia is the lack of administrative capacity for the performance of all

tasks entrusted to it. Namely, although the evident lack of employees was formally solved by increasing their number to 40, the Administration cannot employ that many employees because of the lack of adequate business premises. Back in 2009, the CoE MoneyVal Committee evaluators made an assessment of the capacities of the Administration and pointed out that the business premises were not adequate for the needs of employees, which were significantly fewer at that time – 24 employees. Taking into account that the Administration not only analyses suspicious transactions, but is also in charge of coordinating the whole anti-money laundering system and considering the urgent need for creating a training centre and institutionalising the training in this area, the problem of insufficient capacity becomes even more pronounced. This assessment was also supported by the assessment of the MoneyVal Committee, which confirmed in 2009 that the Administration performed all functions of a financial intelligence unit in an efficient manner to the extent allowed by the available capacity. In the assessment of FATF Recommendation 30, it was explicitly recommended that the Republic of Serbia should take all measures to provide adequate technical, financial and other conditions to the Administration, increase the number of its employees, as well as provide adequate training for its employees. While certain measures were taken at the legislative level to increase the number of employees, as well as to improve the technical conditions (through developing the information system of the Administration, which is essential for processing a large number of data with which the Administration works), the Administration is yet to be provided with adequate offices for its operation and for the establishment of the training centre.

The Administration receives and analyses several thousand suspicious transaction reports annually. Most of these reports come from the banking sector, while the other sectors lag significantly behind in reporting. In 2012, the number of reported suspicious transactions decreased as a consequence of increased quality of these reports.<sup>17</sup>

In addition to increasing the number of reports submitted by other reporting entities and further increasing the quality of reports from banks, it is necessary to invest significant efforts in raising the awareness of all reporting entities of money laundering typologies and the system in general, as well as in providing as high quality and as accurate feedback as possible on the already reported transactions.

<sup>16</sup> See Annex 3.

<sup>17</sup> See full statistics of reported transactions in the last three years in Annex 4.



### INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

The current national legislation (the Law on Mutual Legal Assistance in Criminal Matters, the Code on Criminal Procedure, the Criminal Code, the Law on the Recovery of Criminal Assets and the Law on the Prevention of Money Laundering and Terrorism Financing) together with bilateral treaties and multilateral conventions provide a sufficient legal basis for cooperation with other countries in the area of money laundering and terrorism financing.<sup>18</sup>

Three letters rogatory were sent from the Ministry of Justice in 2011 and until June 2012 for conducting criminal proceedings for money laundering. As regards extradition, one extradition request was submitted to Montenegro in 2011 for one individual who was subsequently extradited. In 2012, Italy requested extradition of one individual, who was subsequently extradited.

Mutual legal assistance is most often requested for property-related criminal offences (accepting and giving bribes, thefts, embezzlements, abuse of office, etc.), followed by criminal offences with elements of violence. The cooperation is most intensive with Croatia and B&H.

The Ministry of Justice does not keep any special statistics for special criminal offences nor for special types of mutual legal assistance, which significantly impedes the assessment of the efficiency and effectiveness of mutual legal assistance in the part relating to money laundering.

The personnel and, partly, technical resources in the Ministry of Justice and Public Administration, as the central authority through which mutual legal assistance takes place, are not sufficient. The number of employees in the Department for Mutual Legal Assistance in Criminal Matters (seven) is insufficient compared to the number of letters rogatory during one year (eight to ten thousand), especially when taking into account the fact that the number of letters rogatory increases year after year and the types of legal assistance requested are more and more complex. All of the above requires also an increased level of training of employees processing the cases and their advanced training. When it comes to work of the judicial and other authorities acting upon letters rogatory for mutual legal assistance, an insufficient education level is observed in terms of knowing the situation regarding contracts, especially multilateral ones, which has a negative impact on professional and efficient performance of mutual legal assistance.

There is a certain legal framework in the Republic of Serbia when it comes to recovery of proceeds of crime. In this regard, the Law on the Recovery of Criminal Assets should be pointed out, which was passed in 2009 and regulates the issues of financial investigations, seizure of assets, confiscation of assets, management of assets and their distribution. Four letters rogatory relating to the recovery of assets were sent to the Republic of Serbia from the beginning of 2011 until June 2012. In the same period, the Republic of Serbia sent three such letters rogatory. These data are only indicative due to deficiencies in the system of statistical monitoring of mutual legal assistance.

There are also certain problems in obtaining mutual legal assistance in asset identification in the financial investigation proceedings.

Therefore, it is necessary to establish without delay a precise statistical system of monitoring this form of mutual legal assistance, to design and implement a comprehensive training plan and develop efficient mechanisms of cooperation between government authorities in this field, particularly the Ministry of Justice and Public Administration and the Financial Investigation Unit of the Ministry of the Interior.

### INTEGRITY OF PROSECUTORS FOR FINANCIAL CRIME, PRESIDING JUDGES AND OFFICERS IN CHARGE OF INVESTIGATIONS OF FINANCIAL CRIME

Combating corruption and strengthening the integrity of employees in all institutions engaged in combating financial crime, but also all other forms of crime is a national issue that is high on the agenda of the Government of the Republic of Serbia. The National Assembly of the Republic of Serbia adopted the National Anti-Corruption Strategy on 8 December 2005. Based on this Strategy, the Action Plan for the Implementation of the National Anti-Corruption Strategy was adopted. In addition, the Law on Anti-Corruption Agency was passed, which formed an independent regulatory body competent for supervising the implementation of this strategy. Corruption and the lack of integrity in prosecutors, judicial office holders and police officers, as well as other officers engaged in combating money laundering may compromise this whole system.

One of the major problems in this area is the public perception of the prevalence and level of corruption. Namely, according to the Transparency International's Corruption Perception Index, Serbia is ranked 86th among 183 countries, with a score of

<sup>18</sup> See a more detailed analysis of the legal basis for mutual legal assistance in Annex 5.

3.3 index points out of 10 points, while according to the TI Institution's Judicial Independence Index, Serbia is ranked 128th among 142 countries, with a score of 2.4 out of 7 points. Although such surveys do not fully reflect reality, they are to some extent an indicator of the current situation.

It is not possible to treat separately the issue of integrity of all participants in the fight against money laundering from the issue of integrity of all civil servants. In addition, strengthening the integrity of participants in the fight against financial crime and the fight against corruption in general unambiguously contributes to the efficiency of the fight against money laundering. On the other hand, an efficient fight against money laundering, especially the money acquired through corruption offences, will have a deterrent effect on the perpetrators of these offences. Based on the above, a clear conclusion is reached that these two systems are inseparable parts in the fight against crime, with many interconnections and feedback effects.

All participants in the fight against money laundering are obliged to strengthen the integrity of their officers. Integrity strengthening and combating corruption in these authorities must take place systematically through an effective implementation of the Strategy for Combating Corruption.

The interconnection of the anti-money laundering system and the anti-corruption system must be strengthened because of all feedback effects they have on each other. No formal communication has been established between the Standing Coordination Group for the Implementation of the National Strategy for Combating Money Laundering and Terrorism Financing and the Anti-Corruption Agency, as a body in charge of monitoring the implementation of the National Anti-Corruption Strategy and it is necessary to strengthen further the SCG, include the representatives of the Agency in its work and include the issues of combating money laundering in the new National Anti-Corruption Strategy, which is in the preparation process.

See a detailed analysis of the situation in some authorities in Annex 6.

### **CAPACITIES OF PROSECUTORS FOR FINANCIAL CRIME, PRESIDING JUDGES AND OFFICERS IN CHARGE OF FINANCIAL CRIME INVESTIGATIONS**

According to the Law on the Organisation of Courts of the Republic of Serbia, the prosecution of the criminal offences of money laundering is within

the subject-matter jurisdiction of higher courts and therefore higher public prosecutor's offices, of which there are 26 in total in Serbia. The Department for the Prevention of Corruption and Money Laundering was formed in the Republic Public Prosecutor's Office in 2008 and, based on Binding Instruction A. No. 194/10 of the Republic Public Prosecutor's Office, such departments were formed in appellate and higher public prosecutor's offices located in the seats of appellate prosecutor's offices in Belgrade, Novi Sad, Niš and Kragujevac, while prosecutors who monitor the issues and prosecute the criminal offences of money laundering were appointed in other higher public prosecutor's offices. The capacity of prosecutors in combating money laundering is constantly improving in financial and technical terms, but the technical resources in terms of information technology, networking and availability of databases of individual prosecutor's offices in relation to each other, as well as to some other authorities are still insufficient and require further financial and technical improvement in order to improve further the efficiency of prosecution of this type of cases.

As for presiding judges, the trial for the criminal offence of money laundering, which is stipulated by Article 231 of the CC, is within the jurisdiction of basic or higher courts (depending on the form of commission of this criminal offence) and there are no specially designated or specialised trial panels in courts for conducting proceedings and trials for criminal offences of money laundering. Precisely for this reason, it is difficult to talk about the capacities of presiding judges; however, continuous education and professional training of judges and prosecutors is conducted through the Judicial Academy in connection with trials for the criminal offence of money laundering and, in addition to general expertise, special professional expertise of judicial office holders is acquired when it comes to this subject-matter. In order to achieve full efficiency in trials for the criminal offences of money laundering, it would be useful to specialise trial panels along with improving their technical and financial resources (e.g. provide funds for costs arising from these proceedings, such as the costs of expert analyses) and ensure better interdepartmental cooperation because often the lack of funds and technical equipment, as well as the lack of cooperation between government authorities or, more precisely, failure to act upon court requests and orders, greatly affect the efficiency and duration of court proceedings.

In addition, strengthening the capacity of officers in charge of investigating financial crime is of crucial importance. Any increase in the number of these officers depends on budget constraints, but the work on

specialising some officers and on their professional training through the Police Academy and the future training centre in the Administration are the steps that can be achieved in the short run.

### LOCAL COOPERATION

The Standing Coordination Group for Supervising the Implementation of the National Strategy for Combating Money Laundering and Terrorism Financing (hereinafter: the SCG) was established by a Government decision in April 2009. In addition to supervising the implementation of the National Strategy, the SCG is responsible for proposing measures to competent authorities for improving the PML/TF system and the cooperation and information exchange between these authorities, giving opinions and expert explanations to competent government authorities and harmonising the positions for the participation of delegations of the Republic of Serbia in international organisations and in international conferences dealing with the prevention of money laundering and terrorism financing.

The SCG meets regularly, three to four times a year on average. Issues in connection with the implementation of the National Strategy, adoption of relevant regulations, etc. are discussed at the SCG meetings. The SCG is a body dealing with institutional and strategic cooperation between competent authorities and no intelligence from operational cases is exchanged at the SCG meetings. Local cooperation in combating money laundering and terrorism financing has been raised to a significantly higher level through the SCG mechanism. Strengthening the SCG role through creating a permanent secretariat in the Administration for the Prevention of Money Laundering and the SCG subgroups that would meet regularly to exchange operational intelligence would raise this cooperation to an even higher level, which is necessary for efficient fight against money laundering.

In addition, other mechanisms that began to develop in the area of local cooperation, such as the appointment of contact persons (so-called liaison officers) from different government authorities taking part in money laundering cases, or formation of ad hoc working groups for more serious cases are a very good step forward, but are still not sufficiently developed, so it is necessary to develop them further in order to involve all participants in them and make them an efficient tool available to government authorities. Strengthening the prosecutor's role in all of these mechanisms, who should assume the role of coordinator and leader in the proceedings, is essential.

### CRIMINAL SANCTIONS

Judicial office holders in the Republic of Serbia are generally aware of the importance and harmfulness of money laundering. In accordance with the amendments to the Criminal Procedure Code, which introduce a so-called prosecutorial investigation, the prosecutor assumes the leading role in proving criminal offence, so the main efforts in raising the awareness of the importance and harmfulness of money laundering must focus on prosecutorial office holders. Generally, the prosecutors are aware of the harmfulness of money laundering and the importance of combating it, but proving this criminal offence is very difficult and complicated and requires a lot of specialised knowledge. Raising the level of training in this area is essential in order to ensure more efficient imposition of criminal sanctions for this criminal offence.

The judgments that impose criminal sanctions against perpetrators of criminal offences of money laundering in Serbia are still relatively few compared to other criminal offences, and in this regard these sanctions cannot be assessed in a comprehensive manner so as to present a stable parameter for the observation of these issues.

Public prosecutors are aware of the importance of combating money laundering, both through their own practice and through advanced training and educational work in this field, which is conducted through numerous seminars, workshops and other forms of advanced training, in cooperation with local and foreign organisations.

Public prosecutor's offices have no guidelines or similar instruments relating to processing money laundering cases because, as pointed out, criminal prosecution is always conducted when there is evidence that such offence has been committed.

In addition, it is very important to emphasise that there are no mechanisms for the harmonisation of jurisprudence in this area, which significantly impedes the work of judicial office holders.

### LEGISLATION IN THE AREA OF ASSET RECOVERY

In the Republic of Serbia, the recovery of criminal assets is prescribed by the Criminal Code, the Criminal Procedure Code and the Law on the Recovery of Criminal Assets. The provisions of these laws provide a good starting basis for the recovery of proceeds, but it is necessary to adopt by-laws based on the Law on the Recovery of Criminal Assets as soon as possible so that this law could be

efficiently implemented. See a detailed analysis of the provisions of these laws and the statistical data relating to the implementation of these provisions in Annex 7.

### **ORDERS (DECISIONS) ON THE RECOVERY OF ASSETS**

When considering the legislative framework for conducting the proceedings for the recovery of proceeds and objects, i.e. criminal assets, it can be concluded that an appropriate balance has been struck in them in terms of achieving the interests of society, as well as of the convicted person and bona fide third parties. The proceeds or assets are confiscated only on the basis of a final court decision in the proceedings in which proofs are collected about the assets and their origin, with the possibility of participation of all persons whose property interests may come into question and with provided protection of such interests, including bona fide third parties to whom court protection of their rights is always provided. Such a generalised assessment may also apply to the proceedings in connection with criminal offence(s) of money laundering, taking into account that such proceedings are still relatively few, especially when it comes to proceedings under the Law on the Recovery of Criminal Assets, considering that it did not start to apply until 1 March 2009, and with an insufficient number of final decisions on confiscation of assets, to be able to reach comprehensive conclusions.

When it comes to the validity and effectiveness of decisions on recovery of assets, such decisions regarding recovery of proceeds and the security measures of seizure of objects, when made in regular criminal proceedings, depend on the decision on the merits of the criminal offence case and follow its fate until the proceedings have become final, so the quality of decisions on recovery of proceeds or objects depends on the quality of decision in the main matter.

When it comes to proceedings under the Law on the Recovery of Criminal Assets, seizure proceedings precede confiscation, so the court decisions in these proceedings may be considered separately. Since the assets may be confiscated only after the judgment on the criminal offence has become final, which is a significantly lengthier procedure, the decisions on the confiscation of assets are few as well for the time being, so it is therefore hard to analyse and assess such decisions in general, especially such decisions regarding the criminal offence of money laundering, because there are practically none.

When it comes to decisions on the seizure of assets, their quality and effectiveness are easier to consider, since their number is much higher and the proceedings for their adoption are shorter. According to the data in the 2011 report of the Republic Public Prosecutor's Office, of the total number of motions for seizure of assets submitted against 208 persons, 116 motions were fully or partly approved, while 50 court decisions were made by which this motion was rejected. Of the 24 motions in total for confiscation of assets, the court fully or partly approved only four motions and there were no rejected motions, while the other motions have not yet been decided on.

A total of 95 appeals were lodged against all of the court decisions on seizure and confiscation, of which 23 were accepted, while the appeals were dismissed and denied in 46 cases. Looking at these indicators, it could be concluded that the court decisions on recovery of assets are of satisfactory quality since the number of such decisions against which the appeal failed is significantly higher, noting that this includes both the appeals by the prosecutor's office and the appeals by the owners of these assets.

### **STANDARDS AND PRACTICES OF ACCOUNTING AND AUDITING**

In the Republic of Serbia, there is a completed and functional legal framework for accounting and auditing, comprising the Law on Accounting and Auditing (Official Gazette of RS, Nos. 46/06, 111/09 and 99/11) and the accompanying by-laws.

Complete financial statements of legal entities that are subject to audit including the opinion of a certified auditor are publicly available on the website of the Business Register Agency and anyone may access the contents of the financial statements free of charge. As for the entities that are not subject to audit (small legal entities and entrepreneurs), some information from submitted and processed financial statements (assets, losses in excess of capital, capital, nominal capital, retained earnings/ losses, operating income, net profit/loss, number of employees) is published on the website of the Business Register Agency.

The publication of financial statements on the Agency website, with a possibility of accessing its content free of charge, increases the financial transparency and ensures the availability of correct and reliable accounting records and financial statements.

The Chamber of Certified Auditors has been active in Serbia since 2006 and organises exams and issues licences to certified auditors and certified internal auditors and exercises other competences provided by the law. As regards audit, it may be noted that there is a lack of supervision over the correctness of work and implementation of the International Standards on Auditing in the auditing companies in Serbia, which was not performed by the Chamber of Certified Auditors or the Ministry of Finance. There are assumptions that there is unfair competition in the audit service market caused by the operation of some auditors whose operation deviates from the International Standards on Auditing.

There is no official study of any government authority, academic institution or individual researcher in connection with the completeness, accuracy and reliability of submitted financial statements and books. Based on the interviews with accountants, auditors, tax auditors, financial analysts and other persons, it can be reasonably assumed that the transparent financial reporting culture in Serbia is not at a satisfactory level.

The practice of creative accounting and submission of unrealistic financial statements is present, although there are no official data about the extent of irregularities in financial statements.

Roughly speaking, until about 2000, window dressing of financial statements focused on presenting a lower financial result and worse financial standing, motivated by tax evasion (lower sales tax, lower income tax...). Since then, however, in addition to this form of fraudulent financial reporting, some companies have been embellishing their books and presenting higher financial results than the achieved and better financial standing, motivated by maintaining their credit standing with banks and hiding their real operation from their investors.

There are no official data or studies of a representative sample and so it is difficult to talk about the extent of accounting irregularities in the financial statements in general.

### INFRASTRUCTURE FOR IDENTIFICATION

Banks identify individual customers based on their identity documents (ID card, passport and similar) while they generally identify legal entities based on the official certificate from the business register of the country in which the legal entity has its registered office. Unless all necessary data (primarily the data on beneficial owners) may be determined

based on the official certificate, the banks attempt to determine the missing data by inspecting the customer's business documents (charter, statute, minutes of the shareholders' meeting, the decision on the distribution of profits and similar). If it is not possible to determine the missing data by inspecting the business documents, either, these data will be determined based on the statement of the legal representative of the customer. The data available on the Internet are used to help determine and verify the identity of the customer, generally by using an Internet browser and examining the texts in which the name of the customer or the related parties appears (if any). These data are naturally taken with reservation, since there is no guarantee of validity of the data published on the Internet. Some banks perform additional checks by means of the *Dow Jones Watchlist* to help identify and verify identity, and the advantage of this verification is that these are independent and credible sources.

Based on the data provided by the banking sector, identity document counterfeiting is not a major problem when it comes to customer identification. There have been no cases of using counterfeit documents for the purpose of money laundering in their operation so far. Based on the data from the banking sector, forged documents generally appear in the cases of credit fraud attempts.

The banking sector performs customer identification with more or less difficulty. Most of the problems relate to the identification of foreign legal entities and their beneficial owners. In addition, the position of the banking sector is that the determination of the data necessary for corporate customer identification should be centralised and within the competence of the business register.

### AVAILABILITY OF INDEPENDENT SOURCES OF INFORMATION

The reporting entities, i.e. the banks, have no access to the databases of paid taxes and other charges, social insurance data and others. Customer verification is performed by accessing publicly available data sources such as the databases of the Business Register Agency and the Central Securities Depository and Clearing House, by accessing commercial databases, as well as by requesting data from the customers themselves. The centralisation of data management, as well as the integration of different databases that could be searched using the registration number in the case of legal entities or the personal ID number in the case of individuals could significantly increase the level of efficiency, but also accelerate the whole process

of identification and especially verification of customer identity, e.g. integration of databases of paid property tax kept by local self-government units would be crucial, especially to the government authorities analysing this data. In addition, the Ministry of the Interior is electronically networked with the databases of the Republic Geodetic Authority, while the networking of databases is in progress with the Infostan Public Enterprise, which is in charge of integrated collection for utility services. It is necessary to enable faster access to the databases of other public enterprises, such as electric power distribution companies, as well as the Privatisation Agency and the local self-government units that are in charge of property tax collection. The databases of the Business Register Agency and the Central Securities Depository and Clearing House are publicly available, but networking and direct electronic access to these data would significantly accelerate the procedures.

### TRANSPARENCY OF BUSINESSES AND TRUSTS

The legal framework for legal entities including the framework for their registration is provided for by the Constitution (Article 55), the 2004 Company Law (Article 166) and the 2004 Law on the Registration of Businesses. The Republic of Serbia has introduced the system of central registration of businesses.

The Business Register is an integrated, central and public electronic database of businesses formed for the territory of the Republic of Serbia in which data are entered and kept in accordance with the law (Article 2 paragraph 1 of the Law on the Registration of Businesses). The Register is maintained by the Business Register Agency (BRA) from its head office in Belgrade and 12 branches throughout Serbia. It started to operate on 1 January 2005. The following entities are registered in the Register: entrepreneurs, general partnerships, limited partnerships, limited liability companies, joint stock companies, cooperatives and cooperative unions, representative offices of foreign legal entities and other entities that are registered in the Register in accordance with other laws.

The following information is registered in the Register: establishment, merger and termination of economic entity, status changes and changes in the legal form of the entity, the data on the economic entity that are relevant for legal transactions, the data in connection with liquidation and bankruptcy proceedings as well as other data specified by the law.

The Register contains the following data on businesses (Article 6):

- 1) – 9) business name; registered office; date and time of establishment; date and time of changes; the registration number assigned by the Republic Statistical Office, which is also the number under which the economic entity is kept in the Register; tax identification number (TIN); legal form; code and description of predominant business activity; bank account numbers;
- 10) business name, legal form, registered office and registration number of the founder if the founder is a legal entity or the name and personal ID number of the founder if the founder is an individual;
- 11) name and personal ID number of the director and/or members of the management board, depending on the legal form;
- 12) name and personal ID number of the representative and the limits of his/her powers;
- 13) issued, paid-in and brought-in capital of the economic entity.

It is necessary to enclose the decision of the competent body of the company on registered office change with the application for registration of change in the company registered office (of limited liability companies and joint stock companies). Changes in stakes in limited liability companies are registered in the Register. The stake transfer agreement with certified signatures of the stake transferor and transferee must be submitted with the application for registration of change in membership, and if a new member joins the company, then proof of identity of the new member must be submitted (a copy of identity card or passport in the case of individuals or certificate of registration in the case of legal entities). The Register does not register founders or changes in joint stock company shareholders.

One of the problems in the PML/TF system in Serbia is the existence of phantom companies, especially taking into account the relatively simple procedure of establishing phantom companies and legal and practical deficiencies in the prevention of such practice. A lot has been done in the last few years on detecting and preventing the establishment of such companies.

In its independent assessment, the MoneyVal Committee stated that Serbia should change the



existing registration system and take legislative and other measures to ensure that the registered information contains accurate and up-to-date data on the beneficial ownership and control over the company, which is currently not the case, and the international standards clearly require such action. It is also standard for the competent authorities to have timely access to this information for all legal entities. This should be done in accordance with relevant international practice in this area.

### **AVAILABILITY OF TAX INFORMATION**

The legal mechanism for reporting the income that is subject to taxation is adequate but not efficient enough. The fact that best illustrates the above statement is the existence of grey economy. The citizens lack sufficiently developed awareness of the culture of reporting this income and assets. Strengthening the Tax Administration capacities and intensified work on auditing the reporting of taxable income is only one of the ways to overcome this problem. A much more important form of action should be systematic and permanent raising of the citizens' awareness of their legal obligation to report taxable income, as well as of the importance and benefits for the citizens themselves that should fulfil this obligation. See a detailed analysis of the legal framework and its implementation in Annex 8.

### **INFORMAL (GREY) ECONOMY**

Informal economy in the Republic of Serbia may be viewed as business activity of illegal businesses, undeclared work (employees who work illegally in registered and unregistered businesses, money laundering and financial fraud (illegal transactions, tax evasion, etc.).

The causes of informal economy are primarily corruption and related inefficiency of public administration, high tax burdens, insufficient inspection (tax audit, labour inspection and market inspection), lenient penalties, low risk relative to expected reward, high unemployment, low wages and decreased standard of living.

The Tax Administration does not have the data on the share of informal economy in the total GDP of the country. According to the World Bank (as stated by the Socio-Economic Council of the Republic of Serbia), in late 2008 the share of grey economy in Serbia's GDP was 33.6%, increasing in the period of global crisis (for comparison, the data is given that the share of grey economy in GDP on average in the EU states was 15.7% before the outbreak of

the global crisis, while the surveys conducted in mid-2010 showed an increase in this rate to 20%. See a more detailed analysis of informal economy in Annex 9.



# ANNEX 1 – MODULE 2

## ARTICLE 231 OF THE CRIMINAL CODE

- (1) Whoever converts or transfers property while aware that such property originates from a criminal offence, with intent to conceal or misrepresent the unlawful origin of the property, or conceals and misrepresents facts on the property while aware that such property originates from a criminal offence, or obtains, keeps or uses property with foreknowledge, at the moment of receiving, that such property originates from a criminal offence, shall be punished by imprisonment of six months to five years and a fine.
- (2) If the amount of money or property referred to in paragraph 1 of this Article exceeds one million five hundred thousand dinars, the offender shall be punished by imprisonment of one to ten years and a fine.
- (3) Whoever commits the criminal offence referred to in paragraphs 1 and 2 of this Article with assets obtained by himself that originate from a criminal offence, shall be punished with the penalties prescribed in paragraphs 1 and 2 of this Article.
- (4) Whoever commits in a group the criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished with imprisonment of two to twelve years and a fine.
- (5) Whoever commits the offence referred to in paragraph 1 and 2 of this Article, and could have been aware or should have been aware that the money or assets represent proceeds of crime, shall be punished by imprisonment of up to three years.
- (6) The responsible officer in a legal person who commits the offence referred to in paragraphs 1, 2 and 5 of this Article shall be punished by the penalty stipulated for that offence, if aware, or could have and should have been aware that the money or assets represents proceeds of crime.
- (7) The money and property referred to in paragraphs 1 through 6 of this Article shall be seized.

## ANNEX 2 – MODULE 2

### ANALYSIS OF EFFECTIVENESS AND EFFICIENCY IN THE IMPLEMENTATION OF CRIMINALISATION OF MONEY LAUNDERING

The number of proceedings and first-instance, as well as final judgments for money laundering has been constantly increasing in the last few years. According to the data obtained from the police, 18 criminal reports were filed against 109 persons in 2010 while 22 criminal reports were filed against 190 persons in 2011. According to the data from the courts, seven proceedings were initiated and three first-instance judgments and one final judgment were rendered during 2010, while eight proceedings were initiated and three first-instance judgments and two final judgments were rendered in 2011. According to the same data, 27 proceedings are currently being conducted against over 200 persons in Serbia, and 19 convictions in total have been issued since the criminalisation of money laundering came into force, nine of which are final.

It is evident from these statistical data that the number of judgments for money laundering is much lower than the number of criminal charges brought. The progressive decrease in the number of judgments by the courts relative to the number of proceedings initiated by prosecutor's offices and of the criminal reports filed by the police indicates the incompleteness of the data and hard evidence contained in the cases relating to money laundering. One of the main reasons, if not the main reason, for such situation is insufficient training and knowledge of staff in the government authorities dealing with these issues. Better coordination of all government authorities involved in this fight is necessary. In addition, it may be concluded that the legal provisions criminalising money laundering are insufficiently implemented, so the offence is defined as abuse of office, embezzlement, counterfeiting money, tax evasion and similar in some cases where it was also possible to identify the criminal offence of money laundering and expand the indictment and therefore a possible judgment for this offence as well. The reasons for such situation are primarily in an insufficient training level of prosecutors and staff engaged in investigating these criminal offences or an insufficient training level of an adequate number of these officers. In addition, improving the cooperation and information exchange between government authorities through developing special cooperation mechanisms (ad hoc

working groups, standing working groups, liaison officers or contact persons, direct networking of databases of different government authorities) would be of great importance for more effective operation of this part of the system. All of the above remarks were also given by the CoE MoneyVal Committee in its independent assessment.

It is not possible to perform a full and useful analysis of statistical data because of different approaches to keeping statistical data in different government authorities. For this reason, the Government is unable to identify properly potential risks arising from the criminalisation of money laundering and the effective implementation of these provisions. Therefore, the vulnerability of the system is increased.

The working group analysed 13 judgments delivered to the Administration for the Prevention of Money Laundering pursuant to the Law on the Prevention of Money Laundering and Terrorism Financing. These data also should be taken with reservation because they are incomplete but may be used as indicative of the current situation. Of these 13 judgments, five are acquittals and eight are convictions. The data on the geographical distribution of these judgments are indicative as well. The acquittals were issued in the courts in Belgrade, Požarevac, Čačak, Novi Sad and Kladovo, while the convictions were issued in Belgrade, i.e. in the Special Department for Organised Crime of the Higher Court in Belgrade, and in Novi Sad. Both convictions issued in the Special Department of the Higher Court in Belgrade were issued based on plea bargaining, and in both cases it was an involuntary form of the criminal offence of money laundering, and the sentence pronounced was a one-year imprisonment to be served under house arrest. Proceeds of crime in the amount of EUR 350,000 were confiscated in one of these two judgments. The committed offence in the three judgments rendered in the Higher Court in Novi Sad was the purchase of goods by a legal entity with tax exemptions, selling these goods in the so-called black market and depositing the proceeds from this sale in the account of the same legal entity as "founder's loan". The sentences pronounced were one-year and one-and-a-half-year imprisonment. The predicate criminal offence in all three judgments was abuse of office and money laundering was committed in concurrence with this criminal offence. A measure of confiscation of proceeds was pronounced in two of these judgments. The large majority of all cases of money laundering that ended with final conviction relate to the concurrence of money laundering with another criminal offence, most frequently abuse of office.

The two judgments rendered in Novi Sad relate to making out false invoices by responsible persons in companies for the purpose of “extracting money from the accounts of other companies” and then withdrawing this money based on purchase of agricultural products or secondary raw materials. What is indicative is that both judgments were rendered, as stated in the judgments, because of “bringing money of dubious origin into legal financial flows”.

It may be concluded from these judgments that the geographical distribution of money laundering cases is very narrow, which may be explained by the fact that Belgrade and Novi Sad are economic and financial centres in the Republic of Serbia. Nevertheless, it is necessary to expand the knowledge and awareness of the government authorities of the possibility of prosecuting this criminal offence beyond these centres as well.

From the aspect of the purpose of this criminalisation, it is also disputable whether it is useful to conduct proceedings for money laundering in concurrence with, for example, abuse of office, if the predicate criminal offence has been proven beyond doubt and the proceeds from this offence have been established in the procedure and are accessible to the government authorities. It is also indicative that the predicate criminal offence is most frequently abuse of office in economic operations.

It is necessary to prepare a comprehensive programme and plan of training for the participants in the fight against money laundering. With its experience, the Administration is able to provide professional assistance to staff in the courts and prosecutor’s offices in the form of professional and advanced training, for the purpose of better understanding of the issue of money laundering and terrorism financing. In order to achieve this goal, it is also necessary to establish, as soon as possible, a training centre in the Administration and to improve radically the administrative and financial capacities of the Administration, primarily through providing adequate premises for its operation and the operation of the training centre within these offices. Such training has so far been organised on a case-by-case basis and mostly limited to theoretical seminars. The establishment of a training centre would enable a higher-quality and more efficient training where the employees in government authorities engaged in ML/TF tasks could present examples from their practice, where money laundering could be simulated and where the participants would “solve” these cases. It is necessary to develop the operating methods and techniques of conducting financial investigations and recovering the proceeds.

Raising public awareness, as well as the awareness of all those who are in any way in contact with ML/TF, of money laundering and terrorism financing and all their negative implications is an important segment in the fight against ML/TF.

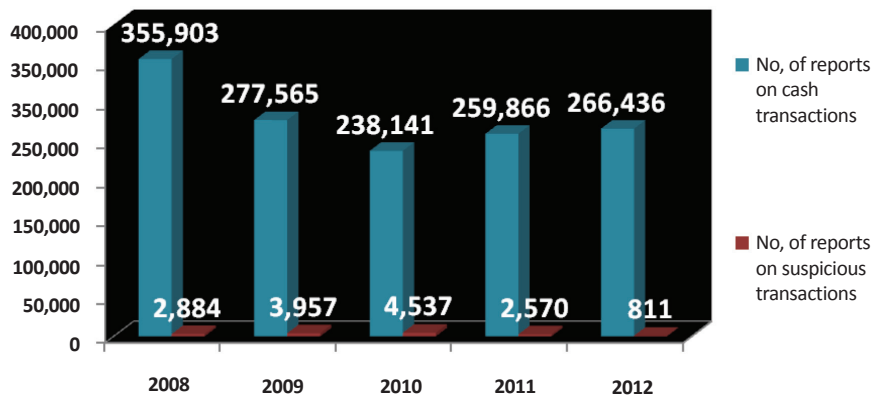
## ANNEX 3 – MODULE 2

### COMPETENCE OF THE ADMINISTRATION FOR THE PREVENTION OF MONEY LAUNDERING

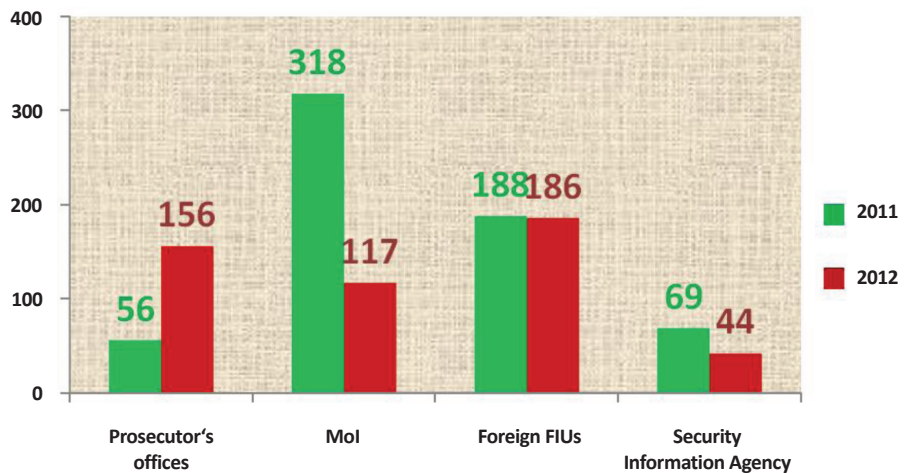
The Republic of Serbia established a financial intelligence unit by the Law on the Prevention of Money Laundering, which started to apply on 1 July 2002. The Law on the Prevention of Money Laundering and Terrorism Financing passed in 2009 defined the competence of the Administration for the Prevention of Money Laundering. Pursuant to Article 52 of the Law, the Administration performs the following financial intelligence tasks: collecting, processing, analysing and disseminating to the competent bodies the information, data and documentation obtained as provided for in this law and carrying out other tasks relating to the prevention and detection of money laundering and terrorism financing in accordance with the law. In addition to its core functions, the FIU – Administration has the right to request data from reporting entities and government authorities and may temporarily suspend the execution of transaction or monitor the financial transactions of specific persons if it establishes the existence of grounded suspicion of money laundering or terrorism financing.

## ANNEX 4 – MODULE 2

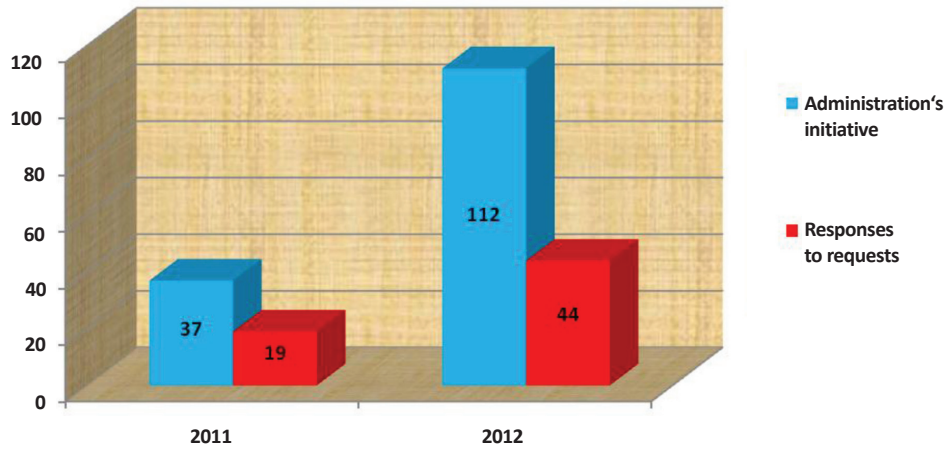
CASH TRANSACTIONS AND SUSPICIOUS TRANSACTIONS 2008 – 2012



COMPARATIVE OVERVIEW OF INFORMATION FORWARDED IN 2011 AND 2012



COMPARATIVE OVERVIEW OF INFORMATION FORWARDED TO PROSECUTOR'S OFFICES IN 2011 AND 2012



## ANNEX 5 – MODULE 2

### ANALYSIS OF THE LEGAL FRAMEWORK IN THE AREA OF MUTUAL LEGAL ASSISTANCE

Mutual legal assistance in criminal matters with other countries takes place based on the national legislation and concluded international treaties and multilateral conventions.

The Republic of Serbia has concluded 45 bilateral treaties with 38 countries, which regulate different forms of mutual legal assistance in criminal matters. In addition, the Republic of Serbia acceded to numerous conventions of the Council of Europe and the United Nations relevant to the provision of legal assistance in criminal matters, including money laundering and terrorism financing.

According to the Constitution of the Republic of Serbia, ratified international treaties are an integral part of the legal system of the Republic of Serbia and apply directly.

The provisions of national legislation apply only if there is no ratified international treaty or if certain issues are not regulated by it.

National legislation, together with international treaties, enables the provision of the widest possible range of mutual legal assistance in connection with money laundering and terrorism financing. This legislation stipulates that the Ministry of Justice is the central authority for the provision of legal assistance and that the work on letters rogatory is urgent, and does not set unreasonable or unduly restrictive conditions for the provision of mutual legal assistance. Letters rogatory for legal assistance are not rejected just because they relate to fiscal issues. When it comes to data confidentiality, it is stipulated that the government authorities are obliged to keep the confidentiality of data obtained in the process of provision of mutual legal assistance and that the personal data may be used solely in the criminal or administrative proceedings in connection with which the letter rogatory was submitted.

National legislation i.e. the Law on Mutual Legal Assistance stipulates dual criminality as one of the conditions for the provision of legal assistance. However, the name or type of the criminal offence is not relevant for this; instead, it is sufficient to sanction these acts as criminal offence.

The Law on Mutual Legal Assistance regulates all four basic forms of mutual legal assistance, as follows:

- a) extradition
- b) assumption and transfer of criminal proceedings
- c) execution of criminal judgments
- d) other forms (conduct of procedural activities such as issuance of summonses and delivery of writs, interrogation of the accused, examination of witnesses and experts, crime scene investigation, search of premises and persons, seizure of objects; implementation of measures such as surveillance and tapping of telephone and other conversations, controlled delivery, provision of simulated business services, conclusion of simulated legal business, engagement of under-cover investigators, automatic data search and processing; exchange of information and delivery of writs and cases related to criminal proceedings pending at the requesting party, provision of information without a letter rogatory, using of video conferences, setting up of joint investigation teams; temporary surrender of a person in custody for the purpose of examination ).

The Law on Mutual Legal Assistance explicitly stipulates the contents of letters rogatory for mutual legal assistance, as well as the documents to be enclosed with them to make them complete, also stipulating that they be sent through the Ministry of Justice or directly between the judicial authorities and, in cases of emergency, through the International Criminal Police Organisation (Interpol).

Criminal offences of money laundering and terrorism financing are criminal offences that are subject to extradition in accordance with the Law on Mutual Legal Assistance. The extradition procedure enables it to take place urgently by setting deadlines for action, etc. The law regulates in detail the conditions and procedure of extradition of indicted and convicted persons.

The Law on Mutual Legal Assistance does not provide for extradition of own nationals, except in the case when this issue is regulated by an international treaty. In this regard, notably, an extradition treaty has been concluded with the Republic of Croatia that provides for a possibility of extraditing own nationals for criminal offences of organised crime and corruption. An extradition treaty has been concluded with the Republic of Montenegro that provides for the extradition of own nationals for the criminal offences of organised crime, crime against humanity and other values protected by

international law, corruption and money laundering, as well as for certain other serious criminal offences. Similar treaties have been signed, but have not yet come into force, with the Republic of Macedonia and Bosnia and Herzegovina (in the case of these countries, extradition of own nationals for the criminal offence against humanity and other values protected by international law is not allowed). If the Republic of Serbia does not extradite its national, there are legal possibilities for it to prosecute him/her for this criminal offence in its own territory under certain conditions. Dual criminality is required for extradition. However, criminal offences do not have to have the same name or belong to the same category, but it is sufficient for the committed acts to represent any criminal offence.

When it comes to extradition, the Law on Mutual Legal Assistance provides for simplified extradition as well, when the person whose extradition is requested consents to this procedure. In the case of extradition as well, the Law on Mutual Legal Assistance contains strict provisions relating to data confidentiality when it comes to this form of legal assistance.



## ANNEX 6 – MODULE 2

### ANALYSIS OF THE SITUATION REGARDING THE INTEGRITY OF PROSECUTORS FOR FINANCIAL CRIME AND PRESIDING JUDGES

In the implementation of the National Anti-Corruption Strategy and the National Strategy for Combating Money Laundering and Terrorism Financing, as well as the relevant action plans, prosecutor's offices focus special attention to the issues related to the integrity of public prosecutors and their deputies acting in such cases.

For the purpose of implementing these national strategies and action plans, the Republic Public Prosecutor's Office issued Binding Instruction A. No. 6/07 of 12/01/2007 and then Binding Instruction A. No. 194/10 of 26/03/2010 replacing the previous Instruction, which regulate the action of public prosecutors and deputy prosecutors in cases with characteristics of corruption, including money laundering cases. The Instruction provides, inter alia, the protection of the integrity of prosecutors and their operating independence and autonomy in decision making in order to eliminate the possibility of undue influence. The Republic Public Prosecutor's Office is informed of all criminal charges for criminal offences of money laundering, with the submission of their copies, through Appellate Public Prosecutor's Offices. All decisions on dismissing the criminal charges or withdrawing from further prosecution for these criminal offences (as well as for all corruption offences) are made in the acting prosecutor's offices in full composition, with mandatory presence of the public prosecutor, or the first deputy, or the departmental head. If the decision was not made in full force, a subsequent review of the decision in full force is mandatory. Regarding each dismissed criminal charge and suspension, a copy of the decision on the dismissal of criminal charges or of the official note of withdrawal from criminal prosecution must be submitted to the Anti-Corruption Department of the Republic Public Prosecutor's Office, while for the criminal offence of money laundering referred to in Article 231 of the Criminal Code, this Department must also be informed of any other decision in the proceedings, with the submission of its copy. In addition, all first-instance and second-instance court decisions issued must be submitted to the Republic Public Prosecutor's Office, as well as the appeals by the public prosecutor and, if they were

not filed, the notes on the reasons for which the appeal was not lodged must be submitted. The obligation of submitting the stated information and decisions also applies to the proceedings relating to economic offences in connection with money laundering.

The protection of the integrity of prosecutors, as well as representatives of other government authorities participating in the proceedings is certainly contributed to by the processing of money laundering cases by standing or ad hoc working groups in order to direct properly the work on the cases and provide the necessary evidence.

In addition to the above, the integrity of prosecutors is protected by the fact that the Law on the Organisation and Jurisdiction of Government Authorities in Combating Organised Crime, Corruption and Other Particularly Serious Criminal Offences prescribes the jurisdiction of the Prosecutor's Office for Organised Crime in the case when a person charged with the criminal offences of abuse of office, trading in influence, accepting bribes and giving bribes is, inter alia, a public prosecutor or his/her deputy, as a person elected by the National Assembly or the State Prosecutorial Council, which also implies the responsibility of prosecutors for such criminal offences in the case of proceeding in money laundering cases.

Pursuant to the Law on Anti-Corruption Agency, all public prosecutor's offices, as well as other government authorities are obliged to adopt integrity plans that contain, inter alia, the assessment of exposure of the institution to corruption, the description of the work process, the method of decision making and the identification of activities that are particularly susceptible to corruption, as well as the preventive measures for corruption reduction, and the preparation of these plans in public prosecutor's offices is in progress. This law also regulates in detail the measures and procedures for the prevention of conflicts of interest in the exercise of public office. The preparation of the Rulebook on Disciplinary Liability of Public Prosecutors is in progress in the State Prosecutorial Council.

Taking into account the above mechanisms by which constitutional provisions are elaborated, as well as the provisions contained in the Law on Public Prosecutor's Office, on the independence and responsibility of public prosecutors, as well as on the prohibition of influence on their work, it may be concluded that an appropriate starting basis has been created for an effective prevention of undue influence and pressures in prosecut-



ing money laundering and thus of the corruptive behaviour and abuse of office during this process and, based on the previous experience, it may be concluded that there have so far been no serious cases of undue influence or abuse and corruptive behaviour during the proceedings for criminal offences of money laundering, which is also contributed to by the relatively small number of proceedings conducted for the criminal offences of money laundering.

The need to establish an efficient, highly professional and independent judiciary in order to establish the rule of law and legal certainty in the Republic of Serbia, and taking into account that weaknesses have been identified in the functioning of the judiciary, primarily an inadequate constitutional and legal framework, an overly extended and dysfunctional system of courts, unclear standards and criteria for the election, dismissal or promotion of judges and prosecutors, obsolete models of judicial administration operation and similar, has led to the necessity of initiating the process of strategic reform of the judiciary at all levels.

The judicial reform should establish efficient and effective constitutional, legal and other guarantees for full independence of the judiciary, as the third branch of power, in accordance with international norms and standards, because one of the fundamental human rights is the citizens' right to fair and just trial and only an independent, transparent, efficient and responsible judiciary enables equal protection of the rights of citizens without discrimination.

Apart from the establishment of a high level of independence and professionalism in the work of judicial office holders, a very important aspect is the achievement of functional and operating independence of the High Judicial Council and the State Prosecutorial Council. All these factors, along with the continuous training of judges and other judicial office holders conducted through the Judicial Academy, on the one hand, and the possibility of disciplinary liability of judges on the other hand, will create conditions for raising to a high level the integrity of judges, which means the integrity of judicial institutions as well.

In accordance with the obligations arising from the National Anti-Corruption Strategy (Official Gazette of RS, No. 109/2005), the process of preparing the integrity plans intended for establishing a mechanism that will ensure efficient and effective functioning of the institution through strengthening the responsibility of judicial office holders, increasing

transparency in their work, controlling discretionary rights, strengthening the ethics and introducing an efficient system for supervising and inspecting professionally unacceptable and corrupt actions is under way in the courts in the territory of the Republic of Serbia. Taking all this into account, the presiding judges in the court proceedings relating to money laundering perform their tasks, in most cases, in a professional and conscientious manner, without favouring any of the parties to the proceedings and without any fear, i.e., the judges have a high level of professional competencies, exercise their function in a professional, conscientious and efficient manner, with dignity and in accordance with the dignity of the office they exercise, in which direction the work must be continued, thus raising the level and reputation of the judiciary as well.

## ANNEX 7 – MODULE 2

### ANALYSIS OF THE LEGAL FRAMEWORK FOR THE RECOVERY OF PROCEEDS OF CRIME INCLUDING THE STATISTICS

Article 87 of the Criminal Code prescribes that objects used or intended for use in the commission of a criminal offence or resulting from the commission of a criminal offence may be recovered, if property of the offender. These objects may be recovered even if not property of the offender if so required by the interests of general safety or if there is still a risk that they will be used to commit a criminal offence, but without prejudice to the right of third parties to compensation of damages by the offender.

Also, Article 91 of the Criminal Code prescribes that no one may retain proceeds of crime. Article 92 of the Criminal Code stipulates the conditions and manner of recovery of proceeds. Proceeds of crime shall also be recovered from the persons they have been transferred to without compensation or with compensation that is obviously disproportionate to its actual value.

In Chapter VII of the Criminal Procedure Code - Evidence, the seizure of objects is prescribed.

Article 147 of the Criminal Procedure Code prescribes that the authority conducting proceedings will seize objects which must be recovered under the Criminal Code or which may serve as evidence in criminal proceedings and secure their safe-keeping. Article 148 of the Criminal Procedure Code prescribes that a person holding these objects is required to enable access to the objects, to provide information needed for their use and to surrender them at the request of the authority. Article 150 of the Criminal Procedure Code regulates the procedure for seizing an object. A certificate is issued to a person from whom objects are seized in which they will be described, the locations where they were found indicated, data on the person from whom the objects are being seized given, and the capacity and signature of the person conducting the action given.

The Law on the Recovery of Criminal Assets prescribes the procedure on the seizure and confiscation of criminal assets. Article 21 of the Law prescribes that if there is a risk that subsequent

seizure of criminal assets could be hindered or precluded, the public prosecutor may file a motion for seizure of assets. The motion referred to in paragraph 1 of this Article shall be decided upon, depending on the phase of proceedings, by the investigating judge, presiding judge or the panel conducting the trial. Article 22 of the Law prescribes that should there be a risk that the owner will dispose of the criminal assets before the court decides on the motion referred to in Article 21 paragraph 1 of this Law, the public prosecutor may issue an order banning the use of assets and on seizure of movable assets.

Article 25 of the Law on the Recovery of Criminal Assets prescribes that the decision on seizure of assets shall contain information on the owner, description and legal qualification of criminal offence, information on assets being seized, circumstances giving rise to grounded suspicion that the assets derive from a criminal offence, reasons justifying the need for seizure of assets and the duration of seizure. The court may by decision leave the owner a part of the assets if sustenance of the owner or persons he/she is obliged to support in compliance with the provisions of the Law on Enforcement Procedure would be brought into question. The decision may be appealed within three days from the day of delivery of the decision. The appeal shall not stay enforcement of the decision.

Seizure of assets may be in force until the ruling on the motion for confiscation of assets (Article 27 of the Law on the Recovery of Criminal Assets) is adopted.

Confiscation of assets is prescribed by Article 28 of the Law on the Recovery of Criminal Assets. After legal entry into force of indictment and not later than one year following the final conclusion of criminal proceedings the public prosecutor shall file a motion for confiscation of criminal assets. Article 37 of the Law on the Recovery of Criminal Assets prescribes that on receiving the decision on the seizure or confiscation of assets, the Directorate shall without delay proceed in accordance with its competences. Until the decision on seizure of assets is revoked or until final conclusion of proceedings for confiscation of assets, the Directorate for Management of Seized and Confiscated Assets shall manage the seized assets with due diligence and due and reasonable professional care.

The Directorate shall bear the costs incurred during the safeguarding and maintenance of seized assets. The Director of the Directorate may decide to leave the seized assets with the owner under

the proviso that he/she undertake due diligence in care of the assets. The owner shall bear the costs incurred during the safeguarding and maintenance of the assets concerned. In justified circumstances the Director may on basis of contract entrust another individual or legal entity with the managing of seized assets.

In May 2011, by Decision 011–00–1/2011–01, the Minister of Justice formed a working group for preparing amendments to the Law on the Recovery of Criminal Assets. The amendments to the Law are aimed at improving the existing legal framework for the purpose of more efficient enforcement of the law. In addition, it is necessary to harmonise the Law with the subsequently passed Law on Enforcement and Security, the Law on Public Property and other laws that are directly related to the implementation of the Law on the Recovery of Criminal Assets.

During 2010, 2011 and 2012, the Directorate received around 128 decisions on the seizure of assets suspected of originating from criminal offence. The assets were seized from the individuals against whom proceedings are conducted, as well as from related legal entities and individuals, i.e. around 276 individuals and 24 legal entities. The amount of the assets managed by the Directorate is around EUR 350 million. Based on decisions and orders of the prosecutor's office, the Directorate took over and currently manages the following assets: 42 houses, 126 apartments, 20 retail outlets/office units, 23 garages, three vacation apartments at Mt. Zlatibor, 49 ha of land (quarry) for grit production in Mionica, 40 ha of the Pravac quarry for grit production in Pirot, 33 ha of agricultural land in Jamena and Privina Glava Cadastral Municipalities (Šid), one yard with asphalt plant including a separator and a crusher, 2 ha in area, in Pirot, one office building in Pirot and one petrol station with two auxiliary facilities in Vranje. The Directorate generates monthly income of EUR 30,675.00 in the dinar equivalent from renting the seized property. Of the total number of decisions, 9 seizure decisions relate to the criminal offence of money laundering. The following were seized by these decisions: four apartments in Belgrade, three apartments and two houses in Novi Sad, one apartment in Subotica, two apartments in Paraćin, four properties in Niš, EUR 125,000, RSD 300,000, a 50% stake in DOO company, with the registered office in Dimitrograd and one Mercedes passenger car.

## ANNEX 8 – MODULE 2

### AVAILABILITY OF TAX INFORMATION

Pursuant to the provisions of Article 25 of the Law on Tax Procedure and Tax Administration (LTPTA), the taxpayer is obliged to file a tax return to the Tax Administration in due time and in the manner stipulated by tax regulations, as well as to submit documentation and provide information required by the Tax Administration, in accordance with the tax regulations. Pursuant to the provisions of Article 38 of the LTPTA, a tax return shall represent a report from the taxpayer to the Tax Administration on the income generated, expenses paid, profit, property, turnover of goods and services and other transactions significant for tax assessment.

Based on Article 45 of the Law on Tax Procedure and Tax Administration, at the request of the Tax Administration and within the period which it sets, the taxpayer and other persons are obliged to provide to the Tax Administration all available information necessary for the establishment of facts relevant for taxation. The same article prescribes that the request for providing information shall state to whom and to what this information refers, as well warn of consequences of denying information or providing false information, and the taxpayer or another person to whom the request was directed is obliged to provide information in written form.

The provisions of Articles 177-181 of the LTPTA prescribe the sanctions for tax violations of taxpayers, legal entities, entrepreneurs and individuals, inter alia, for failing to file a tax return, calculate and pay taxes, underreporting taxes, providing false data in the tax return.

Each individual tax law, the Law on Corporate Income Tax, the Law on Personal Income Tax, the Law on Property Tax, the Law on Value Added Tax and the Law on Mandatory Social Insurance Contributions, prescribes the deadlines and methods of filing tax returns for taxpayers who generate income taxable in accordance with each of these respective laws.

Finally, the Tax Administration informs the public of its activities through the print and electronic media. The Tax Administration website contains laws, decrees, rulebooks, instructions, calls for filing tax

returns, explanations of regulations, questions and answers, tax return forms and other.

According to the provisions of Article 135 of the Law on Tax Procedure and Tax Administration, the detection of tax crimes and their perpetrators is performed by the Tax Police according to the provisions of Article 137 of the LTPTA, based on the collected information. The Tax Police is obliged to cooperate with the court and the prosecutor's office in criminal proceedings.

According to the provisions of Article 46 of the current Criminal Procedure Code, pre-trial proceedings are led by the public prosecutor, whose basic right is to prosecute the perpetrators of criminal offences. All government authorities that participate in the pre-trial proceedings and therefore the Tax Police are obliged to inform the competent public prosecutor of any action taken. In accordance with the provisions of Article 234 of the Criminal Procedure Code, the public prosecutor may request the competent government authority to inspect the business of the entity for which there are grounds for suspicion that he/she committed a criminal offence for which the law prescribes a prison sentence of at least four years and to submit to him/her any documentation and data that may be used as evidence of criminal offence or criminal assets as well as information on suspicious financial transactions.

According to the provisions of Articles 43 and 44 of the Criminal Procedure Code (which applies as of 15 January 2013, except in the proceedings for organised crime or war crime, which are conducted before the special department of the competent court, in which case it applies as of 15 January 2012), the basic right of the public prosecutor is to prosecute the perpetrators of criminal offences. The prosecutor runs pre-trial proceedings. All authorities participating in the pre-trial proceedings are required to notify the competent public prosecutor of all actions taken with the aim of detecting a criminal offence and are required to comply with every request of the competent public prosecutor.

In addition to its legal obligations, the Tax Police cooperates with the MoI based on the Instruction on the Forms and Manner of Cooperation Between the Tax Police and the MoI in Detecting Tax Crimes and Their Perpetrators. The Instruction regulates the forms and manner of cooperation between the Tax Police and the MoI, specifying as a mandatory form of cooperation mutual information exchange by providing data, information and documents of importance for detecting tax crimes referred to in Articles 172–176 of the LTPTA and their perpe-

trators, as well as any other data and findings of importance for the work of these authorities on suppressing crime.

Cooperation was also achieved with the Customs Administration based on several instructions on mutual cooperation, conducted through constant exchange of information and data relating to the companies established with the aim of full tax evasion and the companies suspected of evading tax to a major extent.

According to the provisions of Article 157 of the LTPTA, the legal assistance in tax matters is based on international treaties. If this is not the case, the Law stipulates the conditions for the provision of legal assistance to foreign tax administrations.

Article 26 of the OECD Model Convention on Taxation is the legal basis for bilateral information exchange for tax purposes. The point is that, if a contracting state requests information, the other contracting state will use all available means to obtain the requested information, even when the state from which this is requested does not require this information for its own tax purposes. The obligation of information exchange is subject to certain restrictions, which are stated in Article 26 of the OECD Model, but the restriction may not in any case be the lack of local interest in such information. The restrictions may not be construed to permit a contracting state to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

The Republic of Serbia concludes treaties on the exchange of tax information based on the principles of Article 26 of the OECD Model Convention. It is worth noting that the provision of Article 7 paragraph 6 item 6) of the LTPTA prescribes that the duty of confidentiality is not violated if a certain document, fact or information is delivered, in accordance with the provisions of Article 157 of the LTPTA, to an authorised person of the tax authority of a foreign country in the process of information exchange and mutual legal assistance. The treaty between the Republic of Serbia and the Republic of Montenegro on the avoidance of double taxation with respect to personal income tax is one of the latest treaties concluded based on the solutions contained in Article 26 of the OECD Model Convention.

The legal mechanism for reporting income subject to taxation is adequate but not efficient enough.

The fact that best illustrates the above statement is the existence of grey economy. The citizens lack sufficiently developed awareness of the culture of reporting this income and assets. Strengthening the Tax Administration capacities and intensified work on auditing the reporting of taxable income is only one of the ways of overcoming this problem. A much more important form of action should be systematic and permanent raising of the citizens' awareness of their legal obligation to report taxable income, as well as of the importance and benefits for the citizens themselves that should fulfil this obligation.

## ANNEX 9 – MODULE 2

### INFORMAL (GREY) ECONOMY

Grey economy is a global phenomenon present in a greater or lesser extent in all economies regardless of the type of society and the level of socioeconomic development.

There are numerous and different definitions of the term “grey economy”, with the terms “informal economy”, “unofficial economy” and similar being often used as synonyms. According to the Economic Dictionary, informal economy is a part of the economy that is characterised by irregular and illegal business. It may be viewed as grey economy, i.e. as business that can be legalised by taking certain actions (e.g. by paying taxes) and as black economy, which cannot be legalised (e.g. narcotics trafficking). It is inherent to both the underdeveloped and developed countries, but its share in GDP decreases with economic development.

Informal economy involves failure to report income earned and tax evasion. This creates unfair competition in relation to the part of the economy that operates in a regular manner.

From the statistical aspect, informal economy is classified into the following categories: registered and unregistered, legal and illegal from the aspect of legality, and taxed, taxable (but the entire income or part of it is hidden from the tax authorities) and other from the fiscal aspect. The Tax Administration does not have the data on the share of informal economy in the total GDP of the country. According to the World Bank (as stated by the Socioeconomic Council of the Republic of Serbia), in late 2008 the share of grey economy in Serbia’s GDP was 33.6%, increasing in the period of global crisis (for comparison, it is stated that the share of grey economy in GDP (the average in the EU states) was 15.7% before the outbreak of the global crisis, while the studies conducted in mid-2010 showed an increase in this rate to 20%).

Informal economy in the Republic of Serbia may be viewed as business activity of illegal businesses, undeclared work (employees who work illegally in registered and unregistered businesses, money laundering and financial fraud (illegal transactions, tax evasion, etc.).

The causes of informal economy are primarily corruption and related inefficiency of public administration, high tax burdens, insufficient inspection (tax inspection, labour inspection and market inspection), lenient penalties, low risk relative to expected reward, high unemployment, low wages and decreased standard of living.

Informal economy is present in many fields of economic activity: in construction industry, foreign trade and, in connection with this, defining specific selling prices in the black market, textile and footwear trade, trade in secondary raw materials, construction material production and trade, selling goods in the black market, cash flow outside the payment system, services, undeclared funds in foreign currency brought in or out of the country, violation of working hours and incomplete recording of income from agricultural production, with the consequence (and in many cases the goal) being tax evasion.

From the tax legislation aspect, the Tax Administration inspects the part of informal economy relating to irregular operation within registered business activities. In connection with this, the Tax Police plan and carry out the activities aimed at identifying the businesses whose business relationships point to the existence of organised financial crime, as well as their suppression.

Given the high share of informal economy in total GDP of the country, e.g. in the construction industry, foreign trade, textile and footwear trade, trade in secondary raw materials, construction material production and trade, selling goods in the black market, cash flow outside the payment system, services, undeclared funds in foreign currency brought in or out of the country, violation of working hours and incomplete recording of income from agricultural production, a significant part of the activities are carried out in cash and the consequence and goal of the abovementioned is tax evasion.

In addition to the abovementioned, a significant part of transactions in legal business activities in the Republic of Serbia is conducted in cash. According to the Rulebook on the Conditions and Payment in Cash in Dinars for Legal Entities and Individuals Engaged in Business Activity, legal entities and individuals engaged in business activity are allowed to pay in cash or withdraw cash in dinars from their accounts without any restriction, with the payment and withdrawals being made based on original documents submitted to the bank for inspection and certification. The only restriction on

## REPORT ON SYSTEM VULNERABILITY AT THE NATIONAL LEVEL

cash transactions relates to the amount over EUR 15,000, which is prescribed by Article 36 of the Law on the Prevention of Money Laundering and Terrorism Financing. The Tax Administration has no data on the extent of performance of business activities in cash.

According to the observations of the Tax Administration, cash transactions are conducted in significant amounts in the legal entities engaged in foreign trade, trade in secondary raw materials, purchase of agricultural products, construction industry, trade in textile goods, etc. A large portion of cash is thus withdrawn from legal cash flows and accompanied by tax evasion and serves for financing different forms of informal economic activities.

It goes without saying that informal businesses do not keep records or do not keep them in the prescribed manner precisely in order to obstruct detecting cash transactions and identifying the participants in them. The Tax Police filed many criminal reports in connection with illegal withdrawal of cash from accounts.

From the tax legislation aspect, the incentive for shifting from informal to formal economy certainly is the set 10% rate of the corporate income tax and the tax on personal income from self-employment, which is one of the lowest in the region. In addition, the Law on Corporate Income Tax and the Law on Personal Income Tax provide for incentives for the implementation of economic policy in terms of stimulating economic growth in the form of tax exemptions and tax credits, as well as incentives for investments in fixed assets and investments in underdeveloped areas.

However, the relatively high tax burden of 60% on net wages, the largest part of which are social security contributions, is certainly not an incentive.

Also from aspect of taxation, an incentive for the shift from informal to formal economy is the introduction of tax benefits for employing new staff and persons with disabilities, as prescribed by the Law on Personal Income Tax.

Non-tax charges, i.e. a large number of fees, permits, charges, licences etc. that the businesses in Serbia pay for encourage the shift from formal to informal economy. The problem with these levies is that it is never certain whether they will be increased or whether new levies will be introduced. If the non-tax charges were reduced, this would motivate a reverse process, i.e. the shift from informal to formal economy.

The adoption of the regulations by which the interest owed by taxpayers on overdue public revenue is written-off or reduced is certainly not an incentive and has a discouraging effect on the taxpayers who regularly pay their dues.

From the aspect of taxation, one of the incentives for the shift from informal to formal economy is the legal obligation of the Tax Administration to publish on a quarterly basis a notice on the amount of tax debt of all taxpayers, which the Tax Administration has been publishing since 01/01/2012.



# ANNEX 3 | MODULE 3

## BANKING SECTOR VULNERABILITY

### INTRODUCTION

#### FINANCIAL SECTOR

The financial sector of the Republic of Serbia consists of the banking sector, the securities sector, the insurance sector, the sector of providers of financial leasing services, the sector of voluntary pension funds and other sectors engaged in related activities.

At the end of 2011, the total assets of the financial sector were 90.3% of GDP of the Republic of Serbia.

The predominant part of the financial sector of Serbia consists of the banks that, according to the 2011 data, account for 92.4% of the amount of assets of the entire financial sector, while the remaining 7.6% relate to other financial institutions (the insurance sector, leasing companies and voluntary pension funds).

In addition to 32 banks, the financial sector of the Republic of Serbia currently consists of 28 insurance companies, 16 providers of financial leasing services and six voluntary pension fund management companies.

All of the financial sector entities are reporting entities under the Law on the Prevention of Money Laundering and Terrorism Financing, with clearly specified obligations of establishing and verifying the identity of their customers, as well as with other obligations pursuant to the regulations governing the anti-money laundering field.

The National Bank of Serbia, in accordance with its obligations arising from the Law on the Prevention of Money Laundering and Terrorism Financing, supervises the implementation of this Law by the banks, insurance companies, insurance brokerages, insurance agencies and insurance agents licensed to perform life insurance activities, voluntary pension fund management companies and providers of financial leasing services.

#### BANKING SECTOR

Thirty-two banks operate in the banking sector of Serbia.

The list of banks in Serbia, including the basic information on the banking sector, is enclosed in Annex I.

The banks in Serbia have a special place in the PML/TF system due to their importance in the financial system and the fact that they account for a large portion of the financial market.

A large number of customers and huge financial flows that create opportunities for hiding illegal transactions make the banking sector very attractive for money laundering. An additional factor that motivates criminals to use the banking sector for transferring illegally acquired funds is the possibility of transforming them into different products that banks offer to their customers.

The possibility of abusing the banking sector to transfer illegally acquired funds may undermine the confidence in the integrity of the national financial system and, through damaging its reputation, have a discouraging effect on legal business processes, thus slowing down the whole economic development.

The most important laws concerning the issues of money laundering and terrorism financing in the banking sector in Serbia are the Law on Banks (Official Gazette of RS, Nos. 107/2005 and 911/2010), Law on the Prevention of Money Laundering and Terrorism Financing (Official Gazette of RS, Nos. 20/2009, 72/2009 and 91/2010), the Law on Foreign Exchange Operations (Official Gazette of RS, Nos. 162/2006 and 31/2011) and the Law on Payment Operations (Official Gazette of RS, Nos. 3/2002, 5/2003 and Official Gazette of RS, Nos. 43/2004, 62/2006 and 31/2011), based on which a number of by-laws were adopted that regulate in more detail specific areas, especially important of which are the Decision on the Minimal Content of the "Know Your Customer" Procedure (Official Gazette of RS, No. 46/2009), as well as the Decision on Guidelines for Assessing Risks of Money Laundering and Terrorism Financing (Official Gazette of RS, Nos. 46/2009 and 104/2009).

The banks are reporting entities under the Law on the Prevention of Money Laundering and Terrorism Financing with a number of obligations in the process of assessing the risk of money laundering and terrorism financing, such as establishing and verifying the identity of their customers, including the identification of the beneficial owner, monitoring customers' operations, submitting the information, data and documents to the Administration for the Prevention of Money Laundering, preparing analysis of the risk of money laundering and ter-



## BANKING SECTOR VULNERABILITY

rorism financing, continuous education, training and advanced training of employees and other obligations, with the aim of reducing the possibility of them being abused for money laundering and terrorism financing.

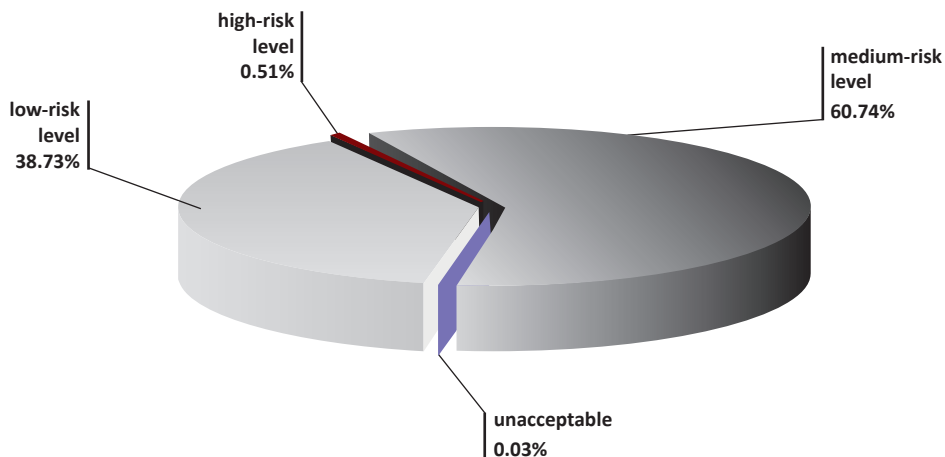
The banking sector of Serbia generally has a well-developed compliance function and risk management systems in place.

All banks classified their customers in accordance with the risk of money laundering and terrorism financing they carry (according to the data as of 30 June 2012, 99.93% of the total number of customers in the banking system were classified). The banks mostly classify their customers into three main categories of risk level (low, medium and high); however, in order to facilitate customer monitoring and full management of the risk of money laundering and terrorism financing, many banks classify their customers into more risk categories.

In addition to the fact that, in accordance with the Law on the Prevention of Money Laundering and Terrorism Financing, foreign officials are high-risk customers, the Guidelines for Assessing Risks of Money Laundering and Terrorism Financing specify what other customers may present an increased money laundering risk. Based on the generally ac-

cepted principles and their own experience, the banks may determine that other customer categories carry an increased risk as well.

Structure of customers in the banking sector classified according to the risk level as of June 2012



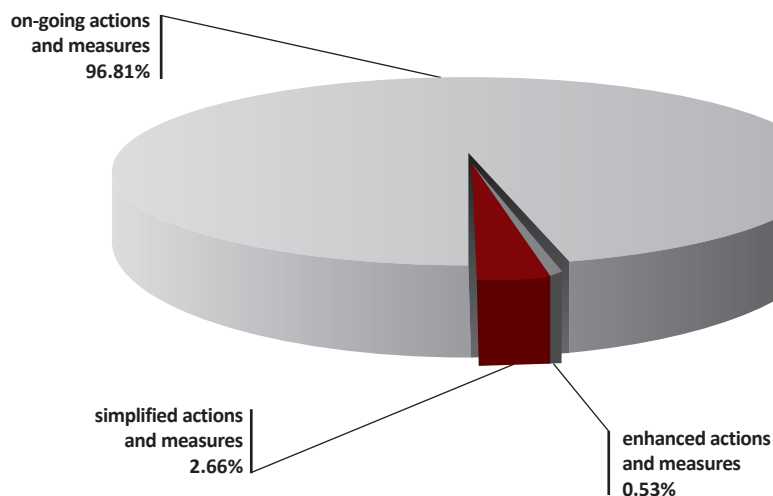
## BANKING SECTOR VULNERABILITY

The structure of customers in the banking sector according to the level of money laundering risk they carry shows that the banks classify most of their customers into the medium-risk category, that they are cautious about classifying them into the low-risk category and that a small number of their customers are classified into the high-risk category.

In accordance with their obligations arising from the Law on the Prevention of Money Laundering and Terrorism Financing and the risk level attributed to each customer, the banks are obliged to take on-going, simplified or enhanced customer due diligence actions and measures.

In practice, the banks started to apply the assessment of the risk of money laundering and terrorism financing and defined in their internal regulations what type of measures they take for particular customer categories.

**Structure of customers in the banking sector classified according to the customer due diligence actions and measures as of June 2012**



It can be concluded from the overview of the measures and actions taken by the banks towards their customers that the banks take on-going customer due diligence actions and measures for most of their customers and that they are cautious about taking simplified measures, since they still take on-going customer due diligence actions and measures instead of the simplified for most of their customers that they classified into the category of low money laundering risk.

### BANKING SECTOR VULNERABILITY

Many factors contribute to the vulnerability of the banking sector to money laundering. Some of them have a direct and some an indirect impact on the vulnerability. The importance and impact of an individual factor often depend on the presence or absence of other factors. This analysis of the vulnerability of the banking sector of the Republic of Serbia to money laundering reflects key factors, presented as variables, and their mutual relation. Each variable describes the situation in a specific field in Serbia. Two types of variables are dealt with, general input variables affecting the entire banking sector and special input variables specific to particular banking products.

**The overall assessment of the money laundering risk to which the banking sector of the Republic of Serbia is exposed is: medium-risk level** with a score of 0.43, considering that, for the purposes of the national assessment of the money laundering risk in the Republic of Serbia, this risk is expressed numerically on a scale from 0.00 to 1.00.

The banking sector is vulnerable to the money laundering risk primarily because of its size and importance in the entire financial sector, as well as because of a large number of its customers and of the transactions carried out on their behalf.

Regardless of their obligation of taking strict measures of establishing and verifying the identity of their customers, as well as monitoring their operations, banks must do business with numerous customers, some of whom may attempt to conceal the true identity and origin of the funds. On the other hand, banks are the most organised sector when it comes to the prevention of money laundering, having well-developed internal regulations governing this field.

Generally, the system of supervising the management of the ML/TF risk is well set up in banks. Further progress can be achieved through consistent inspection based on the assessment of the money laundering risk to which each bank is exposed.

With cash being used less and less, banks are still vulnerable to the possibility of being abused by criminals who hide the beneficial owners through complicated ownership structures, as well as through the increasing use of technological developments in the payment system (e-banking, card business and similar). This is why the procedures are still significant that regulate customer due diligence actions and measures, including the “Know

Your Customer” principle, as well as the on-going training of bank personnel to be able to recognise the situations related to suspicion of money laundering or terrorism financing.

The main areas in which the improvement is possible in order to reduce the vulnerability of the whole banking sector to the money laundering risk include further strengthening of use of the approach based on money laundering risk assessment, strengthening of the systems of internal and external audit of the business processes related to money laundering risk management, as well as further strengthening of corporate governance and compliance function in banks.

## GENERAL INPUT VARIABLES

### LAWS AND BY-LAWS ON THE PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING (PREVENTIVE MEASURES AND SUPERVISION)

This variable is used to assess whether the Republic of Serbia has adequately designed laws and by-laws concerning money laundering prevention measures and supervision, with the aim of minimising the money laundering risk.

When making the assessment, the adequacy of laws and by-laws related to the prevention of money laundering were taken into account, as well as their compliance with relevant international recommendations and standards (FATF Recommendations, Basel Principles for Effective Banking Supervision and Basel Customer Due Diligence Paper).

The degree to which the laws and by-laws on the prevention of money laundering are adequate and compliant with the international standards is rated as follows: "high" – 0.81-1.00, "medium/high" – 0.61-0.80, "medium" – 0.41-0.60, "medium/low" – 0.21-0.40 and "low" – 0.00-0.20.

**The score for the efficiency level of laws and by-laws in terms of money laundering prevention measures and supervision with the aim of preventing money laundering: 0.83**

The score indicates a high adequacy level of the laws and by-laws related to the prevention of money laundering in terms of their compliance with relevant international recommendations and standards, as well as in terms of their efficiency and supervision of their implementation.

#### The grounds for assigning the score:

The prevention of money laundering and terrorism financing in the banking system of the Republic of Serbia is governed by the Law on the Prevention of Money Laundering and Terrorism Financing, the Rulebook on the Methodology for the Performance of Activities in Accordance with the Law on the Prevention of Money Laundering and Terrorism Financing (Official Gazette of RS, Nos. 7/2010 and 41/2011), the Decision on the Minimal Content of the "Know Your Customer" Procedure and the Decision on Guidelines for Assessing Risks of Money Laundering and Terrorism Financing.

The risk level was assessed based on the estimated level of compliance of the regulations in the anti-money laundering field with the international recommendations and principles, as well as with the international standards of good practice.

**Are adequate laws and by-laws in force in the country, as well as are these laws and regulations: mostly compliant with FATF Recommendations 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 18, 19, 21, 22, 23 and 29, as well as with Special Recommendations IV and VII;**

Score: 0.80

The grounds for assigning this score are the assessments of the compliance of the regulations with the above FATF (Financial Action Task Force) Recommendations obtained from the MoneyVal Committee Evaluation Report of 08/12/2009, the assessments from the MoneyVal Committee Progress Report of 08/12/2010, as well as all improvements of the regulations governing the relevant issues, which were introduced after the adoption of these Reports.

In order to assess the compliance of the banking sector with the abovementioned FATF Recommendations, a tabular overview of the assessment of compliance with the MoneyVal Report recommendations applicable to the financial sector was prepared and presented in Annex II.

In determining the score in this part, an assessment was made as to what extent the identified non-compliance and the recommendations for addressing it relate to the banking sector and to what extent the non-compliance was addressed according to the Progress Report findings, also taking into account the experience and opinion of the supervisory authority based on the findings of on-site examinations of money laundering risk management and the inspection of payment operations in banks.

The MoneyVal 3rd Round Evaluation Report on the measures that the Republic of Serbia takes in the anti-money laundering field contains, in its part relating to the financial sector, 11 ratings of "largely compliant" and six ratings of "partially compliant". The Report on the progress that the Republic of Serbia made one year after the third evaluation round states that a number of additional measures were taken with regard to the recommendations given in the Third Round Evaluation Report, as follows: the Law Amending the Law on the Prevention of Money Laundering and Terrorism Financing was adopted; in cooperation with banks, the National Bank of Serbia and the Administration for the Pre-

vention of Money Laundering issued recommendations to the banks for reporting suspicious transactions; provisions on foreign officials were added to the Decision on Guidelines for Assessing Risks of Money Laundering and Terrorism Financing; the method of planning inspection in banks, as well as the methodology for taking measures against the banks were fully compliant with the risk-based approach; the questionnaire that is sent to banks regarding the measures they take in the field of the prevention of money laundering and terrorism financing was fully compliant with the risk-based approach.

**Are the laws and regulations mostly compliant with Basel Principles 1, 2, 3, 15, 17, 18, 20, 23 and 25;**

Score: 0.85

The grounds for assigning this score are the assessments of compliance with the Basel Core Principles for Effective Banking Supervision obtained based on the FSAP (Financial Sector Assessment Programme) Report on Core Principles of October 2009, as well as the FSAP Report for the Republic of Serbia of May 2010, which stated that the Republic of Serbia made noticeable progress in bringing its laws and regulations into compliance with the Basel Principles and the international standards.

**Are the laws and regulations mostly compliant with the Basel Customer Due Diligence Paper.**

Score: 0.85

The grounds for assigning this score are the assessments of compliance of regulations with the Basel Customer Due Diligence Paper, the assessments of fulfilment of the criteria of Recommendation 5 contained in the MoneyVal Committee Evaluation Report of 08/12/2009 and the Progress Report of 08/12/2010, as well as based on all improvements of the regulations governing the relevant issue.

In determining the final score, account was taken of the expert opinion of the supervisory authority based on the findings of on-site examinations of banks in the part relating to implementing customer due diligence measures.

In the MoneyVal Report, Recommendation 5 (Customer Due Diligence) was assessed as partly fulfilled due to certain deficiencies that mostly arose from the fact that the Law was new in the moment of evaluation, as well as the fact that, except in the case of banks, the customer due diligence measures were not fully applied to all financial institutions. The Progress Report stated that the

Securities and Exchange Commission issued an instruction for the application of the risk-based approach for the financial institutions that are under its supervision, while the amendments to the Law addressed the shortcoming regarding the duty of the reporting entity to consider, in the case of declining or terminating an already existing business relationship, whether there are grounds for suspicion of money laundering or terrorism financing, which caused increased awareness in the whole financial sector of the importance of applying customer due diligence measures, as well as the risk-based approach.

**THE QUALITY OF SUPERVISION REGARDING THE PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING**

This variable was used to assess whether Serbia has a comprehensive supervision regime regarding the prevention of money laundering that is supported by appropriate powers, personnel and other resources available to the supervisory authority.

The subject of assessment is whether there is in the Republic of Serbia a comprehensive structure of supervision of bank operation in the anti-money laundering field that has adequate resources and a high level of compliance with the requirements of the supervisory authority regarding money laundering risk management.

**The score of the quality and comprehensiveness of the bank operation supervision regime regarding the prevention of money laundering: 0.88**

The score indicates a high quality level of bank operation supervision regarding the prevention of money laundering, which significantly contributes to decreasing the vulnerability to money laundering in the banking sector.

Pursuant to the provisions of the Law on the Prevention of Money Laundering and Terrorism Financing, the National Bank of Serbia performs, inter alia, supervision of the implementation of this Law in banks.

**The supervisory body has adequate resources that ensure a high level of compliance with the provisions on the prevention of money laundering in the banking sector, which also includes a sufficient number of well-trained and highly professionally qualified inspectors.**

Score: 0.85

A special organisational unit (division) was formed

within the Banking Supervision Department in the National Bank of Serbia, which was entrusted, *inter alia* (in addition to payment operations supervision and the supervision of implementation of the provisions of the Law on the Protection of Financial Service Consumers), with the supervision of ML/TF risk management. The Division has a manager and 14 employees, all of whom have a university degree (school of law or economics). The employees engaged in inspection activities attend seminars in the Republic of Serbia and abroad and participate in the training and workshops organised by international, as well as local organisations.

The tasks of the Division are:

- a) on-site examination in banks,
- b) off-site monitoring of bank operation within the competence of the Division,
- c) participation in the preparation of draft laws and amendments to the existing regulations,
- d) participation in the preparation of the list of indicators for suspicious transaction identification,
- e) preparation of draft by-laws,
- f) definition of internal procedures,
- g) participation in working groups,
- h) cooperation with international and local bodies.

The number of local and international seminars attended by the Division staff is presented in Annex I.

**The supervisory body has a comprehensive programme of supervision regarding the prevention of money laundering consisting of regular off-site and on-site supervision;**

Score: 0.90

The supervision programme is based on off-site and on-site examination of banks.

The on-site examination of banks checks to what extent the banks implement the provisions of the Law, as well as by-laws and internal regulations in this field. The examination checks the manner of organisation and ML/TF risk management, adoption and implementation of internal regulations in this field, provision of regular internal control of the compliance with obligations arising from the Law, checking the implementation of the customer due diligence measures applying in the moment of establishing business relationships with a customer, as well as when carrying out transactions, submission of data and documents to the FIU<sup>19</sup> of the Republic of Serbia, whether the bank regularly organises professional education, training and ad-

vanced training of its employees, keeping records and preparing and implementing the indicators for suspicious transaction identification, etc. The on-site examination is carried out by teams consisting of one team leader and two to three members. The on-site examination itself is carried out based on the actions prescribed by the procedure and based on detailed instructions provided in the form of on-site examination manual.

The examination of the dinar and foreign exchange payment transactions is performed simultaneously with the on-site examination of ML/TF risk management.

The Division also conducts on-site supervision of the implementation of the provisions of the Law on the Protection of Financial Services Consumers. In addition, the Special Supervision Division conducts examination (supervision of the prevention of money laundering, payment operations examination, examination of loan granting, etc.) at the request of other government authorities (prosecutor's office, court, the police, etc.).

The Division conducts off-site supervision of the implementation of the Law in banks by delivering a questionnaire on the activity of banks regarding the prevention of money laundering and terrorism financing (hereinafter: the Questionnaire), which it delivers to the banks twice a year, after which an analysis of the banks' answers is made and published on the website of the National Bank of Serbia.

Based on the answers obtained, an assessment is made of bank exposure to the risk of money laundering and terrorism financing, based on which an annual (regular) supervision plan is made. Some indicators from the analysis of the Questionnaire may indicate an increased exposure to the risk of money laundering and terrorism financing and indicate the need for performing an extraordinary examination in the bank.

**Ethical suggestions of supervisors make a significant impact on the management bodies of banks and are sufficient to have a positive impact on the rules of conduct;**

Score: 0.90

In the event of identifying irregularities in the regular bank operation in this field, the employees performing the on-site examination point out these irregularities to the relevant bank staff. After the completion of the on-site examination, a final meeting is organised at the bank, which is

<sup>19</sup> Financial Intelligence Unit (the Administration for the Prevention of Money Laundering within the Ministry of Finance and Economy)

## BANKING SECTOR VULNERABILITY

attended by the top management representatives, and all observed irregularities are discussed at that meeting, as well as the method of addressing these irregularities and improving the ML/TF risk management. In addition to this, a great impact on the bank management bodies comes from the annual meetings organised by the Association of Banks, at which the method of risk management improvement, the observed deficiencies from on-site and off-site examinations and similar are discussed, as well as other seminars and meetings with the representatives of banks and the representatives of the Administration for the Prevention of Money Laundering.

**The supervisory body has strong and effective executive powers by which it may impose operation in accordance with the anti-money laundering regulations;**

Score: 1.00

In accordance with the powers referred to in Articles 82 and 84 paragraph 1 of the Law, the National Bank of Serbia conducts supervision and takes measures against banks (files charges for economic offence against the bank and the responsible persons in the bank) and, based on Articles 102–104 of the Law on Banks, takes corrective measures against the bank in the form of an act ordering that the irregularities be addressed, and may also impose a fine on the bank, as well as on the responsible person in the bank.

**The facts indicate that the supervisory body acts efficiently and impartially when taking actions within the supervision scope;**

Score: 0.85

The inspections of money laundering risk management are carried out in accordance with the annual plan adopted based on the assessment of exposure to this risk, separately for each bank, while making sure that the banks assessed as high-risk are examined at least once in two years. The inspection is always carried out in a uniform manner according to the actions stipulated by the procedure and the supervision manual. All examiners are signatories to the Code of Ethical Standards of Banking Supervision, which regulates the principles that must be adhered to by the employees of the National Bank of Serbia in charge of banking supervision activities.

Supervision statistics – the number of examinations and their main findings (CDD – irregularities relating to customer due diligence; BO – irregularities relating to customer and owner identification;

submitting reports to the FIU – Administration for the Prevention of Money Laundering on cash transactions and suspicious transactions) – is given in the Table below.

## BANKING SECTOR VULNERABILITY

| Category     | Number of off-site AML <sup>20</sup> examinations * |      |      | Number of on-site AML examinations |                                    |                                   | Number of banks where the following irregularities were identified |  |   | Number of banks to which a measure was issued for the AML irregularities identified |      |      | Dinar amount of fines imposed for AML irregularities |         |            |
|--------------|---|------|------|------------------------------------|------------------------------------|-----------------------------------|--|--|---|---|------|------|--|---------|------------|
|              | 2009  | 2010 | 2011 | 2009                               | 2010                               | 2011                              | 2009   | 2010   | 2011  | 2009  | 2010 | 2011 | 2009   | 2010    | 2011       |
| <i>Banks</i> | 68  | 67   | 66   | 13**+<br>6<br>follow-up monitoring | 15**+<br>5<br>follow-up monitoring | 7**+<br>9<br>follow-up monitoring | CDD - 15<br>BO - 5<br>report submitted to FIU - 8                  | CDD - 6<br>BO - 3<br>report submitted to FIU - 3 | CDD - 10<br>BO - 4<br>report submitted to FIU - 2 | 16  | 9    | 37   | 27.433.949   | 320.000 | 37.500.000 |

\* The AML Questionnaire was delivered to all banks twice a year

\*\* targeted AML examination + comprehensive examination

**Note:** In the abovementioned period, the 33 banks that existed in total as of 31/12/2011 were the subject of PML/TF inspection at least once.

After carrying out the examination, examination reports are prepared, corrective measures are issued in order to address the identified irregularities and other measures stipulated by the regulations are taken. After the first round of on-site examinations, when the banks were imposed fines in addition to a corrective measure in accordance with the Law on Banks, an improvement was observed in the method of money laundering risk management and the number of irregularities decreased.

**The enforcement measures of supervisory body, such as fines, administrative proceedings and bank licence withdrawal are sufficient to have a positive impact on the conduct of bank management bodies and employees.**

Score: 0.80

The National Bank of Serbia has at its disposal a number of corrective measures against banks, as well as a possibility of imposing measures against responsible persons in banks.

Articles 82 and 84 of the Law stipulate that the supervision of the implementation of this Law in banks is conducted by the National Bank of Serbia, as well as that it is obliged to take the following actions when it finds irregularities or illegalities in the implementation of this Law:

- **require that the irregularities and deficiencies be addressed within the time limit set by it**, which practically means taking corrective measures against the bank that order the bank to take measures within the specified time limit in order to address the irregularities stated in the report;
- **submit a request to the competent authority to initiate appropriate proceedings**, which in the specific case means filing a report for economic offence with the competent prosecutor's office;
- **take other measures and actions for which it is authorised by the law**, such as a possible imposition of fines on the bank, as well as on the responsible person in the bank, **in accordance with the powers arising from the Law on Banks.**

### MARKET PRESSURE TOWARDS ADHERENCE TO THE AML STANDARDS

This variable is used to assess whether the market factors exert pressure on bank management structures to adhere to the standards regarding the prevention of money laundering. It is used to consider the pressures existing outside the national legal and supervisory regime, e.g. the pressures originating from commercial partners, such as correspondent banks.

<sup>20</sup> AML (anti-money laundering) – in terms of the anti-money laundering provisions



## BANKING SECTOR VULNERABILITY

The score of market pressure: 0.80, which indicates a medium/high level of pressure that market factors exert on bank management structures to adhere to the AML standards.

### **The grounds for assigning the score:**

The banks in Serbia establish nostro correspondent relations mostly with first-class international banks. Foreign banks open vostro correspondent accounts in domestic banks mostly within the same bank groups or from the neighbouring countries.

The management staff in banks mostly monitor money laundering-related risks with the aim of avoiding possible reputational, legal and other risks.

Pursuant to the provisions of the Law, when establishing vostro correspondent relations with a bank or other similar institution with the head office in a foreign country that is not on the list of the countries that apply the international anti-money laundering standards that are at the level of the European Union standards or higher, the bank is obliged to take enhanced operating and customer due diligence measures by obtaining the prescribed data, information and documents. In addition to the above, the Law regulates that the bank must not establish or continue a vostro correspondent relation with a bank or other similar institution with the head office in a foreign country (any foreign country regardless of the application of standards) until it has previously obtained the prescribed data and documents.

In the process of ML/TF risk management supervision, the National Bank of Serbia checks internal bank regulations in this area, as well as the documents relating to the established correspondent relations.

**The banks have cross-border correspondent relations that they consider important but due to which they have to adhere to the international AML standards in order to maintain such relations;**

Score: 0.80

Foreign payment transactions are conducted through correspondent banks, mostly from the EU member countries, or through other first-class international banks, as well as banks from the neighbouring countries.

Taking into account FATF Recommendation 7, which governs correspondent relation due diligence measures, the banks from the EU countries require the fulfilment of the prescribed measures to establish or continue their business relationship with a bank from the Republic of Serbia. When establishing business

relationships with a bank or other similar institution with the head office in a foreign country that is not on the list of the countries that apply the international standards in the PML/TF field that are at the level of the EU standards or higher, the bank is obliged to obtain additional data, information and documents as follows: operating licence, description of procedures relating to the prevention of money laundering and terrorism financing, statement that it is not a shell bank and that it does not do business with such banks, supervision statement, etc.

**The bank management bodies respond to the international and local risks related to the prevention of money laundering that affect the reputation of the banks.**

Score: 0.80

The management bodies respond significantly to the international and local risks of money laundering and terrorism financing, monitoring for this purpose the developments in the international financial markets, especially in the neighbouring countries and in the domicile countries of bank groups operating in the local market.

The National Bank of Serbia monitors the developments in the international bank groups due to the fact, inter alia, that it supervises the operation of the local member banks of these groups.

### **COMMITMENT TO GOOD CORPORATE GOVERNANCE**

This variable is used to assess whether the bank management is committed to a high level of corporate governance in its bank. An effective corporate governance practice promotes a high level of compliance with the international standards, as well as national laws and by-laws and is necessary to achieve and maintain the public confidence in the financial sector.

The starting point for the assessment of this parameter was the definition of corporate governance by the Organisation for Economic Cooperation and Development (OECD), according to which corporate governance consists of "a set of relationships between a company's management, its board, shareholders and other stakeholders". Since the banks differ in size, market share, business network size, deposit structure and other criteria, bank governance must also be organised in accordance with these criteria.

**The score of commitment to good corporate governance: 0.66,**

which indicates a medium/high level of commitment to good corporate governance.

### **The grounds for assigning the score:**

Local legislation provides a good framework for successful bank corporate governance, but there is room for its further improvement through raising the awareness of management structures of the importance of activities relating to the prevention of money laundering, especially at the level of internal and external audit of these business processes in banks.

In the absence of specific statistical data, in considering corporate governance in banks, account was taken of the experience of supervisors acquired in on-site examinations, particularly with regard to operational risks, since the banks are required to identify and assess the events and sources that could lead to losses relating to operational risk, as well as taking into account all important internal and external factors. The officers in charge of operational risk management are required to supervise risk exposure and to report regularly to the bank management.

### **The management staff are committed to high ethical standards and corporate social responsibility values;**

Score: 0.70

A Code of Professional Banking Conduct was adopted by the Association of Banks of the Republic of Serbia in February 2007, which defines general ethical principles and norms of professional banking conduct relating to bank employees and their business relationships with customers.

There are also “detailed requirements for giving prior consent to the appointment of members of the Executive Board and the Board of Directors”, which are included in the Decision on the Implementation of the Provisions of the Law on Banks Relating to Granting Preliminary Approval to Bank Establishment, Bank Operating Licence and Certain Consents of the National Bank of Serbia, as well as to Setting the Criteria for Determining First-Class Banks (Official Gazette of RS, No. 43/2011) – hereinafter: Decision on the Implementation of the Provisions of the Law on Banks.

**Bank managements promote a high level of corporate governance standards in communication with bank officers and corporates and adhere to a great extent to the instructions of the Basel Committee on Banking Supervision presented in the document entitled Enhancing Corporate Governance for Banking Organisations, which means that:**

**The members of the Board of Directors are qualified for their positions, clearly understand their**

**role in corporate governance and are capable of perceiving the bank business correctly. The Board of Directors approves and supervises the bank’s strategic goals, as well as the corporate values that are transmitted horizontally throughout the commercial bank.**

Score: 0.70

When it comes to members of the Board of Directors and the Executive Board, the Law on Banks contains general wording that they must have “good business reputation and appropriate qualifications” (Article 71 of the Law on Banks), while the details of these standards are prescribed by the by-laws of the National Bank of Serbia – the Decision on the Implementation of the Provisions of the Law on Banks Relating to Granting Preliminary Approval to Bank Establishment and Bank Operating Licence, as well as certain provisions relating to giving consents of the National Bank of Serbia.

**The Board of Directors defines and implements clear duties and responsibilities throughout the business system.**

Score: 0.70

Item 9 of the Decision on Bank Risk Management (Official Gazette of RS, No. 45/2011) prescribes that the bank must establish such an internal control, organisation and organisational structure by which risk management activities (middle office) and support activities (back office) will be functionally and organisationally separated from risk taking (front office), with a clearly defined division of the tasks and duties of employees.

The division of the tasks and duties of employees is clearly defined if the following conditions are met:

- that the tasks and duties of employees may unambiguously be identified from the internal bank regulations governing the organisation of its operation;
- that the employees are familiarised with their tasks and duties;
- that the decision making and implementing process is documented.

In the process of strengthening corporate governance, the banks should clearly specify by their internal regulations the method of money laundering risk management organisation, with a clear division of the powers and duties of individual organisational units in this process, including the powers and responsibilities of the top management.

**The Board of Directors takes care that there is appropriate supervision by senior management bodies that is in accordance with the policy of the Board of Directors.**

Score: 0.70

Article 73 of the Law on Banks prescribes, inter alia, that the Board of Directors:

- supervises the work of the bank's Executive Board;
- approves the internal audit programme and plan of the bank;
- establishes the internal control system;
- defines the risk management strategy and policies, as well as the bank capital management strategy;
- considers the internal and external audit reports;

Raising the awareness of the management structures of the importance of the prevention of money laundering should, inter alia, lead to an increased involvement of the BoD in the policy and strategy of money laundering risk management.

**The Board of Directors and the senior management effectively use the internal and external audit functions, as well as the internal control functions.**

Score: 0.30

Items 15) and 16) of the Decision on Bank Risk Management specify that the internal control system is a set of processes and procedures set up for the purpose of adequate risk control, monitoring the operating effectiveness and efficiency, reliability of financial and other data and information of the bank, as well as their compliance with the regulations, internal regulations and business standards, whose aim is to secure the safety and stability of the bank's operation.

The internal control system of the bank includes:

- relevant control activities conducted by the bank's Executive Board, the persons responsible for risk management and bank employees;
- regular assessment of the activities, reliability and efficiency of the risk management system, carried out by the internal audit department.

The internal control system of the bank ensures timely informing of the bank's organisational units and the persons responsible for risk management of the deficiencies observed, the implementation of the measures by which these deficiencies will be addressed, as well as potential changes in the risk management system when necessary.

The bank is obliged to ensure that the internal controls are an integral part of all daily activities of its employees, as well as that the employees, in accordance with good business practice and professional ethical standards, understand the purpose and importance of these controls, as well as their own contribution to the effective implementation of these controls.

By its internal control system, the bank is obliged to establish, where applicable, the controls that restrict the access to the bank's tangible assets and ensure the safety of these assets. These controls include different methods of restricting the access to the bank's tangible assets (e.g. multiple checks or joint checks of several persons) as well as periodic inventory of these assets.

All banks use the information of internal and external audit and internal control for the purpose of better ML/TF risk management, but the results of on-site examinations conducted by the supervisory authority show that this information is not fully used and that its use could be significantly more effective. Further efforts are therefore necessary to make money laundering risk management a continuous subject of interest of internal audit in banks, as well as to ensure a reduction of this risk to the lowest level possible through substantial cooperation of the internal audit department with the Board of Directors and executive bodies of the bank.

Pursuant to the local regulations governing the PML/TF field, banks have no obligation of engaging an external auditor for this type of activities, but some banks that are members of international bank groups have this obligation as part of the rules of their bank group.

**The Board of Directors ensures that the wage policy is in line with the bank's corporate culture, long-term goals and strategy, as well as the control environment.**

Score: 0.70

Item 12) of the Decision on Bank Risk Management prescribes that the bank is obliged to define an adequate policy of wages and other benefits of bank employees.

This policy is adequate if it is based on the implementation of bank business policy and strategy, as well as the risk management strategy and policies and if it promotes reasonable and prudent risk taking.

The policy of wages and other benefits promotes reasonable and prudent risk taking if it takes into

account all types of risks to which the bank is exposed or may be exposed based on particular activities, and the employee remuneration and bonus system is:

- based on the achievement of business goals and symmetric, i.e. the total fund for bonuses and remunerations is determined in accordance with the degree of achievement of business goals (which also includes a significant reduction or termination of this fund or a part of the fund relating to certain employees in the case of failure to achieve the business goals in accordance with the plan) and
- harmonised with the period to which the risk relates, i.e. the remuneration schedule corresponds to this period.

These provisions apply accordingly to the determination of remuneration to members of the Board of Directors and the Executive Board of the bank.

### **The bank is managed in a transparent manner.**

Score: 0.70

Item 10) of the Decision on Bank Risk Management prescribes that the bank is obliged to enable adequate communication, information exchange and cooperation at all organisational levels for the purpose of implementing its business policy and strategy, as well as its risk management strategy and policies.

Although the Law provides for direct communication between the bank's Executive Board and the persons authorised for anti-money laundering activities, it is necessary to strengthen further this communication, as well as the communication and information exchange between different organisational units of the bank, with the aim of more efficient management of money laundering risk.

**The Board of Directors and the senior management understand the bank's operating structure, including when the bank operates in the countries or through certain structures where the transparency is reduced (i.e. understands the Know Your Structure policy).**

Score: 0.70

The Law on Banks and the by-laws adopted based on it represent the framework of corporate governance in banks through the provisions relating to the bank organisational structure and management, the functions of the Board of Directors and the Executive Board and the developed mechanisms of internal control, risk management and

increased transparency of operation. The Law on Banks also contains detailed provisions on the competences of the Board of Directors and the Executive Board of the bank.

The entire system of risk management in the banking sector should also include money laundering risk management through an adequate organisational structure, lines of decision making and responsibility to the full extent. Greater cooperation is necessary between different organisational units in banks in order to ensure minimum exposure to the country risk and money laundering risk.

### **PENALTIES**

This variable is used to assess whether the Republic of Serbia has appropriate sanctions in the case of non-compliance with the provisions of the anti-money laundering regulations as a preventive measure of dissuasion from violating the obligations arising from these regulations.

### **The score of penal measures: 0.60,**

which indicates a medium level of appropriate criminal sanctions for non-compliance with the provisions of the anti-money laundering law and by-laws.

### **The grounds for assigning the score:**

There is a clear penal policy in the Republic of Serbia for offences related to money laundering and terrorism financing, but its efficiency is brought into question by frequently slow court proceedings.

**There are well-designed penalties for non-compliance with the anti-money laundering obligations, as well as for criminal offences related to money laundering such as corruption (of bank officers by money launderers) and collusion (between bank officers and money launderers).**

Score: 0.50

The Law on the Prevention of Money Laundering and Terrorism Financing stipulates that any non-compliance with its provisions is an economic offence of the bank. Pursuant to the provisions of this Law, the National Bank of Serbia, as the supervisory authority for banks, files a report for economic offence to the competent prosecutor's office in addition to sending a request to the bank to address the irregularities and deficiencies found by the inspection. The fines are set in relevant court proceedings and range from RSD 50,000 to RSD 3,000,000 depending on the seriousness of the offence committed. The fine may be imposed not only on the bank, but also on the responsible persons in the bank.

## BANKING SECTOR VULNERABILITY

Pursuant to the provisions of the Criminal Code of the Republic of Serbia, both money laundering and terrorism financing are criminal offences. The penalty for the criminal offence of money laundering and the offences related to money laundering such as corruption (of bank officers by money launderers) and collusion (between bank officers and money launderers) is regulated by the Criminal Code.

In determining the score in this segment, account was taken of the fact that, despite well-designed penalties, penal proceedings take a long time, which reduces the impact on the perpetrator.

**The banking sector employees think that the criminal sanction regime is sufficiently severe to have a positive impact on the behavioural patterns of individuals.**

Score: 0.70

Based on the study conducted for the purpose of preparing the National Risk Assessment, a large majority of the banking sector employees think that the regime of criminal sanctions for non-compliance with the prescribed obligations regarding the prevention of money laundering, as well as for criminal offences related to money laundering such as corruption and collusion (between bank officers and money launderers) is sufficiently severe to have a positive impact on the behavioural patterns of individuals.

Further training of bank officers is necessary to make them capable of recognising the situations related to possible corruption.

### FULFILMENT OF OBLIGATIONS ARISING FROM THE ANTI-MONEY LAUNDERING REGULATIONS

This variable is used to assess whether Serbia takes criminal enforcement actions against banks or individuals from bank management and personnel in the case of non-compliance with the obligations arising from the anti-money laundering regulations.

**The score of the fulfilment of obligations arising from the anti-money laundering regulations: 0.70**, which indicates a medium/high level of fulfilment of these obligations.

#### The grounds for assigning the score:

There is a high awareness in banks of the sanctions in the case of non-compliance with the anti-money laundering regulations, but there are no specific records of the actions and measures taken against

bank managers and officers related to the violation of obligations regarding the prevention of money laundering.

**Most of the banking sector employees believe that criminal proceedings (criminal sanctions) will be initiated against them in the case of non-compliance with the obligations prescribed by the Law on the Prevention of Money Laundering and Terrorism Financing;**

Score: 0.80

The Law on the Prevention of Money Laundering and Terrorism Financing stipulates that non-compliance with its provisions represents economic offence of the bank and the responsible person in the bank.

The analysis of the Questionnaire on bank activities in the PML/TF field, which is carried out as part of off-site examination of banks in this field, shows that the bank employees are aware of the consequences of non-compliance with the law, procedures and examination findings, as well as that the non-compliance with the provisions of the law entails corresponding legal liability. In addition, in the process of on-site examination, it is checked whether the training includes this segment as well.

**There are records of the actions taken by the authorities competent for enforcing the provisions of the Law, of the initiated proceedings and convictions in the case of non-compliance with the obligations prescribed by the Law on the Prevention of Money Laundering and Terrorism Financing.**

Score: 0.60

The competent government authorities, each within its respective area of competence, keep records of initiated proceedings and issued first-instance and final judgments relating to the anti-money laundering field. The authorities competent for enforcing the provisions of the Law have all powers to initiate appropriate proceedings, including criminal proceedings, against the bank, as well as against its management and personnel.

The records of initiated proceedings, first-instance judgments and final judgments relating to the anti-money laundering field exist, inter alia, in the Administration for the Prevention of Money Laundering (FIU). One of the main deficiencies in this field is the lack of uniform record keeping method, as well as the lack of networked records.

### INTEGRITY OF BANK OFFICERS

This variable is used to assess whether bank officers act with integrity. If the bank officers are in collusion with criminals or under the influence of corruption, they undermine the inspections regarding the prevention of money laundering, so the banks become vulnerable to the money laundering risk. When assigning the score regarding the integrity of bank officers, account was taken of the general perception of corruption level in the society, the reports of international organisations, as well as the statements of banks about the frequency of proceedings due to the deficiencies with respect to the integrity of their officers.

**The score of the integrity of bank officers: 0.80**, which indicates a medium/high level of integrity relating to the actions of bank officers in the case of detecting a money laundering attempt.

#### The grounds for assigning the score:

As part of the study conducted for the purpose of preparing the National Risk Assessment, the banks generally stated that their managers and other employees are not susceptible to corruption, but the general perception of the public in Serbia is such that the corruption level in all social spheres is considered to be still high, which is largely confirmed by the opinions of relevant international organisations and local non-governmental organisations. In addition to the views of the banks that their personnel are not susceptible to corruption, when assessing the integrity of bank officers regarding possible corruption, account was also taken of the number of embezzlement cases among the bank personnel and the proceedings conducted by the banks in this regard.

**The banks generally think that their personnel are not susceptible to corruption by criminals;**

Score: 0.80

The analysis of the answers from the Questionnaire delivered to banks shows that the banks generally think that their employees are not susceptible to corruption.

However, account was also taken of the general perception of corruption level in Serbia, the fact that corruption represents one of the usual predicate criminal offences related, inter alia, with money laundering, as well as the opinion and reports of relevant international organisations and local non-governmental organisations.

**The frequency of cases regarding the lack of integrity (e.g. theft, fraud) involving bank officers.**

Score: 0.80

The banks generally have the programmes of employee integrity checks. The cases of embezzlement, theft and similar by bank officers exist, but are not significant. Twenty-two banks have stated that they conducted disciplinary proceedings against their officers for minor violations in the last two years, while 11 banks have had no such cases.

### KNOWLEDGE OF BANK OFFICERS

This variable is used to assess whether the bank officers have understanding of their obligations and duties regarding the prevention of money laundering. When assessing the knowledge of the bank officers, account was taken of the quality of training material, training frequency and level, as well as the type of personnel receiving the training.

**The score of the knowledge of bank officers regarding the prevention of money laundering: 0.80**, which indicates a medium/high level of knowledge of the bank officers regarding the understanding of obligations and duties in the anti-money laundering field.

#### The grounds for assigning the score:

The findings of off-site and on-site examination of banks confirm that the bank officers have a high level of understanding of their obligations and duties in the anti-money laundering field and quality training conducted in connection with this. However, the fact that irregularities related to money laundering risk management are found in the process of on-site examinations of the prevention of money laundering indicates the need for further, continuous training of bank officers.

**There are adequate programmes and materials for training in the anti-money laundering field for bank officers. The training programmes are designed to ensure that all officers in need for training do in fact get trained;**

Score: 0.80

Article 43 paragraph 3 of the Law defines the obligation of banks to prepare a programme of annual professional education, training and advanced training of their employees in the anti-money laundering field. The on-site examination included checking the training frequency, inspecting the lists of employees who attended the training, the method of checking the employees' knowledge, as well as the content of the training programme. No irregularities related to training were found in the examinations conducted in the last few years. In



In addition to this, the standard Questionnaire delivered to the banks twice a year contains a chapter relating to employee training, from whose answers it may be concluded that the banks have adequate programmes and materials for training in the anti-money laundering field for bank officers. However, the number of irregularities found in the process of on-site examination, as well as the fact that a good portion of irregularities and deficiencies are still related to inadequate identification of customers and monitoring of their transactions indicate that there is still room for further training and advanced training of bank employees.

**All officers are required to attend refresher trainings so that their knowledge of anti-money laundering laws, policy and procedures remains up-to-date;**

Score: 0.85

All banks provided by their internal regulations for the refreshment of their employees' knowledge of anti-money laundering laws, policies and procedures through periodic repetition of training. The training of bank employees is conducted in accordance with the annual bank employee training programmes. The training in most banks is conducted at least once a year or more frequently, if needed.

The annual employee training plan and the method of implementing this plan are checked during the on-site examinations. There were irregularities at the very start of inspecting the performance of anti-money laundering activities. In time, the banks improved the programmes of training their personnel, primarily by introducing modern training methods (e.g. online training, etc.).

**The bank officers are regularly informed about new money laundering schemes and typologies.**

Score: 0.70

The Administration for the Prevention of Money Laundering regularly publishes the information about new money laundering schemes and typologies on its official site. For the purpose of raising the general awareness in reporting entities of the importance of the prevention of money laundering and due to the need for education and improvement of the operating efficiency of reporting entities, the Administration for the Prevention of Money Laundering, in cooperation with the OSCE Mission to Serbia, developed and published the typologies of money laundering in Serbia. The typologies contain the summary of the most typical methods of money laundering in Serbia with explanations of the money laundering concept in a

popular and informative way. However, the typologies are not binding and any interested person may freely access the website of the Administration for the Prevention of Money Laundering to get informed about them, and since they have been published recently, their effectiveness has yet to be confirmed.

### COMPLIANCE FUNCTIONS

This variable was used to assess whether the banks had an effective function of compliance with the anti-money laundering regulations that enabled a high level of compliance with the standards in the whole banking sector. It was also considered whether the function of compliance with the anti-money laundering regulations reflected the relevant international principles and recommendations.

**The score of the extent to which the banks have effective functions of compliance with the anti-money laundering regulations: 0.60.**

#### The grounds for assigning the score:

There is a relatively high level of compliance of the banking sector with local regulations and international recommendations in this field, but there is room for improvement, particularly regarding internal and external audit of these activities in banks, as well as further strengthening of position of the units responsible for the prevention of money laundering in the banks.

**Most of the banks appointed an independent officer responsible for the prevention of money laundering, who is a senior manager and has sufficient resources available;**

Score: 0.60

All of the banks appointed a compliance officer for the performance of activities in the anti-money laundering field and his/her deputy pursuant to their obligations arising from the Law. In most banks, the compliance officer is not a senior manager, but mostly a person employed within the unit in which the actions and measures prescribed by the Law are taken. Since these organisational units of banks are considered to be unprofitable, the resources they have at their disposal could be higher.

**Most of the banks have a programme of compliance with anti-money laundering regulations that is in accordance with the international standards, including FATF Recommendation 15;**

Score: 0.70

All of the banks have developed policies, procedures, instructions and other internal documents

by which they regulate the PML/TF field. The Decision on the Minimal Content of the “Know Your Customer” Procedure prescribes the obligation of banks to prepare this procedure, as well as its content. Article 44 of the Law prescribes the obligation of regular internal control of the performance of activities on the prevention and detection of money laundering. The Decision on the Method and Conditions of Identifying and Monitoring Bank Compliance Risk and Managing This Risk prescribes that the bank compliance risk also arises as a consequence of non-compliance of bank operation with the anti-money laundering procedures (Item 2). The same regulation also prescribes the obligation of preparing a bank compliance monitoring programme and, in accordance with it, identification and assessment of bank compliance risk (Items 7 and 8). The Decision on Bank Risk Management prescribes the obligation of establishing an efficient process of managing risks including, inter alia, the bank compliance risk.

In the process of on-site examination, examination is primarily conducted of internal documents in terms of their compliance with the regulations, their mutual harmonisation, as well as whether they are sufficiently clear, precise and unambiguous, as well as applicable.

The MoneyVal Report on the measures taken by Serbia in the anti-money laundering field, in the part relating to the effectiveness of the compliance function (FATF Recommendation 15), contains a “partially compliant” rating, but the found irregularities do not relate to the banking sector.

The number of irregularities found in the on-site examinations of money laundering risk management indicates a further need for strengthening the programmes of compliance with the anti-money laundering regulations, as well as their implementation by bank officers.

### **Most of the banks perform internal and/or external audits of the prevention of money laundering;**

Score: 0.50

The Law on Banks (Articles 82 to 87) regulates internal control, bank compliance function and internal audit function. Article 44 of the Law on the Prevention of Money Laundering and Terrorism Financing prescribed the obligation of banks to provide regular internal control of the performance of activities on the prevention and detection of money laundering and terrorism financing. The internal control system is prescribed by Items 15 and 16 of the Decision on Bank Risk Management.

The current regulations do not stipulate the obligation for the external auditor reports to contain a part relating to the anti-money laundering field, so the external auditor reports only contain this part in the case when the foreign bank that is the founder of the local bank requests so in accordance with its procedures.

In the period under observation, 28 banks conducted an internal inspection of the activities related to the prevention of money laundering. Irregularities were observed in 24 banks and all of them took measures to address them. Due to relatively limited resources in the organisational units engaged in PML/TF activities in the banks, the internal control in this field is not conducted in an adequate manner, taking into account the level of irregularities found in the inspection process.

In the process of on-site examination, a check of the internal control system is performed that includes a review of all available examination reports, as well as a check of the existence of adequate orders to address the irregularities found.

### **Banking systems for record keeping and monitoring regarding the prevention of money laundering;**

This variable is used to assess whether the banks have appropriate information systems for support to anti-money laundering policies and procedures.

**The score of the extent to which the banks have adequate information systems for record keeping and monitoring regarding the prevention of money laundering: 0.65**, which indicates a medium/high level of adequacy of bank information systems regarding the prevention of money laundering.

### **The grounds for assigning the score:**

There is no legal obligation for the banks to have special information systems for support to ML/TF risk management, but in practice all of the banks have at least some form of information support to these processes.

### **The banks have information systems that enable and facilitate customer transaction monitoring and comparing with their profile;**

Score: 0.60

Based on the answers obtained from the banks, as well as by direct insight during the process of on-site examination, it has been found that all of the banks have an information system that monitors cash transactions, while 22 (of 32) banks use an



information system that enables monitoring suspicious transactions (suspicion assessment based on the connection with the indicators for the identification of suspicious transactions). However, it has been found in the inspection process that the information systems do not provide sufficient support to the money laundering risk management process, taking into account that the banks mostly have no system access to customer profiles (using appropriate software) and automated customer categorisation and that they have underdeveloped software for analysing suspicious transactions according to customer risk level.

**The records of transactions are available in a format that enables supervision and monitoring regarding the prevention of money laundering;**

Score: 0.80

Based on the conducted inspections, it has been determined that all of the banks have records of their transactions. Regardless of the fact that the data available depend on the software installed, most of the banks have records in a format that enables supervision and monitoring regarding the prevention of money laundering.

**Such systems provide support to the banks in performing an effective screening with respect to foreign officials and international sanctions;**

Score: 0.60

The availability of data (list) on foreign officials is restricted to the banks that pay for these services, because this information is not available free of charge in the Republic of Serbia. The list of the persons and countries under international sanctions is publicly available on the website of the Administration for the Prevention of Money Laundering.

**Such systems assist the banks and bank officers to detect and report suspicious and unusual transactions.**

Score: 0.60

Based on direct insight during the inspection process, as well as based on the data submitted by the banks as part of the study conducted for the purposes of preparing the National Risk Assessment, 22 banks (of the 32 existing banks) have stated that they use an information system that enables monitoring suspicious transactions (suspicion assessment based on the connection with the indicators for the identification of suspicious transactions). However, few of the banks have a system for monitoring unusual transactions.

### IDENTIFICATION INFRASTRUCTURE

This variable is used to assess to what extent the banks are able to perform customer identification and identity verification using reliable, independent source documents, data or information. It is considered that the existence of good identification infrastructure contributes to preventing the use of counterfeit documents and false identities, which hinder the implementation of customer due diligence measures.

**The score of the extent to which the banks may rely on the national infrastructure in establishing and verifying the identity of their customers: 0.60.**

**The grounds for assigning the score:**

A significant step forward has been made in the identification of individuals by introducing biometric identity documents, while there is room for improvement in the case of identification of legal entities, primarily in the process of their registration and in the data collected during this process.

**It is deemed that the infrastructure for identification exists and that the information is available if the reporting entities in the anti-money laundering field can rely on the government infrastructure for identification, i.e. for customer identification and verification, e.g. on reliable and secure documents, data and information from governmental or private institutions.**

Score: 0.60

When it comes to individuals, the document reliability is high because the identification and verification of individuals in the Republic of Serbia is performed based on identity cards and passports. Considering that these are documents issued by government authorities (MoI) involving strict measures of protection against forgery (biometric documents), the reliability of personal identity documents is high.

In the case of obtaining documents on legal entities registered in the Republic of Serbia, the data on all legal entities registered in the territory of the RS are publicly available on the website of the Business Register Agency (BRA). However, the BRA performs registration of companies, entrepreneurs, associations, representative offices of foreign associations having their registered office in the territory of the Republic of Serbia, endowments and foundations, representative offices of foreign endowments and foundations, associations, societies and federations in the field of sports, without previously identifying their beneficial owners.

In addition to the above, there are records of credit borrowers in the Credit Bureau within the Association of Serbian Banks, where credit debt of the customer with another bank or leasing company may be established. No other data are publicly available, such as gas bills, phone bills, utility bills and similar.

### AVAILABILITY OF INDEPENDENT INFORMATION SOURCES

This variable is used to assess the availability of independent, reliable information sources in identifying customer transaction patterns. The customer due diligence measures are conducted more easily and better if there are available sources of comprehensive, reliable historical data and other data on customers that may be used in identifying their transaction patterns and commercial history, such as the data in the possession of credit bureaus, information on previous transactions with banks, availability of public company information and similar.

**The score of the availability of independent, reliable information sources: 0.30**

#### The grounds for assigning the score:

The data relating to individuals (credit bureau, etc.) are mostly available, but there is no register of individual current account holders, while the problem with legal entities is registration without prior identification of the beneficial owner, as well as the lack of historical data about the changes introduced on the website of the Business Register Agency.

**It is deemed that the independent sources are available if there are sources of comprehensive and reliable historical financial information and other customer information and if it is possible for reporting entities to have easy access to such sources.**

Score: 0.30

The following are available as customer information sources in the Republic of Serbia: – the data from the Business Register Agency, which keeps the data on the registration of companies, entrepreneurs, associations, representative offices of foreign associations with registered office in the territory of the Republic of Serbia, endowments and foundations, representative offices of foreign endowments and foundations, associations, societies and federations in the field of sports. Publicly available data are published on the Agency's website and may be accessed by all interested parties at any time. A shortcoming of this approach is that only the latest (current) data on the registered en-

tity are available, while the historical (previous) data are only available upon written request, which slows down the obtainment and verification of required data; – the data relating to holders of corporate accounts in the payment system (dinar and foreign currency accounts) registered in the Unified Register of Accounts in the National Bank of Serbia. The data are available on account number, TIN, registration number, account holder address and records of debtors under forced collection procedure with the amount of debt; – the data from the Credit Bureau within the Association of Serbian Banks, which keeps records of credit debt of individuals, available upon request; – *Forum Fraud* – a forum formed by banks where experience and knowledge are exchanged on abuse, corruption and fraud attempts in the banking sector.

No other sources of financial or historical data exist or are publicly available (e.g. bills paid to public enterprises and similar).

### TRANSPARENCY OF BUSINESSES AND TRUSTS

This variable is used to assess whether it is easy for criminals to hide their shares and ownership rights in legal entities, trusts and similar businesses. When considering the transparency of businesses, account was taken of the level of compliance with FATF Recommendation 30, which deals with resources and statistics.

**The score of economic entity transparency level: 0.60**, which indicates a medium transparency level.

#### The grounds for assigning the score:

The institution of trust does not exist in the legal system of Serbia but it may appear in the cases when foreign companies are founders of local legal entities.

**Legal entities that may be used for hiding the beneficial ownership are not generally available in the legal system of the country or are of minor commercial importance;**

Score: 0.70

The legal form that enables hiding the beneficial owner, such as trusts and similar, does not exist in the legal system of Serbia. In addition, the data on the identity of the beneficial owner are not available in the case when a foreign legal entity appears as the founder of a local legal entity, which hinders the identification of beneficial owners in local legal entities as well.

**Government authorities and institutions that are reporting entities of anti-money laundering regu-**

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## BANKING SECTOR VULNERABILITY

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**lators have open access to comprehensive information on the structure, management, control, stakes and beneficial ownership in legal entities, trusts and similar businesses.**

Score: 0.50

The banks do not have full access to comprehensive information on beneficial ownership, stakes, structure and control in legal entities and other businesses.

The registration of legal entities is performed with the Business Register Agency and these data are publicly available on its website.

Finding the data on beneficial owner is simple in the case when individuals are founders of local legal entities. However, a problem appears in the identification of beneficial owner in the case when the founder of a local legal entity is a legal entity, fund, trust and similar whose data are not publicly available to banks, and, instead, their collection is based on the documents provided by the customer.

# INPUT VARIABLES FOR SELECTED SPECIFIC PRODUCTS AND SERVICES:

VOLUME, INHERENT RISKS AND SPECIFIC CONTROLS

## BANKING PRODUCTS

This analysis includes the following products:

1. current accounts of legal entities (including entrepreneurs);
2. current accounts of individuals;
3. private banking;
4. deposit products for legal entities;
5. deposit products for individuals;
6. credit products for legal entities;
7. credit products for individuals;
8. electronic money transfer;
9. physical currency and bearer negotiable instruments;
10. asset and trust management services;
11. documentary operations;
12. correspondent accounts;
13. e-banking;
14. electronic low value money transfer (instant transfer).

## SPECIFIC INPUT VARIABLES FOR SPECIFIC PRODUCTS

While general input variables have a simultaneous impact on all banking products, the following five values have a specific impact on each respective product and make specific input variables, based on whose impact a distinction is made between the level of vulnerability to money laundering among individual banking products, and these are:

1. volume;
2. average transaction size;
3. customer profile;
4. other vulnerability characteristics;
5. existence of adequate, specific controls.

## PRODUCT VOLUME

Taking into account this criterion, an assessment was made of the probability for the volume of an individual product or service to be high in the banking sector of Serbia, which entails an increased money laundering risk if the relevant risks remain unmitigated. Since it is difficult to determine the actual number of transactions and their amounts related to individual products, the assessment was crucial as to whether a particular product is significantly present in the banking sector of Serbia or not.

The grounds for assigning this score of the product volume impact on the money laundering risk are the delivered answers of the banks to the Questionnaire, prepared for the purpose of conducting the National Assessment of the Money Laundering Risk in the Republic of Serbia, to the question relating to the share of individual products and services in the overall bank business activities.

In order to identify the share of individual products and services more easily, individual products were classified by customer type into individual and corporate categories and then the volume in current accounts, deposits and credit products was considered separately for individuals and for legal entities (including entrepreneurs).

In determining the final risk score, account was also taken of the findings of on-site examinations in terms of the connection of specific products with the irregularities identified, as well as of the professional opinion of the supervisory authority. The analysis showed that the volume of activities is the highest in current accounts of legal entities

and credit products for legal entities, followed by current accounts and loans of individuals, which indicates an increased risk of these products being used for money laundering. The share of wire transfers in the banking sector of Serbia also points to an increased risk of abuse for money laundering.

### **AVERAGE AMOUNT OF TRANSACTIONS FOR PRODUCTS**

The products and services with a very low average transaction amount are less attractive for money laundering, while, on the other hand, the small number of transactions when using a specific product or service that is characterised by large transaction amount may encourage "laundering" large amounts of illegally acquired assets. In order to estimate the average transaction amount characteristic for a particular banking product/service, the data obtained from banks in the form of answers delivered to the Questionnaire prepared for the purpose of the National Risk Assessment were collected and analysed.

Since it is hard to determine the actual average amounts of transactions, the estimate as to whether the average amounts of transactions for an individual product/service are high or low is given relative to the amount of average net wage in Serbia, which was RSD 37,976.00 (EUR 373) in 2011. In assigning the final risk score, account was also taken of the experience from on-site examinations. The grounds for assigning the score:

The grounds for assigning this score is the Questionnaire delivered to banks as part of the study conducted for the purpose of making the National Risk Assessment, as well as the experience of the supervisory authority from on-site examinations.

The analysis of assigned scores indicates that, as regards the average amount of transactions, the riskiest areas are loans to legal entities, followed by transactions performed through correspondent accounts. The increased risk level is also indicated by the average amount of transactions in current accounts of legal entities, loans to individuals and documentary operations. It is especially worth pointing out that the average amount of these transactions was affected, *inter alia*, by the economic recession and the decline in the purchasing power of the population.

### **THE PROFILE OF THE CUSTOMERS USING THE PRODUCT**

This variable is used to assess whether the customer type that uses some of the banking products and services increases the risk of their abuse for money

laundering. The customer profile is risky if the customer is: a foreign official, a person with high net assets, a customer with business interests in an offshore zone, tax and criminal havens or high-risk territories, a customer with a criminal record or a customer prone to tax evasion.

The Law on the Prevention of Money Laundering and Terrorism Financing prescribes an obligation of the bank to make an analysis of the ML/TF risk in accordance with the guidelines prescribed by the National Bank of Serbia. In addition to the above, the Law prescribes an obligation of the bank to take enhanced customer due diligence actions and measures for specific types of customers and business relationships, such as: foreign officials, vostro correspondent relations with a bank or other similar institution with the registered office in a foreign country that does not apply adequate standards in the anti-money laundering field and in establishing business relationships or performing a transaction when the customer is not physically present. In addition, the banks are obliged to implement enhanced actions and measures according to their own experience and practice whenever they find that the nature of the business relationship, the profile of a particular customer, the method of transaction performance and/or other circumstances carry a high level of money laundering risk.

The Guidelines for Assessing Risks of Money Laundering and Terrorism Financing issued by the National Bank of Serbia as the supervisory authority, specify the customers whose activities may indicate a higher money laundering risk. By their internal regulations and based on their own experience and generally accepted principles, the banks adopt additional measures for reducing customer and product risks, such as the prohibition of providing specific products and services to high-risk customers. Furthermore, the banks are obliged to classify their customers with respect to the money laundering risk, as well as to prepare a money laundering risk analysis that contains risk assessment for each group or type of customer, business relationship and service they provide within their business activity. Special attention is paid to the obligation of the banks to define, by their internal regulations, a procedure by which they determine whether the customer or the beneficial owner of the customer is a foreign official, with the bank being obliged, in addition to the usual customer due diligence measures, to obtain the data on the origin of the assets that are the subject of the business relationship or transaction, to ensure a written consent of the top management when

establishing a business relationship with the foreign official is obtained, as well as to monitor transactions and other business activities of the foreign official with special care.

### **The grounds for assigning the score:**

The grounds for assigning this risk score are the answers of banks to the Questionnaire delivered to them as part of the study conducted for the purpose of making the National Risk Assessment. The assessment was conducted in accordance with the aggregated results, taking into account the findings of on-site examinations and the professional opinion of the supervisory authority.

The analysis of assigned scores indicates that the riskiest areas from the aspect of the products used by high-risk customers are current accounts of legal entities, credit products of legal entities, deposit operations of legal entities and individuals and e-banking.

Generally, the share of high-risk customers in the banking sector is low in percentage terms (0.51% of all customers), which indicates that the banks do not have many customers who are non-residents or foreign officials or who are connected with offshore zones and similar.

### **OTHER CHARACTERISTICS OF PRODUCT OR SERVICE VULNERABILITY**

This variable is used to assess whether there are any additional characteristics and factors that increase the money laundering risk in individual products or services.

### **The grounds for assigning the score:**

The presence of other typical characteristics and factors increases the vulnerability to the money laundering risk, and these include using the product to a significant extent in the transactions related to tax havens or high-risk territories, using the product to a significant extent in tax evasion schemes, significant presence of cash activities in the product, using the product to a significant extent in the transactions without any contact with the customer and, as regards products, the existence of significant activity related to foreign correspondent accounts. An average score is taken in the case of classifying the products into corporate and individual categories.

The analysis of the data on the presence of additional typical characteristics of products that increase the risk of their abuse for money laundering indicates that the riskiest areas in this segment are

electronic money transfers and e-banking, primarily due to the performance of transactions without the customer's physical presence, then private banking due to the fact that there is an activity related to foreign correspondent accounts, as well as that cash payment activity is present. The medium-level risk is exhibited by current accounts of legal entities because they are used to a certain extent in transactions directed to offshore zones, as well as deposit operations of individuals due to the presence of cash payment activity.

### **EXISTENCE OF ADEQUATE SPECIFIC CONTROLS FOR A GIVEN PRODUCT**

This variable is used to assess whether there are specific controls for assessing the money laundering risk that may appear in connection with an individual banking product, with the aim of reducing the vulnerability to money laundering that may arise in banks.

The regulations in the Republic of Serbia relating to the anti-money laundering field do not impose an obligation of specific controls on banks for specific products/services identified as high-risk. The Guidelines for Assessing Risks of Money Laundering and Terrorism Financing issued by the supervisory authority specify certain products characterised by a high level of money laundering risk, and the banks are also obliged to pay attention to the money laundering risk that could arise from the implementation of new technologies that allow anonymity (e.g. ATMs, Internet banking, telebanking and similar).

### **The banks generally apply an efficient risk-based approach to the prevention of money laundering;**

Score: 0.70

The Law prescribes (in Article 7) that the banks are obliged to prepare a ML/TF risk analysis in accordance with the guidelines issued by the authority competent for supervising the implementation of the Law. The National Bank of Serbia passed the Decision on Guidelines for Assessing Risks of Money Laundering and Terrorism Financing. Based on the findings of the ML/TF risk management supervision, it has been found that all of the banks prepared an analysis of customer risk, product risk, geographical risk and transaction risk.

In determining the score for the work of banks in this segment, account was taken of the fact that not all of the banks have an information system that enables them to monitor customers and their transactions (business activities) reliably and iden-

## BANKING SECTOR VULNERABILITY

tify unusual behavioural patterns regarding all of the risks.

**The banks are of the opinion that the activity in connection with a specific product/service represents a higher money laundering risk and therefore introduce specific controls for such product;**

Score: 0.50

The grounds for assigning this score are the delivered answers of the banks to the Questionnaire in connection with this National Risk Assessment to the question as to what level of risk in the bank is carried by specific products/services, considering that the level of supervision (monitoring) depends on the assessed risk level. In addition to the answers delivered by the banks, account was also taken of the professional opinion of the supervisory authority. Activities in connection with specific products/services represent a higher money laundering risk. However, considering that the regulations do not impose the obligation of specific controls on banks for these products/services, the banks did not introduce them.

| Scores for all products  |        |                          |                  |                                     |                            |
|--|--------|--------------------------|------------------|-------------------------------------|----------------------------|
| Rating scores for each product/service (between 0.00 and 1.00) | Volume | Average transaction size | Customer profile | Other vulnerability characteristics | Adequate specific controls |
| 1. Current accounts of legal entities including entrepreneurs  | 0,85   | 0,70                     | 0,60             | 0,50                                | 0,55                       |
| 1a. Current accounts of individuals                            | 0,60   | 0,60                     | 0,50             | 0,40                                | 0,45                       |
| 2. Private banking   | 0,30   | 0,50                     | 0,60             | 0,60                                | 0,35                       |
| 3. Deposit products for legal entities                         | 0,60   | 0,60                     | 0,60             | 0,20                                | 0,41                       |
| 3a. Deposit products for individuals                           | 0,50   | 0,50                     | 0,60             | 0,50                                | 0,44                       |
| 4. Credit products for legal entities                          | 0,80   | 0,85                     | 0,60             | 0,20                                | 0,56                       |
| 4a. Credit products for individuals                            | 0,60   | 0,60                     | 0,20             | 0,20                                | 0,44                       |
| 5. Electronic money transfer                                   | 0,70   | 0,45                     | 0,30             | 0,60                                | 0,65                       |
| 6. Physical currency and bearer negotiable instruments         | 0,20   | 0,28                     | 0,25             | 0,20                                | 0,44                       |
| 7. Asset and trust management services                         | 0,10   | 0,30                     | 0,15             | H/A                                 | 0,57                       |
| 8. Documentary operations                                      | 0,50   | 0,60                     | 0,30             | 0,10                                | 0,42                       |
| 9. Correspondent accounts                                      | 0,50   | 0,80                     | 0,15             | 0,30                                | 0,49                       |
| 10. E-banking  | 0,50   | 0,41                     | 0,60             | 0,60                                | 0,75                       |
| 13. Electronic low-value transfer                              | 0,30   | 0,20                     | 0,30             | 0,20                                | 0,52                       |



### **The grounds for assigning the scores for current accounts of legal entities and entrepreneurs:**

This product has a significant volume and a high average transaction level. Foreign officials and persons with high net assets or connected with tax havens rarely appear as founders of legal entities and entrepreneurs.

### **The grounds for assigning the scores for current accounts of individuals:**

The product has a medium volume and a medium average transaction level. Foreign officials rarely appear as customers and these are mostly diplomatic and consular representatives of foreign countries.

### **The grounds for assigning the scores for private banking:**

Private banking in Serbia, as a service that is offered to individual customers earning high personal income and that allows them to coordinate all their activities related to transactions with a bank is still being developed. The answers of banks relate mainly to the service of providing benefits when placing deposits of large amounts and for a longer term. The transactions are modest in value terms compared to international practice, the customers are not foreign officials, rarely belong to the risky customer group and do not usually come from offshore zones or tax havens.

### **The grounds for assigning the scores for deposit products for legal entities:**

These are higher-value transactions, but the risk is medium because the practice of placing corporate deposits is not frequent. The customer profile is also of a medium-risk level due to the existence of legal entities with more complicated ownership structure and of those that sometimes do business with offshore zones and tax havens. Pursuant to the regulations that apply to foreign officials, whether in the capacity of customers, individuals or founders of legal entities, the banks are obliged to obtain the data on asset origin. The banks usually obtain the data on asset origin for all high-risk customers.

### **The grounds for assigning the scores for deposit products for individuals:**

Cash transactions are significantly present in deposit transactions of individuals. These are mostly short-term or medium-term saving deposits where foreign

officials and persons with interests in offshore zones or tax havens rarely appear as customers.

### **The grounds for assigning the scores for credit products:**

No foreign officials, rarely any persons with interests in offshore zones or tax havens and very few persons with high net assets appear as founders of legal entities. In addition, the banks mostly have in their internal regulations the list of products that cannot be offered to high-risk customers.

**Note:** Credit products also include credit card transactions and personal current account overdrafts.

### **The grounds for assigning the scores for physical currency and bearer negotiable instruments:**

The volume of these transactions is low and foreign officials, persons from offshore zones or tax havens or persons who are in any way connected with such territories very rarely appear as customers.

### **The grounds for assigning the scores for foreign payable-through accounts:**

Not applicable: there is no foreign payable-through account service in Serbia.

### **The grounds for assigning the scores for asset and trust management services:**

The asset management service is extremely rare, while the institution of trust does not exist in the legal system of Serbia.

### **The grounds for assigning the scores for documentary operations:**

Foreign officials, persons with high net assets, persons from offshore zones or with interests in them and persons from tax havens or with interests in them do not appear as customers in this category.

### **The grounds for assigning the scores for correspondent accounts:**

In most cases, the banks have correspondent relations with first-class banks from the EU member countries or those countries that have PML/TF systems at the same or higher level than the EU member countries. In establishing vostro correspondent relations, the documents prescribed by the Law on the Prevention of Money Laundering and Terrorism Financing are requested from banks from these

countries as well before establishing the business relationship and additional documents and explanations are requested from banks from other countries, while the correspondent relations with these countries are treated as high-risk and enhanced customer due diligence actions and measures are applied to them. All banks have developed a questionnaire on the anti-money laundering policies and measures, which must be delivered to foreign financial institutions before establishing any business cooperation in order to collect and verify certain data with the aim of preventing any business cooperation with banks or other similar institutions with registered office in the countries that do not apply the international anti-money laundering standards.

**The grounds for assigning the scores for e-banking:**

The e-banking service is rarely used by foreign officials, by persons with high net assets and by customers from offshore zones or tax havens.

**The grounds for assigning the scores for low-value wire transfers:**

Low-value wire transfers are not used by foreign officials, persons with high net assets or customers from offshore zones or tax havens. These are mostly low-value remittances from abroad sent by Serbian nationals working abroad.

# ANNEX 1 – MODULE 3

## BASIC INFORMATION

### SELECTED PARAMETERS OF THE SERBIAN BANKING SECTOR<sup>21</sup>

At the end of 4th quarter of 2011, the Serbian banking sector numbered 33 banks, employing 29,228 persons. The total net banking sector assets amounted to RSD 2,650 billion and the total capital was RSD 546 billion.

Of the total number of banks, 21 were foreign- and 12 are domestically-owned - 8 banks by the state (either as a majority shareholder or the largest individual shareholder) and 4 by private individuals. Foreign-owned banks are dominant with 74% of the total banking sector assets, 75% of the total capital and 70% employment, posting profit of RSD 22.9 billion.

In terms of their share in the total banking sector assets, the most significant foreign banks are from Italy and Austria (22% and 19%, respectively), followed by banks from Greece (15%), France (10%) and other countries (8% share in total).

Foreign-owned banks are members of banking groups from 11 countries.

At the end of 2011 state- and privately-owned domestic banks accounted for 26% of the total banking sector assets, 25% of the total capital, and 30% of banking sector employment. The downward trend in Serbia's banking sector employment, which began in 2009, is continuing and is accompanied by a reduction of the organisational network in the form of a reduction of the number of business units, branches, sub-branches and outlets.

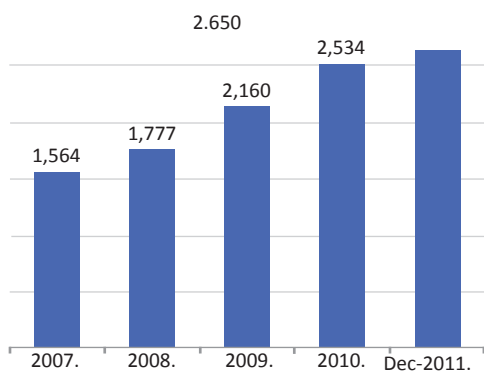
### ASSETS

At the end of 4th quarter of 2011, the total (net) assets of the Serbian banking sector stood at RSD 2,649.9 billion, up by RSD 116.4 billion (4.6%) since the beginning of the year.

<sup>21</sup> All data in the Report are based on financial reports that banks are required to submit to the NBS. These reports, however, have not been audited by external auditors nor verified by the NBS on-site supervision

## BANKING SECTOR VULNERABILITY

CHART 1. TOTAL ASSETS IN RSD BILLION



### TOP TEN BANKS

With a 14.8% share in the total banking sector assets, *Banca Intesa* is the largest bank in the Serbian banking system. It is followed by *Komercijalna Banka* with a 10.4% market share.

TABLE 3. TOP TEN BANKS BY TOTAL ASSETS

|                           | 30. 6. 2011. |      |      | 30. 9. 2011. |      |      | 31. 12. 2011. |      |      |
|---------------------------|--------------|------|------|--------------|------|------|---------------|------|------|
|                           | bln RSD      | %    | Rank | bln RSD      | %    | Rank | bln RSD       | %    | Rank |
| Banca Intesa              | 357          | 14,1 | 1    | 371          | 14,6 | 1    | 392           | 14,8 | 1    |
| Komercijalna Banka        | 257          | 10,1 | 2    | 259          | 10,2 | 2    | 275           | 10,4 | 2    |
| Unicredit Bank            | 166          | 6,6  | 4    | 174          | 6,9  | 4    | 199           | 7,5  | 3    |
| Raiffeisen Banka          | 169          | 6,7  | 3    | 184          | 7,3  | 3    | 194           | 7,3  | 4    |
| Societe Gen. Banka Srbija | 153          | 6,0  | 6    | 168          | 6,6  | 5    | 189           | 7,1  | 5    |
| Eurobank EFG              | 164          | 6,5  | 5    | 164          | 6,5  | 6    | 160           | 6,1  | 6    |
| Hypo Alpe-Adria-Bank      | 138          | 5,4  | 8    | 141          | 5,6  | 8    | 147           | 5,5  | 7    |
| Aik Banka Niš             | 139          | 5,5  | 7    | 144          | 5,7  | 7    | 143           | 5,4  | 8    |
| Vojvođanska Banka         | 89           | 3,5  | 10   | 91           | 3,6  | 9    | 93            | 3,5  | 9    |
| Alpha Bank                | 94           | 3,7  | 9    | 87           | 3,4  | 10   | 85            | 3,2  | 10   |

### LENDING

At the end of 4th quarter of 2011, the total (net) lending of the banking sector reached RSD 1,672.0 billion.

The dominant category are corporate loans (to public enterprises and other businesses, which account for 11.0% and 89.0% of the total corporate lending, respectively) in the amount of RSD 857.9 billion.

Next in size are retail loans (to households, farmers and private households with employed persons) in the amount of RSD 519.1 billion.

Lending to the public sector amounted to RSD 62.8 billion, accounting for 3.8% of the total lending at the end of 2011.

Lending to the finance and insurance sector was RSD 148.7 billion, or 8.9% of the total lending, at the end of 2011.

## BANKING SECTOR VULNERABILITY

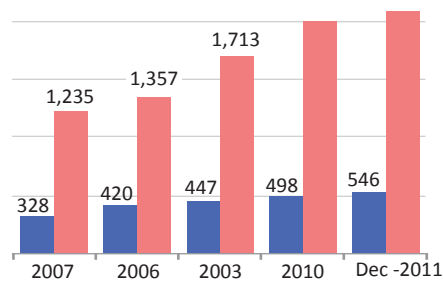
Lending to foreign entities and foreign banks at the end of 2011 amounted to RSD 28.7 billion, making up 1.7% of the total lending.

In terms of currency structure, lending is predominantly denominated in foreign currency: 30.2% is in dinars, and the remaining 69.8% is in foreign currency<sup>22</sup>. In terms of foreign currency lending, the euro holds the largest share – 83.5%, followed by the Swiss franc – 10.3% and other currencies – 6.2%.

### LIABILITIES AND CAPITAL

#### LEVEL AND TRENDS

Total liabilities of the Serbian banking sector reached RSD 2,104.0 billion or 79.4% of the total liabilities and capital at the end of 2011. At the same time, the total capital reached RSD 545.9 billion, accounting for 20.6% of total liabilities and capital.



The currency composition of the total liabilities and capital was such that foreign currency liabilities continued to dominate, making up 62.7%.

The euro dominated, accounting for 90.3%, while all other currencies accounted for 9.7% of foreign currency-denominated liabilities.

The share of dinar-denominated liabilities was 37.3% of the total liabilities and capital.

#### DEPOSIT STRUCTURE

The total deposits of the Serbian banking sector amounted to RSD 1,526.1 billion at the end of 2011.

Observed by sector, household deposits continue to account for the bulk of the total deposits – 54.9%, followed by corporate deposits (public enterprises and other businesses) accounting for 27.2%. At the end of 2011, non-resident deposits accounted for 6.4%. Deposits of all other categories

of depositors reached 11.5% of the total banking sector deposits.

As regards currency structure, major part i.e. 75.7% of the total deposits were denominated in foreign currency, of which 68.4% in euros (or 90.3% of the total foreign currency-denominated deposits), and 24.3% in dinars.

Sight deposits and short-term time deposits continue to be the prevalent form of deposits with banks. Only 5.8% of the total deposits are made for a period of over one year.

Household savings amounted to RSD 705.5 billion, making up 46.2% of the total banking sector deposits. Euro-denominated savings had a share of 94.6% of the total foreign currency savings.

#### LOANS TAKEN

Total loans taken by the banking sector amounted to RSD 386.5 billion at the end of 2011.

Breakdown of loans taken by category and change from the previous period.

The dominant currency of loans taken is the euro, accounting for RSD 323.9 billion, followed by the Swiss franc with RSD 32.1 billion.

Bank debt in dinars, arising from loans taken, totalled RSD 23.1 billion.

Foreign loans taken by the banking sector amount to RSD 332,8 billion.

#### CAPITAL AND CAPITAL ADEQUACY

At the end of 2011, the capital adequacy ratio of the banking sector was 19.1%<sup>23</sup>. The total regulatory capital amounted to RSD 322.4 billion.

The decrease in the total regulatory capital is attributable to the application of the new regulations as of 31 December 2011, which are harmonised with Basel II requirements.

The level of capitalisation of the Serbian banking sector can be considered satisfactory in view of the relatively high average capital adequacy ratio.

Total capital requirements of the banking sector amounted to RSD 202.4 billion. Most of the total capital requirements (86.6%) relate to credit, counterparty and settlement/delivery risk (RSD 175.2

<sup>22</sup> Denominated in foreign currency or foreign currency clause-indexed

<sup>23</sup> As of 31 December 2011, banks calculate the ratio pursuant to the Decision on Capital Adequacy for Banks (Official Gazette of RS, No. 46/2011)

## BANKING SECTOR VULNERABILITY

billion), while the remainder relates to operational (RSD 22.7 billion), foreign currency (RSD 3.8 billion) and price risks (RSD 0.7 billion)..

### PROFITABILITY

### SITUATION AND TRENDS

Pre-tax profit of the banking sector in 2011 amounted to RSD 1.3 billion or 4.9% of the corresponding figure in 2010. Twenty-one banks generated profit, which equalled RSD 40.7 billion before tax.

The number of banks operating at a loss is 12. The total losses posted in 2011 came at RSD 39.4 billion, with a single bank accounting for 75.4%.

### TRAINING

In the past two years, the employees of the National Bank of Serbia, Bank Supervision Department – Special Supervision Division participated in eight local and two international seminars, workshops and study visits as follows:

- Workshop concerning the preparation of the Action Plan for the Implementation of the MOLI Serbia PML/TF Project;
- Workshop at which the Action Plan for the Implementation of the MOLI Serbia PML/TF Project was adopted;
- Workshop on the subject “The Flow of Illegally Acquired Money on the Internet”;
- Conference on the Prevention of Money Laundering and Terrorism Financing in the Context of EU Integration of Serbia, organised by the Council of Europe;
- Presentation by the representatives of the Central Bank of Spain on the subject “Dynamic Provisioning”;
- Participating in a study visit to London on the subject “Implementation of PML/TF Standards in the United Kingdom”;
- National PML/TF Risk Assessment Workshop;
- Attending the conference “Compliance Function in Banks”, organised by the Association of Serbian Banks;
- Seminar on the subject “Combating Money Laundering, Terrorism Financing and Misuse

of Payment Systems: International Developments and National Perspectives” in Rome;

- Participating in a workshop on the use of risk-based approach, organised by the Council of Europe;

## BANKING SECTOR VULNERABILITY

### LIST OF BANKS

1. AGROINDUSTRIJSKO KOMERCIJALNA BANKA  
"AIK BANKA" AKCIONARSKO DRUŠTVO NIŠ  
Address: Nikole Pašića 42
2. ALPHA BANK SRBIJA A. D. BEOGRAD  
Address: Kralja Milana 11
3. BANCA INTESA AKCIONARSKO DRUŠTVO  
BEOGRAD  
Address: Milentija Popovića 7b
4. BANKA POŠTANSKA ŠTEDIONICA  
AKCIONARSKO DRUŠTVO BEOGRAD  
Address: Kraljice Marije 3
5. CRÉDIT AGRICOLE BANKA SRBIJA,  
AKCIONARSKO DRUŠTVO, NOVI SAD  
Address: Braće Ribnikar 4–6
6. CREDY BANKA AKCIONARSKO DRUŠTVO  
KRAGUJEVAC  
Address: Kralja Petra I 26
7. ČAČANSKA BANKA AKCIONARSKO DRUŠTVO  
ČAČAK  
Address: Pivarska 1
8. DUNAV BANKA AKCIONARSKO DRUŠTVO  
ZVEČAN  
Address: Zvečan, Kralja Milutina b. b.
9. ERSTE BANK AKCIONARSKO DRUŠTVO  
NOVI SAD  
Address: Bulevar oslobođenja 5
10. EUROBANK EFG AKCIONARSKO DRUŠTVO  
BEOGRAD  
Address: Vuka Karadžića 10
11. FINDOMESTIC BANKA A. D. BEOGRAD  
Address: Bulevar Mihaila Pupina 115A
12. HYPO ALPE-ADRIA-BANK A. D. BEOGRAD  
Address: Bulevar Mihaila Pupina 6
13. JUGOBANKA JUGBANKA A. D. KOSOVSKA  
MITROVICA  
Address: Kralja Petra I 165
14. JUBMES BANKA A. D. BEOGRAD  
Address: Bulevar Zorana Đinđića 121
15. KBC BANKA A. D. BEOGRAD  
Address: Omladinskih brigada 90v
16. KOMERCIJALNA BANKA A. D. BEOGRAD  
Address: Svetog Save 14
17. MARFIN BANK AKCIONARSKO DRUŠTVO  
BEOGRAD  
Address: Dalmatinska 22
18. MOSKOVSKA BANKA A. D. BEOGRAD  
Address: Balkanska 2
19. NLB BANKA A. D. Beograd  
Address: Bulevar Mihaila Pupina br. 165v
20. OPPORTUNITY BANKA A. D. NOVI SAD  
Address: Bulevar oslobođenja 2a
21. OTP BANKA Srbija a. d. Novi Sad  
Address: Bulevar oslobođenja 80
22. PIRAEUS BANK AKCIONARSKO DRUŠTVO  
BEOGRAD  
Address: Milentija Popovića 5b
23. PRIVREDNA BANKA BEOGRAD, AKCIONARSKO  
DRUŠTVO, BEOGRAD  
Address: Beograd, Bulevar kralja Aleksandra 70
24. ProCredit BANK A. D. BEOGRAD  
Address: Milutina Milankovića 17
25. RAIFFEISEN BANKA A. D. BEOGRAD  
Address: Vulevar Zorana Đinđića 64a
26. RAZVOJNA BANKA VOJVODINE AKCIONARSKO  
DRUŠTVO NOVI SAD  
Address: Stražilovska 2
27. SOCIÉTÉ GÉNÉRALE BANKA SRBIJA A. D.  
BEOGRAD  
Address: Vulevar Zorana Đinđića 50a/b
28. SRPSKA BANKA A. D. BEOGRAD  
Address: Savska 25
29. UNICREDIT BANK SRBIJA A. D. BEOGRAD  
Address: Rajićeva 27–29
30. UNIVERZAL BANKA AKCIONARSKO DRUŠTVO  
BEOGRAD  
Address: Francuska 29
31. VOJVODANSKA BANKA A.D. NOVI SAD  
Address: Trg slobode 7
32. VOLKSBANK A.D. BEOGRAD  
Address: Bulevar Mihajla Pupina 165g

## ANNEX 2 – MODULE 3

### ASSESSMENT OF COMPLIANCE WITH THE FATF RECOMMENDATIONS RELATING TO THE FINANCIAL SECTOR

(MoneyVal Report)

| FATF Recommendation No.   | Rating from the Report | Description   | Comment   |
|---|------------------------|---|---|
| 5. Customer due diligence   | Partially compliant    | There are no requirements to file a suspicious transaction report in the case of refusal to establish a business relationship, carry out a transaction or termination of an existing business relationship  | These deficiencies were addressed by the 2010 amendments to the Law on the Prevention of Money Laundering and Terrorism Financing. This was a subject of on-site examination. |
| 6 . Foreign officials   | Largely compliant      | The scope of the shortcoming:<br>The definition of foreign official does not include high officials, important party officials or persons that have not held any public office in the past year, and enhanced due diligence is only applied in the cases when the officials are assessed as being high-risk.<br>Efficiency has not been achieved (a lack of uniformity in application by different financial institutions, a lack of guidelines for internal procedures issued by supervisors for determining whether the customer or the beneficial owner of the customer is a foreign official or not). | The Decision on Guidelines for Assessing Risks of Money Laundering and Terrorism Financing was supplemented by a section relating to foreign officials.                       |
| 7. Correspondent banking  | Partially compliant    | Financial institutions are not required to document their PML/TF responsibilities for each party in the correspondent relationship.   | These deficiencies were addressed by the 2010 amendments to the Law on the Prevention of Money Laundering and Terrorism Financing.  |
| 8. New technologies and business relationship without physical presence | Largely compliant      | The requirements to consider new technological developments do not apply to all financial institutions.   | This is not the case with banks   |
| 9. Outsourcing  | Largely compliant      | There is still no decision as to in which countries the third party that meets the stipulated conditions may be registered.   | Does not apply to banks   |



## BANKING SECTOR VULNERABILITY

|  |                     |   |  |
|--|---------------------|---|--|
| 11. Unusual transactions                                 | Partially compliant |   | Does not apply to banks  |
| 13. Reporting suspicious transactions                    | Largely compliant   | The indicator lists adopted by banks were copied from the website of the Administration for the Prevention of Money Laundering and even contradict the applicable legislation in some cases.<br>The indicator lists compiled by the Administration for the Prevention of Money Laundering are not complete and cannot be clearly identified. A modification is necessary. | The Indicator List for Banks was amended   |
| 14. Protection from information disclosure               | Partially compliant |   | Protection and provisions against information disclosure were added to the Guidelines for Reporting Suspicious Transactions. |
| 15. Internal controls, compliance and audit              | Compliant           | There are no requirements for the financial institutions to introduce verification procedures in order to ensure high standards when employing new officers.  | Does not apply to banks  |
| 18. Shell banks  | Compliant           |   |  |
| 19. Other forms of reporting                             | Largely compliant   | Inconsistent compliance with reporting obligation in all reporting entities, a lack of correct understanding of the obligation to report cash transactions  | Does not apply to banks  |
| 21. Special attention in the case of high-risk countries | Largely compliant   | There is no demonstration of adequate implementation of the new requirements arising from the Law on the Prevention of Money Laundering and Terrorism Financing   | Does not apply to banks  |
| 23. Regulations, supervision and monitoring              | Partially compliant | A lack of requirements for banning market entry to persons with criminal background<br>For owners of leasing companies<br>A lack of clearly defined legal powers of the NBS to regulate and supervise VPFs relating to PML/TF   | Does not apply to banks  |
| 29. Supervisors  | Largely compliant   | A lack of clearly defined legal powers for supervising the operation of some financial institutions   | Does not apply to banks  |

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## BANKING SECTOR VULNERABILITY

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| Special Recommendations (SR)                                   | Rating              | Description   | Comment   |
|--|---------------------|---|---|
| Special Recommendation IV<br>Reporting suspicious transactions | Largely compliant   | Financial institutions have no lists of indicators for identification of suspicious transactions in connection with terrorism financing   | The lists of indicators for identification of suspicious transactions in connection with terrorism financing were prepared and this is constantly checked during on-site examinations |
| Special Recommendation VII<br>Wire transfer rules              | Partially compliant | There are no requirements for the financial institutions to adopt efficient risk-based procedures for identification and treatment of wire transfers that are not accompanied by complete information relating to the originator. The complete information relating to the originator is not collected in the cases of domestic payment transactions and is not an integral part of the message or payment order accompanying the transfer. There is no requirement to confirm the identity of the originator in accordance with Recommendation 5, at least for wire transfers of EUR 1,000 or more | These deficiencies were addressed by the 2010 amendments to the Law on the Prevention of Money Laundering and Terrorism Financing   |

## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

(financial institutions other than banks)

### THE BASIS AND OPERATING METHOD OF ANALYSIS OF SECTOR VULNERABILITY ASSESSMENT MODULES

A short analysis of the sector vulnerability assessment contains the following processed data:

1. sector size and sector turnover volume (significance in the financial or economic sector)
2. supervision results (review of supervision strengths and weaknesses)
3. vulnerability assessment
4. objective risk assessment and risk analysis

## MODULE 4: SECURITIES SECTOR

(capital market)

The Securities and Exchange Commission (SEC) prepared a sector vulnerability assessment according to the World Bank methodology.

### DATA ON CAPITAL MARKET PARTICIPANTS

The reporting entities under the Law on the Prevention of Money Laundering and Terrorism Financing supervised by the Securities and Exchange Commission are broker-dealer companies, authorised banks, custody banks and investment fund management companies.

### DATA ON REPORTING ENTITIES FOR THE FIRST SIX MONTHS OF 2012

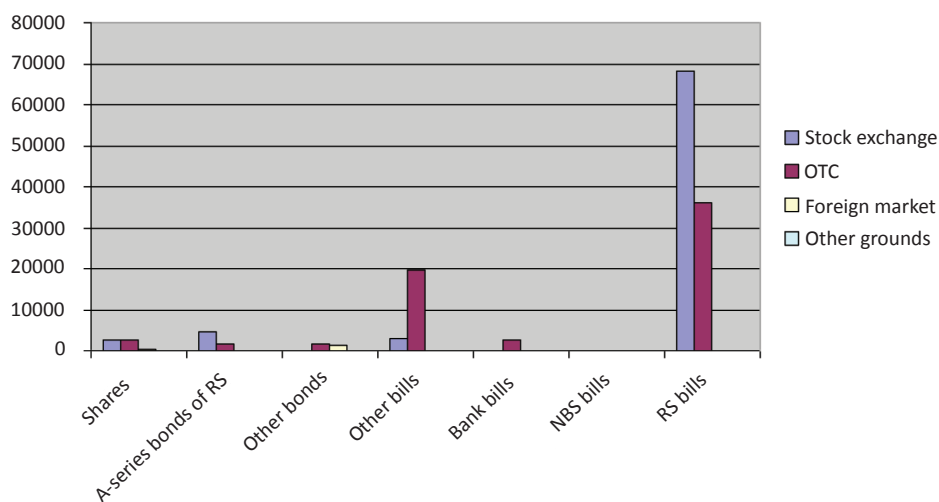
The following reporting entities operated in the capital market of the Republic of Serbia: – 37 broker-dealer companies with the total capital of RSD 3,199,243,365.67; – six investment fund management companies with the total equity of RSD 523,466,463.88, which managed 16 investment funds; – 17 authorised banks and 11 custody banks (which do not have the legal entity status, but perform their activities in the capital market as organisational units of commercial banks with an appropriate licence).

### THE SIZE AND TURNOVER VOLUME OF THE SECURITIES SECTOR (CAPITAL MARKET)

As an introduction to the overview of trading, it should be noted that all financial instruments are paperless and made out to bearer. This significantly reduces the possibility of concealing ownership, which is very important from the aspect of money laundering attempts.

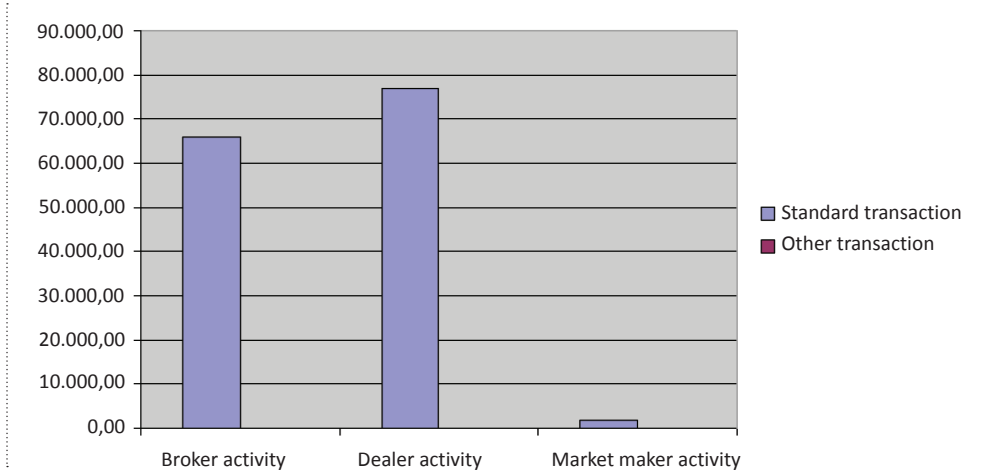
## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

| Summary of trading by type of securities and place of trading for authorised banks:   |                      |                |           |                |               |               |
|---|----------------------|----------------|-----------|----------------|---------------|---------------|
| Summary of trading by type of securities and place of trading for authorised banks- total trading volume for the first six months of 2012 – RSD million |                      |                |           |                |               |               |
|   | Securities           | Stock exchange | OTC       | Foreign market | Other grounds | Other grounds |
| 1   | Shares               | 2.754,67       | 2.762,84  | 171,08         | 0,00          | 5.688,58      |
| 2   | A-series bonds of RS | 4.653,86       | 1.590,88  | 0,00           | 0,00          | 6.244,74      |
| 3   | Other bonds          | 53,50          | 1.669,69  | 1.226,74       | 0,00          | 2.949,93      |
| 4   | Other bills          | 3.071,53       | 19.719,02 | 0,00           | 0,00          | 22.790,55     |
| 5   | Bank bills           | 0,00           | 2.500,00  | 0,00           | 0,00          | 2.500,00      |
| 6   | NBS bills            | 0,00           | 5,60      | 0,00           | 0,00          | 5,60          |
| 7   | RS bills             | 68.281,76      | 36.097,38 | 0,00           | 0,00          | 104.379,13    |
|   |                      | 78.815,31      | 64.345,41 | 1.397,82       | 0,00          | 144.558,54    |



| Summary of trading by type of securities transaction for authorised banks – total trading volume for the first six months of 2012 – RSD million |                       |                      |                   |            |
|---|-----------------------|----------------------|-------------------|------------|
|   | Activity type         | Standard transaction | Other transaction | Total      |
| 1   | Broker activity       | 65.991,92            | 0,00              | 65.991,92  |
| 2   | Dealer activity       | 76.843,43            | 0,00              | 76.843,43  |
| 3   | Market maker activity | 1.723,19             | 0,00              | 1.723,19   |
|   |                       | 144.558,54           | 0,00              | 144.558,54 |

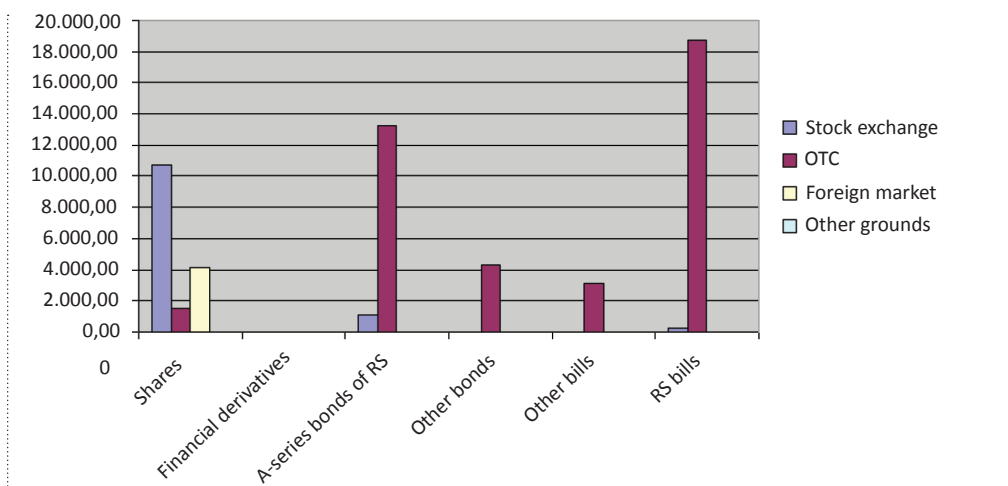
## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT



### Summary of trading by type of securities and place of trading for broker-dealer companies:

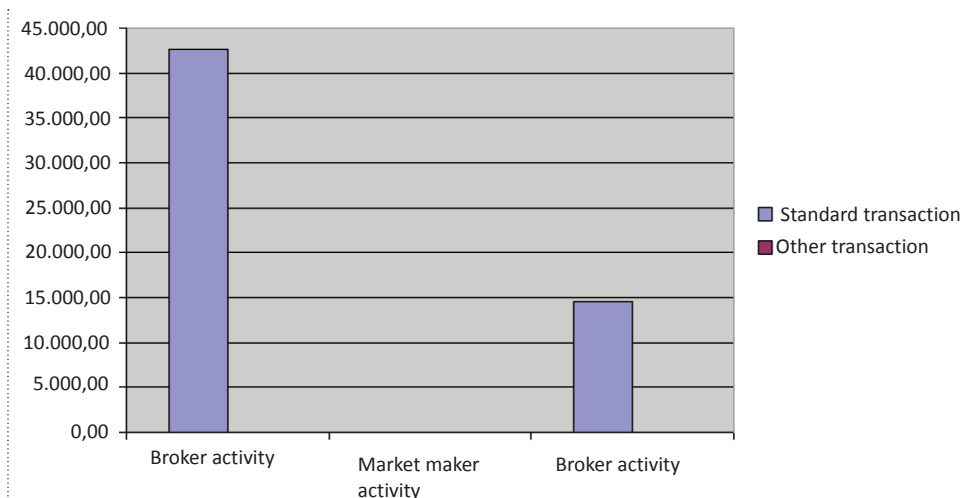
Summary of trading by type of securities and place of trading for broker-dealer companies – total trading volume for the first six months of 2012 – RSD million

|   | Securities            | Stock exchange | OTC       | Foreign market | Other grounds | Total     |
|---|-----------------------|----------------|-----------|----------------|---------------|-----------|
| 1 | Shares                | 10.692,29      | 1.504,53  | 4.114,11       | 0,00          | 16.310,93 |
| 2 | Financial derivatives | 0,00           | 0,00      | 0,19           | 0,00          | 0,19      |
| 3 | A-series bonds of RS  | 1.131,57       | 13.225,60 | 0,00           | 0,00          | 14.357,17 |
| 4 | Other bonds           | 23,44          | 4.309,81  | 0,00           | 0,00          | 4.333,25  |
| 5 | Other bills           | 17,87          | 3.161,38  | 0,00           | 0,00          | 3.179,25  |
| 6 | RS bills              | 250,54         | 18.734,83 | 0,00           | 0,00          | 18.985,37 |
|   |                       | 12.115,71      | 40.936,15 | 4.114,31       | 0,00          | 57.166,17 |



## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

| Summary of trading by type of securities transaction and place of trading for authorised banks – total trading volume for the first six months of 2012 – RSD million |                       |                      |                   |           |
|--|-----------------------|----------------------|-------------------|-----------|
|  | Activity type         | Standard transaction | Other transaction | Total     |
| 1  | Broker activity       | 42.588,58            | 0,00              | 42.588,58 |
| 2  | Market maker activity | 68,57                | 0,00              | 68,57     |
| 3  | Dealer activity       | 14.509,02            | 0,00              | 14.509,02 |
|  |                       | 57.166,17            | 0,00              | 57.166,17 |



An analysis of the total volume of trading in all types of securities, which was RSD 201,724.00 million, shows that the predominance in the trading volume is on the side of authorised banks, which, in percentage terms, is 60.46% compared to broker-dealer companies, which account for a 39.54% share. This is a result of their predominance in trading in RS bills and other bills. If the market material that includes shares, RS bonds and other bonds is taken into account, then it is noted that broker-dealer companies are in the lead because the total amount of their trading was RSD 46,934.54 million, which was 74.57% of the total trading, while authorised banks recorded trading in the amount of RSD 11,933.32 million or 25.43% of the total trading volume. It may also be said that shares and bills account for a 23.27% share of the total securities trading.

The total market value of shares – market capitalisation in 2012 was around EUR 5.9 billion, posting a share in GDP of around 18%.

## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

Overview of annual turnover in the organised market – Belgrade Stock Exchange – in the past six years (from 2007 to 2012)

| Year  | Turnover in RSD | Turnover in EUR | Number of transactions | BELEX15  |          | BELEXline |          |
|-------|-----------------|-----------------|------------------------|----------|----------|-----------|----------|
|       |                 |                 |                        |          |          |           |          |
| 2012. | 18.257.662.336  | 160.729.579     | 327.249                | 439,42   | ▼-11,95% | 875,88    | ▼-10,37% |
| 2011. | 28.584.502.604  | 280.180.758     | 2.887.538              | 499,05   | ▼-23,43% | 977,19    | ▼-23,82% |
| 2010. | 23.017.197.757  | 222.475.934     | 725.550                | 651,78   | ▼-1,81%  | 1.282,66  | ▼-2,22%  |
| 2009. | 41.778.491.982  | 441.976.426     | 77.215                 | 663,77   | ▲17,44%  | 1.311,84  | ▲9,47%   |
| 2008. | 71.853.776.130  | 882.454.957     | 119.001                | 565,18   | ▼-75,62% | 1.198,34  | ▼-68,72% |
| 2007. | 164.990.865.957 | 2.059.769.522   | 301.210                | 2.318,37 | ▲38,39%  | 3.830,84  | ▲44,12%  |

The average value of a stock market transaction executed on the Belgrade Stock Exchange, taking into account the situation in the organised market of the Republic of Serbia, can be assessed as relatively low (around EUR 492 for the first six months of 2012). This is far lower than the 2007 average, when this average was EUR 6,838.00 and when the Stock Exchange was in its heyday. However, the transaction average for 2012 still recorded an increase compared to 2010 (EUR 307) and particularly compared to 2011 (EUR 97).

It is clear from the above overview that the turnover of market material in the organised market is low, as well as that it exhibits a downward trend. A marked indicator of activity decline is the trend of the Belex 15 Index decline by 5.3 times in the period from 2007 to 2012. This decline was primarily caused by global trends in the global capital markets and by a withdrawal of investors from the local market.

Taking into account the significant decrease in the trading volume, number of customers, especially from abroad, as well as the present strengthening of regulatory functions of supervisory authorities, the possibility for illegal economic activities and therefore the activities aimed at money laundering is lower as well.

It should be noted as an important fact in assessing the sector risk and vulnerability that so far the reporting entities from this sector have not performed payment operations and that this has only been done by commercial banks. The reporting entities only executed the orders of their customers that had their securities accounts with the Central Securities Depository and Clearing House and their cash accounts with commercial banks. In the Republic of Serbia, banks have so far maintained cash accounts of customers for trading in securities, while brokerage companies only concluded agreements of proprietary securities account maintenance and of securities trading intermediation, so

these activities were separated and there was no pressure by the banks on the operation of investment companies in this regard.

### SUPERVISION OF BONDS CONDUCTED BY THE SECURITIES AND EXCHANGE COMMISSION (SEC)

A total of 53 examinations of reporting entities, mainly broker-dealer companies, under the Law on the Prevention of Money Laundering were carried out during 2010 and 2011, in accordance with the annual supervision plan. After carrying out the examinations, a total of 22 sanctions were imposed (decision on remedying the irregularities, or reports to the competent authority for violation of the provisions of PML&TF regulations).

The most frequent irregularities are: errors in customer identification, errors in keeping the prescribed records, irregularities in connection with the appointment of compliance officers, irregularities in connection with the content of by-laws and irregularities in the implementation of by-laws, and other.

Further inspections show that very few customers of reporting entities belong to the risky category. The assessment was made based on inspection findings regarding the number of risky customers compared to low-risk customers. As mentioned previously in this Report (the item on the quality of supervision, etc.), according to the PML/TF regulations, all reporting entities are obliged to perform an assessment of the risk of each customer, identify individual customers, as well as to identify the beneficial owners of corporate customers. The Commission performs additional, specific inspections at the request of a government authority (Administration for the Prevention of Money Laundering and others) if there is suspicion of violation of regulations with respect to money laundering. In the case of finding suspicious activities during regular inspections, the Commission submits the information to the Administration for the Prevention of Money Laundering for additional analyses and action within the Administration's competence.



### SECTOR RISK AND VULNERABILITY ASSESSMENT

Based on the parameters entered, the risk score is 0.27 – medium low, which means that the money laundering risk is present in this sector, but to a lesser extent, taking into account the insufficient level of capital market development, shallow market, problems with the liquidity of most securities traded (low demand for them), strict regulations in this field, adherence to all international standards and conventions when adopting regulations, as well as their consistent implementation by regulatory bodies.

From the aspect of real risk assessment of the assigned score of the sector vulnerability to money laundering, the following should be taken into account:

1. The Commission based its position regarding the sector vulnerability assessment on the experience from inspections: the inspections conducted relate to the implementation of anti-money laundering regulations, while a smaller number of inspections of reporting entity operation were directed to detecting suspicious circumstances and the customer risk assessment and analysis by reporting entities;
2. The key problem: customer cash accounts are not maintained with securities trading intermediaries, but with banks. Brokers do not have sufficient knowledge of the customer's financial potential, do not monitor cash flows, the risk assessment and analysis is difficult, as well as the detection of suspicious transactions related to money laundering. On the other hand, the banks that maintain cash accounts for the purpose of acquiring securities and other cash accounts of customers – capital market participants have insufficient knowledge of the customer's business activity and the customer himself/herself (KYC, CDD). For this reason, there was no possibility for securities trading intermediaries to get a "deeper" knowledge of their customer's cash flows. In inspection, the Commission, as supervisory authority, does not have a clear "financial picture" on cash flows or the data on, e.g. the share of cash in trading or, rather, the money the origin of which may be suspected. There are few suspicious transactions reports (STR) forwarded (5 STR in 2011-2012) that are reported by securities trading intermediaries. It is likely that in the future the securities trading intermediaries will concentrate more on detecting abuse in the capital market, because the Criminal Code pre-

scribes that this is a criminal offence, together with insider trading. An intensified action of the supervisory authority of the Securities and Exchange Commission may also be expected in this regard.

3. The Commission initiated actions of the Administration more than the reporting entities, which points to the objectivity and motives of reporting entities when it comes to action in the anti-money laundering field. The media and initiatives by injured shareholders or government authorities also cause an intensified activity of the Commission regarding the initiation of the Administration's action.
4. The supervision of investment funds and custody banks has not been intensified and the Administration has so far not received any reports of supervision in the above reporting entities, so there is no "realistic picture" of the situation regarding the implementation of anti-money laundering regulations;
5. The new Law on Capital Market recognises criminal offences of insider trading and manipulation in the capital market, so the Commission will certainly have to strengthen its analytical and forensic capacities in due course in terms of detecting complex financial activities and transactions for which they certainly are not ready now nor do they have any experience;
6. The inspector capacities are very low for all of the competences the Commission has (enforcement of three laws – investment funds, capital market and company takeover), which increases the risk for "dirty money to go unnoticed through the capital market".

### MONEY LAUNDERING RISK FACTORS THAT ARE AND WILL STILL BE PRESENT IN THE CAPITAL MARKET

1. Securities trading intermediaries (broker-dealer companies and authorised banks) and supervisory authorities do not have sufficient access to financial transactions and especially to cash deposits in the banking sector, as well as cashless transactions for which there is suspicion of money laundering. This refers to regular trading in securities, as well as to all other forms of customer investment activity (investment funds);
2. Targeted company takeovers: less frequent in terms of market activity, but relatively high in value. The situation is the same with block

trading. The experience in the work of the Administration and other government authorities shows that there have been activities and attempts of company takeover by individuals or groups from organised crime. Major problems may arise regarding the identification of the bidder and money origin, as well as of the cash flow if it originates from the countries with strong banking secrecy laws or if the money originates from offshore zones;

3. There is also a high risk in customer transactions where money is transferred from the countries where it is impossible to identify money origin and customer identity, as well as in cash transactions performed through custody cash accounts, especially those maintained in offshore zones or in the countries with strong banking secrecy laws;
4. The consequences of money laundering through capital market are long-term and devastating (it jeopardises and damages stock exchange operation and shareholding culture, joint stock companies get a bad reputation, criminals become shareholders, etc.)

The above data clearly indicate that, regardless of the decreased capital market activity, its shallowness and the engagement of the Securities and Exchange Commission as supervisory authority, there are dangers of and exposure to the money laundering risk and therefore it may be concluded that this sector's vulnerability is at a medium level.

### **LIFE INSURANCE MARKET IN THE REPUBLIC OF SERBIA**

The analysis of the life insurance market sector was made by the NBS – Insurance Supervision Department, according to the World Bank methodology.

### **THE MARKET SIZE AND TURNOVER VOLUME OF THE LIFE INSURANCE SECTOR**

At the end of 2011, 28 insurance companies had a life insurance operating licence in Serbia, as follows: 7 life insurance companies, 6 composite companies (with both life and non-life insurance licences), 11 non-life insurance companies and 4 reinsurance companies. At the end of 2011, the insurance companies presented a balance sheet total of RSD 125.7 billion (a 7.3% increase compared to 2010), which accounted for only 4.4% of the balance sheet total of the financial sector in Serbia. The insurance companies generated a total annual gross premium of RSD 57.3 billion or EUR

547.6 million (a 1.4% increase compared to 2010) and employed 11,289 people (a 1.3% increase compared to 2010), which accounted for 27.4% of the employees in the financial sector in Serbia. The capital of the insurance companies was RSD 33.3 billion (a 3.3% increase compared to 2010), which accounted for 5.7% of the capital of the financial sector in Serbia. The share of life insurance premium in the total premium was 17.4%, with a 6.8% nominal increase in premium compared to 2010.

In addition to insurance companies, 19 banks that obtained insurance agency licences participate in the insurance market in Serbia, as well as 79 legal entities, 109 individuals - entrepreneurs and 13,363 individuals with an insurance agency or brokerage licence.

## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

| Overview of product analysis from the aspect of possible money laundering |                                      |                     |                        |                                       |
|---|--------------------------------------|---------------------|------------------------|---------------------------------------|
| PRODUCT   | PREMIUM PAYMENT                      |                     | Share in total premium | Share in total number of transactions |
|   | Total number of payments for premium | Total premium (EUR) |                        |                                       |
| 1. LIFE INSURANCE PRODUCTS - non-group                                    | 1.350.716                            | 80.797.700          | 0,94                   | 0,94                                  |
| 2. LIFE INSURANCE PRODUCTS - group  | 2.219                                | 77.790              | 0,00                   | 0,00                                  |
| 3. ANNUITY INSURANCEE   | 81.723                               | 4.772.164           | 0,06                   | 0,06                                  |
| <b>Total</b>  | 1.434.658                            | 85.647.654          |                        |                                       |

The total number of payments in 2011 reached 202.6 million, relative to which the number of transactions related to life insurance products amounted to RSD 1.4 million or 0.7% of all transactions in 2011.

Taking this into account, the transaction volume related to life insurance products is practically negligible and the total assessments related to the corresponding life insurance products have been reduced significantly, as stated above.

| PRODUCT TYPE                        | Data on "characteristic" product |                           |   |               | Product risk          |                      |   | Final score OTHER VULNERABILITY CHARACTERISTICS |
|-------------------------------------|----------------------------------|---------------------------|---|---------------|-----------------------|----------------------|---|---|
|                                     | Average premium                  | Average contract duration | Contract redemption value (% of total premium paid) |               | Assessed product risk | Average product risk | Volume of business activity (% of total premium) with high-risk customers |   |
|                                     |                                  |                           | after 7 years                                       | after 8 years |                       |                      |   |   |
| LIFE INSURANCE PRODUCTS - non-group | 396                              | 18                        | 68.14%  | 71.87%        | low                   | 0.15                 | 0.00%   | 0.05  |
| LIFE INSURANCE PRODUCTS - group     | 4,435                            | 9                         | 70.06%  | 79.90%        | low                   | 0.10                 | 0.00%   | 0.05  |
| ANNUITY INSURANCE                   | 643                              | 14                        | 67.37%  | 70.50%        | low                   | 0.10                 | 0.00%   | 0.05  |

## ANALYSIS OF ECONOMIC SECTOR VULNERABILITY ASSESSMENT

The above data indicate that life insurance products in the market of the Republic of Serbia are most often concluded for a period of 18, 9 or 14 years, depending on product type. An analysis also shows that 70% of invested funds in life insurance products are only available after the expiry of 7 or 8 years after the contract conclusion. In addition, according to the data obtained from insurance companies, in most cases the invested funds are not available to the customer in the first two years of contract term.

The final score was assigned taking into account primarily the long period after which at least 70% of invested funds are available to the customer for free disposal, as well as under the assumption that the acceptable money laundering cost is 30% of invested funds. In addition, most life insurance products are rated by insurance companies as low-risk and there are no business activities with high-risk customers.

In accordance with the above and taking into account the general characteristics of the life insurance products present in the market of the Republic of Serbia (low share of life insurance in the country, low average transaction value, high costs of life insurance contract termination, absence of business activities with the risky customer category, share of individual product types in the market, etc.), the following final ratings by product type are assigned:

Non-life insurance is not part of the regulations relating to the prevention of money laundering and

terrorism financing in the Republic of Serbia. The insurance companies presumably do not have controls specific to individual life insurance products; however, they made efforts to comply fully with the PML/TF regulations (which also define minimum requirements for the "Know Your Customer" procedures for life insurance products).

When it comes to the customer classification and identification according to risk level that the insurance companies submitted to the supervisory authority for 2011, there were no high-risk customers.

|           | <b>PRODUCT TYPE</b>                        | <b>Product characteristic</b>  |
|-----------|--|--|
| <b>1.</b> | <b>LIFE INSURANCE PRODUCTS - non-group</b> | <b>Product volume – high</b><br><b>Average transaction – low</b><br><b>Customer profile – low</b><br><b>Other characteristics – low</b>                |
| <b>2.</b> | <b>LIFE INSURANCE PRODUCTS - group</b>     | <b>Product volume – low (negligible)</b><br><b>Average transaction – medium</b><br><b>Customer profile – low</b><br><b>Other characteristics – low</b> |
| <b>3.</b> | <b>ANNUITY INSURANCE</b>                   | <b>Product volume – low</b><br><b>Average transaction – low</b><br><b>Customer profile – low</b><br><b>Other characteristics – low</b>                 |

### SUPERVISION

The supervision programme is based on off-site and on-site examinations of insurance companies. In the past three years (2009-2011), the Insurance Supervision Department of the National Bank of Serbia conducted 8 on-site examinations of insurance companies and 4 on-site examinations of insurance brokers and agents, all in connection with exposure to the money laundering risk, in which no major deficiencies were found, no penalties were imposed, while supervision measures were imposed in 3 cases. In the past three years (2009-2011), 3 supervision measures were imposed against insurance companies and all of them led to the elimination of exposure to the risk of money laundering and terrorism financing, which was determined in follow-up inspections.

Most of the insurance companies engaged in life insurance are majority owned by foreign entities (all but one). This implies the application of high standards for internal procedures and internal control systems, since the parent companies are in the EU market and pursue a best-practice business policy due to fierce competition in the insurance market of the Republic of Serbia. In the experience of the supervisory authority, the standards and procedures of foreign-owned insurance companies are far more advanced compared to the local assessed risk levels.

Insurance industry risk and vulnerability assessment – low level (score: 0.11)

Due to its small share in the financial sector of Serbia according to all relevant parameters (transaction number and financial volume) and particularly due to the small share of life insurance premium in the total premium, the insurance industry is susceptible to minimal risk of money laundering and terrorism financing. Nevertheless, the insurance companies develop all of the functions required by the PML/TF regulations.

There is hope that life insurance will play a more important role in the financial market in the near future (5-10 years) and we should be prepared for the risks that may arise at that time. For this reason, we have to increase our efforts to develop further and strengthen the PML/TF procedures and policies in order to be ready for the risks that may arise.

At this moment, the level of money laundering risk in the life insurance segment assumed to be relatively low and corresponds to the score assigned by the NBS Insurance Supervision Department.

For the 2011-2012 period, the Administration received only 3 suspicious transaction reports from reporting entities under the Law. Generally, life insurance is not a “direct” motive to launderers i.e. a sector of dirty money integration, but rather a part of their investment diversification in terms of life security. It is not a sector with a high profit level that would attract dirty money. The only danger may come from participation in the ownership structure of insurance company and ensuing pursuit of a business policy that would include money laundering. Previous experience in the work of the Administration indicates that a far greater danger comes from the non-life insurance sector for which no vulnerability assessment was made. The Administration’s analyses and experience indicate that numerous criminal offences were detected in this sector involving non-life insurance policies in the area of car insurance frauds and intentional car damage, property insurance against fire and other types of damage, which is also evidenced by numerous criminal charges that the insurance companies file with the competent government authorities. Direct money laundering is not ruled out, either, but the Administration has no knowledge of this kind because it does not receive suspicious transaction reports from insurance companies of the non-life insurance sector.

### Money laundering threats – challenges for insurance companies:

1. Cash payment for life insurance premiums, which is predominant in our market: The money is deposited through the banking sector where the compliance officers of the insurance company often have no knowledge that there was a cash deposit, because they insufficiently cooperate with the accounting department;
2. In the future, the life insurance market in our country will probably develop faster than the non-life insurance market, which will lead to new products, primarily of investment character, which, due to their characteristic of generating higher yields, can certainly be a motive for money attraction and money laundering and a challenge to insurance companies in combating and preventing money laundering;
3. A constant threat comes and will come from the policy holders whose identity is hard to establish and who come from tax havens – non-residents;
4. Insurance activities through a poorly organised agent network, where customers only communicate through agents;

5. Customers that use life and non-life insurance solely for the purpose of fraud;
6. All forms of change in ownership structure, which results in a company business policy based on suspicious activities with insurance products.

### LICENSED EXCHANGE OFFICES AND BANKS

The sector vulnerability assessment was made by the Foreign Exchange Inspectorate (now within the Tax Administration) according to the World Bank methodology.

### SECTOR SIZE AND TURNOVER VOLUME

This sector includes 33 banks and 2,500 licensed exchange offices, which are mostly entrepreneurs and small companies. The turnover volume in the exchange business sector was around EUR 12 billion in 2011, of which around EUR 8 billion was the turnover of licensed exchange offices and around EUR 4 billion was the turnover of banks. Only cash is in circulation in this sector - 100% purchase and sale of foreign cash and cheques in foreign currency, and that mostly of residents. The individuals from whom exchange offices buy and to whom they sell foreign cash and foreign currency-denominated cheques are mostly residents, while the percentage of non-residents is low. In 2011, the reporting entities reported 1324 transactions to the Administration for the Prevention of Money Laundering, none of which was reported as suspicious.

### INSPECTION MEASURES

The resources allocated to PML/TF-related supervision: 30 employees cover exchange offices in the Foreign Exchange Directorate (Tax Administration), ten of which work on licence issuance and withdrawal, twenty inspectors carry out on-site exchange office inspection, while the budget is inadequate and limited.

The sector vulnerability level is rated with a score of 0.33 – medium-risk level.

The supervision level is low and there are no data about the actual situation in the field. The vulnerability ratings are based more on indicators for recognizing suspicious transactions. The Administration did not receive any suspicious transaction reports in 2011.

From the money laundering aspect, it may be assumed that the sector is risky considering its for-

ign currency turnover size and significance (the share of foreign currency in the money supply is almost 75% when taking into account individual savings). The money laundering risk of the sector (not detected or detected by reporting entities and the supervisory authority):

1. frequent exchange operations of converting local to foreign currencies, originating from organised crime (proceeds from narcotics);
2. targeted establishment and “organisation” of exchange offices for converting money to larger-denomination bills, covering up frequent money conversions and hiding the actual turnover, as well as the identity of participants in exchange operations (this should be the focus of inspection).

The score level is realistic considering that the exchange offices do not bring in dirty capital, but rather convert it to other foreign cash.

### SERVICE OF MONEY TRANSFER IN INTERNATIONAL PAYMENTS

The sector vulnerability assessment was made by the Foreign Exchange Inspectorate (now within the Tax Administration) .

### ANALYSIS OF THE SECTOR SIZE AND TURNOVER VOLUME

The system operates in more than 200 countries. The cash comes to Serbia from individuals from some seventy countries. Around EUR 206.8 million arrived in Serbia in 2011. In the same period, around EUR 19.3 million was sent from Serbia through the Post Office to individuals abroad. In 2011, 714,169 money receipt transactions were made in Serbia and 89,389 transactions of sending money from Serbia via the Post Office to individuals. Only cash is in circulation in this sector – 100% is accounted for by individual cash deposit and withdrawal. The average transaction value is low, around EUR 300. The Foreign Exchange Inspectorate only inspects money transfer in international payments, so the data only relate to this turnover (100%). The inflow of money into Serbia is mostly from the diaspora countries. The outflow of money is limited at the monthly level and only through the Post Office of Serbia. The daily limit for sending money is RSD 200,000.00 and the monthly limit is RSD 1,000,000.00 per person. This refers to money inflow from and outflow to individuals.

The indicators of potential money laundering activities and actions that raise suspicion of money laundering: There were indications of suspicious

transactions in around 600 cases, of which the Administration for the Prevention of Money Laundering was informed by the reporting entities; after an analysis, the Administration reported 143 persons to the police and 1 person to the Prosecutor's Office for Organised Crime

### INSPECTION MEASURES

Resources allocated to supervision: two inspectors; the budget is inadequate and limited. Low inspection level. Legal entities in Serbia perform the service of money transfer in international payments with no licence, i.e. no operating licence has been issued, because the Law on Payment Services that is in the draft stage will regulate in detail this field and the operating licence issuance and withdrawal procedure.

The sector vulnerability level is rated with a score of 0.33 – medium-risk sector.

It is worth noting that the practice has shown that the sector of money transfer in international payments is used as a channel for transferring proceeds from illegal activities, which was also observed in the case of Serbia. It is the flow of money acquired by human smuggling, prostitution and narcotics trafficking. The amounts transferred are not high. They are mostly individual amounts below EUR 1,000.00, but they are numerous. The money is usually sent to a single beneficiary from numerous originators from many foreign countries. Overall, the transfers are low in total compared to the whole turnover for Serbia when taking into account the analysed amount of money of "suspicious persons". On its own initiative, the Administration forwarded the information to the competent government authorities for the period from 2011 to mid-2012 for more than 140 individuals suspected of being involved in organised crime. In many cases, the feedback confirmed that there was a good reason for suspicion. In addition, the information of investigative bodies submitted to the Administration indicates that the persons related to narcotics trafficking, prostitution and human smuggling frequently use the services of money transfer agents.

### FACTORING AND FORFEITING IN INTERNATIONAL PAYMENTS

The sector vulnerability assessment was made by the Foreign Exchange Inspectorate (now within the Tax Administration) according to the World Bank methodology.

### ANALYSIS OF THE SECTOR SIZE AND TURNOVER VOLUME (NUMBER OF TRANSACTIONS)

These activities are mostly performed by the Serbian Export Credit and Insurance Agency, commercial banks and a small number of businesses. They mostly involve a purchase of claims with maturity of up to one year. According to the available data, the total volume of international payments in the sector is around EUR 47 million including around 1300 implemented contracts. There is no cash in this sector. All transactions are conducted through banks. Money laundering risk is lower in the Serbian Export Credit and Insurance Agency and commercial banks, while it is higher in businesses occasionally engaged in factoring. The percentage of higher-risk customers is low because factoring transactions are mostly carried out through the Serbian Export Credit and Insurance Agency and commercial banks. A total of 192 contracts were inspected that were worth around EUR 12.6 million, which was 26.80% of the turnover or 14.76% of the contracts implemented.

The Foreign Exchange Inspectorate performs on-site examination with two inspectors and its budget is insufficient and limited. No special operating licence is issued, so all legal entities may engage in factoring activities.

The sector vulnerability to money laundering is rated with a score of 0.18 (low).

The Administration has so far received no suspicious transaction reports from the reporting entities or the supervisory authority. The "actual situation" in the market was not identified because there were no inspections according to the data, and this can particularly be said for the part relating to anti-money laundering regulations. A strong barrier in combating money laundering is the fact that the international factoring (primarily) includes two factors that particularly wish to protect themselves in business and, by the nature of their business, the factors are very demanding of their customers regarding the fulfilment of conditions. Problems may arise if a "suspicious factoring transaction" is taking place between offshore customers or customers where it is impossible to identify the customer ownership structure and if working with documents guaranteed by banks or financial institutions from offshore zones or the countries with strong banking secrecy laws. Considering the turnover of only EUR 47 million, the recommended score is realistic at this moment, but with reservation, because there was no quality supervision in terms of customer risk assessment and analysis.



### THE VOLUNTARY PENSION FUND SECTOR

The sector vulnerability assessment was made by the NBS Supervision – Department for Supervision of Voluntary Pension Funds, according to the World Bank methodology.

### SECTOR SIZE AND TURNOVER VOLUME IN THE FINANCIAL MARKET

At the end of the first quarter of 2012, Serbia's voluntary pension fund sector was made up of six management companies controlling the assets of nine voluntary pension funds, as well as four banks acting as agents. The total number of employees was 160. The total net assets as of 31 March 2012 were RSD 13.42 billion. The total net assets as of 31 March 2012 were EUR 120.5 million, and as of 31 May 2012 EUR 120 million. At the end of 2011, the share of voluntary pension funds in the entire financial sector supervised by the NBS was just 0.4%. The share of the total net assets of all the funds in Serbia's GDP at the end of 2011 was 0.38%. Of the total number of management companies, two management companies are majority owned by banks and four are majority owned by insurance companies.

### VOLUME OF TURNOVER (NUMBER OF TRANSACTIONS)

The number of transactions (deposits and payouts) in 2011 was around 692,000 (about 687,000 deposits and about 5,000 payouts). Deposits amounted to around EUR 24.8 million EUR, and payouts about EUR 5 million; the average deposit was EUR 36, and the average one-time payout EUR 997. The number of transactions (deposits and payouts) in the first five months of 2012 was around 287,000 (285,000 deposits and about 2,200 payouts). The total value of the deposits was about EUR 10 million, and the total value of payouts about EUR 2.5 million; the average deposit was EUR 35, and the average one-time payout EUR 1,137.

### INSPECTION MEASURES

There is some information from off-site examinations about the PML/TF activities of voluntary pension fund management companies, customers of management companies, transactions, the data submitted to the Administration for the Prevention of Money Laundering and about employee training. The management companies submit this information to the NBS at the annual level – at the beginning of the year for the previous year. On-site examinations of this field have so far been an in-

tegral part of comprehensive inspections of management companies. The latest such inspection of management companies was carried out in April this year. Appropriate measures were imposed on the management companies in order to address the irregularities found. The latest on-site examination was in April 2012. No targeted inspections were performed in this regard. Overall, the management companies achieve in a satisfactory manner the compliance threshold set with respect to the performance of PML/TF activities.

### VULNERABILITY SCORE OF THE VOLUNTARY PENSION FUND SECTOR

The activity of voluntary pension funds does not represent a significant ML/TF risk, i.e. it has low vulnerability to money laundering due to its total share in Serbia's financial market, share in GDP, and the nature of the activity, as well as analysis of the size of contribution transactions of voluntary pension fund members.

The score of money laundering vulnerability level: 0.10 (low)

The assigned low-level vulnerability score is realistic because the development of this sector is based on tax incentives to employers by the government, with tax benefits for payments of around RSD 4,500. Precisely this amount is predominant in monthly contributions to voluntary pension funds per member. Most of the insured are from the public company sector but not exclusively, because the private sector also invests in the security of its employees. There are almost no cash deposits or cash withdrawals. All deposits, withdrawals and transfers of funds are made through a custody bank (to/from the aggregate account). The payment of contributions from abroad is negligible – the non-resident share is around 0.02%.

### FINANCIAL LEASING COMPANIES

The sector vulnerability assessment was made by the NBS Supervision – Department for Supervision of Financial Leasing Providers, according to the World Bank methodology.

### SECTOR SIZE AND TURNOVER VOLUME IN THE FINANCIAL MARKET

In Serbia's financial leasing sector, at the end of the first quarter of 2012 there were 17 financial leasing companies, employing a total of 452 persons. Their total balance sheet assets as of 31 March 2012 stood at EUR 568.2 million, compared to



EUR 719.2 million at the end of the second quarter of the same year. The portfolio for the financial leasing market as of 31 March 2012 stood at EUR 554.3 million. Eleven of the 17 financial leasing companies are 100%-owned by foreign legal entities, and five companies are 100%-owned by domestic legal entities, of which four are owned by domestic banks which have foreign capital. All the foreign legal entities who hold stakes in the capital of financial leasing companies are based in the EU countries.

At the end of the first quarter of 2012, the total assets of the financial leasing sector accounted for 3.04% of the total banking sector assets. At the end of the second quarter of 2012, the total assets came down to 2.96% of the total assets of the banking sector, constantly declining since 2008, when this share was 6.2%.

### INSPECTION MEASURES

Due to inadequate number of employees engaged in the tasks of supervising the operation of financial leasing companies, no on-site examinations can be planned and conducted for the time being with respect to the implementation of anti-money laundering regulations. Therefore, on-site examinations were not performed at all due to insufficient human resources, as well as due to the absence of any indications of violations of the PML/TF regulations based on the findings from off-site examinations. As for off-site examination, it is performed by inspecting the data (completed questionnaires on the activities of reporting entities in connection with the prevention of money laundering) that the financial leasing providers submit to the NBS semi-annually and that relate to the taken measures and activities stipulated for financial leasing providers by the PML/TF regulations.

### VULNERABILITY SCORE OF THE SECTOR OF FINANCIAL LEASING PROVIDERS

The score of money laundering vulnerability level: 0.19 (low)

The risk level was not identified adequately because no on-site examinations were conducted in any financial leasing providers. The inspection was solely based on off-site examination by means of questionnaire completion.

It is a sector with a significant balance sheet total where there are numerous frauds with the aim of presenting a false theft of the object of leasing or other ways of deception or fraud by the lessee at-

tempting to acquire illegally the leasing object or, in rare cases, to obtain money in an illegal manner, based on forged documents of supposed delivery (purchase) of leasing object, to finance such false purchase.

### The high money laundering risk in leasing companies is caused by the following:

1. cash flows go through the banking sector – the cash deposited for instalment or advance payment is often not recognised;
2. third parties often pay instalments on behalf of lessees – they were not identified (KYC) by the lesser because they were not a contractual party;
3. frauds having the characteristics of predicate criminal offences.

A total of 9 suspicious transaction reports of leasing companies were submitted to the Administration during 2011 and 2012. The Administration's experience in the work with investigative bodies indicates that the persons related with criminal background had or have significant contracts with leasing companies – purchase of fleet (buses and trucks), where there were many illegal actions by them as lessees (illegal disposals or concealment, false thefts). Generally, major money laundering through leasing companies is possible if the criminals or members of organised crime seriously engage in legal activities where they need significant fixed assets (equipment, vehicles and machines) to perform the activity and where it is possible to bring successively dirty money into legal circulation through instalment payments.

# ANNEX 5 | MODULE 7

## VULNERABILITY OF DESIGNATED LEGAL ENTITIES AND INDIVIDUALS OUTSIDE THE FINANCIAL SECTOR

### DESCRIPTION OF THE SITUATION

The assessment of the money laundering risk through the non-financial segment of the system of the Republic of Serbia was made in the following sectors: games of chance, auditors, accountants, lawyers and real estate agents. It was also analysed whether Article 36 of the Law on the Prevention of Money Laundering and Terrorism Financing, which prohibits cash payments, was implemented. Practically no one who sells valuable goods may receive cash; instead, the transaction must be carried out through a bank account. Tax auditors and market inspectors inspect the implementation of this Article of the Law. In the period from 2009 to 2011, market inspectors inspected cash payments for automobiles in 179 cases, of which charges for economic offence were brought in three cases. Fines of RSD 90,000 for the legal entity and RSD 9,000 for the responsible person were imposed in one case. Although they are not reporting entities, the legal framework for the work of notaries was assessed with reference to their role in the PML/TF system. The Law on Notaries Public was passed and starts to apply as of 1 September 2012. The institution of notary, as a holder of public authority, should provide legal certainty and protection to citizens by means of preventive function and contribute to reducing the number of disputes, thereby reducing the inflow of new cases and the number of new litigations in courts, given the evidentiary power of notary public record as a public document. Notaries public will assume a part of judicial competence in non-litigious and administrative affairs and thus have an impact on the efficiency, effectiveness and functioning of the judiciary. The implementation of the Law on Notaries Public is expected to contribute to combating money laundering as well, particularly when taking into account the position of notaries public in the legal system, as well as the activities they are authorised to perform in the area of real estate sales, but also the activities of safekeeping money, securities and other valuables. The provisions of the Law on Notaries Public give them the power to deny the performance of actions that are not permissible by the law, which they suspect to be feigned actions by the party or that the party is attempting to avoid legal obligations or unlawfully to inflict damage on a third party, but also impose the duty of notaries public to provide the information obtained in the course of performance of their activities to the court, administrative authority or other competent authority which conducts the court or administrative proceedings. The Law establishes disciplinary

responsibility of any notary public who, in performing his/her tasks, does not act in accordance with the Law and does not observe the rules of notarial procedure. The start of the application of the Law on Notaries Public is postponed until March 2013, and it is expected that there will be one notary per 25,000 residents, which is around 300 notaries in total for Serbia.

# RISK ASSESSMENT

## CASINOS

The score of the money laundering risk in casinos is medium – 0.43.

### Description of the situation:

There was one casino in Serbia until 2012 and another one has recently started to operate. The business of casino games of chance is regulated, it is necessary to obtain a licence for opening a casino, the Guidelines for Implementing the Anti-Money Laundering Regulations have been in existence ever since 2009 and a system for the prevention of money laundering in casinos was put in place, which are all factors that cause a decrease in the money laundering risk in casinos. In order to obtain a licence for opening a casino, the organisers of games of chance must, based on the Decree Determining the Criminal Offences for Which a Certificate of No Conviction for Certain Persons Must Be Submitted Along with the Application or Request for Obtaining a Licence or Approval to Organise Certain Games of Chance (Official Gazette of RS, No. 128/2004) specifies that the certificate of no conviction for criminal offences refers to the following: negligent work in business operations, causing bankruptcy, inflicting damage on creditors (abuse of powers against economic interests, unfounded obtainment and use of loans or other benefits, damaging business reputation and credit standing, concluding harmful contracts, disclosure and unauthorised obtainment of business secret, making and using of false stores for value or securities, making, procuring or disposing of counterfeiting tools, deceiving customers), illicit trade and tax evasion. Professional and ethical standards for the work of all supervisory authorities are prescribed by the Law on Civil Servants. No one against whom criminal proceedings are being conducted or who has been convicted can apply at all for a job in any government authority. In addition, when it comes to inspectors, they must have at least three years of work experience to work as inspectors. The general vulnerability level is 0.43.

A factor that increases the money laundering risk in casinos is doing business in cash – the purchase and sale of chips is performed solely in cash. Another factor that increases the risk are unclear provisions of the Law on Games of Chance in connection with the competent supervisory authority. Namely, the provision stipulates that the Administration for the

Prevention of Money Laundering is competent for supervising the implementation of this Law (the Law on Games of Chance) in casinos. It seems that, in the process of adopting the Law on Games of Chance, there was a technical and logical error in drafting the provisions of this Article. Nevertheless, there is *de facto* inspection of casinos, although the above mentioned provision should be amended. The risk also lies in the fact that the inspection is only performed off-site and there is no possibility of on-site inspection of the work of casinos. The amendments to the Law on the Tax Procedure and Tax Administration (Official Gazette of RS, No. 93/12) abolished the Games of Chance Administration and the Foreign Exchange Inspectorate, which were designated as supervisory authorities in accordance with the provisions of the Law on the Prevention of Money Laundering and Terrorism Financing. The Tax Administration took over the activities, employees and equipment of the Foreign Exchange Inspectorate and the Games of Chance Administration.

## ORGANISATION OF GAMES OF CHANCE VIA THE INTERNET

Pursuant to the old Law on Games of Chance, only the State Lottery of Serbia could organise games of chance. However, since the adoption of the new Law on Games of Chance there has been the possibility of issuing a special licence for organising games of chance via the Internet. This licence is issued by the State Lottery of Serbia. There are the Guidelines for the Implementation of the Law on the Prevention of Money Laundering and Terrorism Financing, but the situation with the supervisory authority is the same as in the case of casinos. The total money laundering risk in organising games of chance via the Internet is medium-high – 0.71.

Real estate agents and individuals acting as developers 0.69

The highest money laundering risk in the non-financial sector is in the real estate industry, especially when taking into account the fact that many individuals in Serbia appear as developers and then sellers of newly built property. There are 394 such individuals according to the data of the Tax Administration. The real estate construction industry carries an increased money laundering risk because payments for construction material may be made in cash. The Typologies of Money Laundering issued by the Administration in 2012 specify that one of the typological methods of money laundering in Serbia is money laundering through real estate. They mostly specify as a typical example of money laundering the investment of large amount of cash by an indi-

vidual acting as a developer, followed by the sale of such property and hiding of the illegal origin of the money invested in the construction. These are also factors that increase the money laundering risk in this area. What also increases the risk is insufficient legal regulation of this sector. There is no special law that would regulate real estate sales, although there have been numerous discussions about the work on this law; instead, the general provisions of the law on contracts and torts apply to real estate sales.

A factor causing a decrease in the money laundering risk via real estate sales is the fact that in most cases the selling price of a property is paid from the proceeds of a bank housing loan.

There is no register of persons engaged in real estate sales, so the size of this sector may only be determined indirectly based on the data of the Tax Administration. There are a total of 1793 businesses engaged in real estate business, of which 581 businesses are in the VAT register, which means that the turnover volume of these businesses exceeds the amount of around EUR 17,000 at the annual level. The turnover volume is EUR 272,551,375 and the turnover volume of individuals is EUR 19,479,353 at the annual level. Although, according to the data of the supervisory authorities in this area (Market Inspection Department), real estate agencies implement the PML/TF regulations, there are no suspicious transaction reports by the agencies. Nevertheless, it has been established by checking the Administration database that in the period from 2009 to date there were 170 reports of suspicious transactions stating real estate sales in the description of the transaction purpose.

The elevated money laundering risk through real estate is also corroborated by the fact that many cases of assets recovery involved recovery of the property purchased with the money acquired by committing a criminal offence.

#### LAWYERS

The risk is low – 0.33

According to the Tax Administration data, there are 9,187 businesses operating in Serbia that registered their business activity under the code “legal business activities – lawyers”, of which the number of active businesses in the VAT register is 573, while 8 individuals are self-employed. A lawyer may work within a law general partnership or as an individual-entrepreneur. The data relating to lawyers’ business is hard to obtain and the whole risk assessment is based on the Tax Administration data. The Typolo-

gies of Money Laundering in the Republic of Serbia state that there is almost no organised criminal group that does not have a lawyer in its organisation, and a lawyer as a “front person” appears as a typology of money laundering, assisting in the performance of transactions on behalf of a party in connection with real estate purchase or sale, with the same lawyer appearing as the authorised person in the accounts of both sides, the buyer and the seller. It has also been identified that lawyers appear in the same capacity in company purchases.

In an interview with one of the major law offices in Belgrade, we have found that there are no precise data about this, but that very few law offices engage in activities in connection with client asset management, only 3 or 4 law offices in Belgrade, but that the number of lawyers in these offices is high, with 30 to 60 lawyers working in each of them, which makes around 10% of all lawyers in total.

When it comes to the implementation of the PML/TF regulations among lawyers, the assumption is that they hardly implement the regulations at all, because very few lawyers are even aware of the existence of certain obligations in connection with the prevention of money laundering. The supervisory authority is the Bar Association and there are no guidelines that would clarify the application of the regulations. The total vulnerability to money laundering in legal profession is medium-high – 0.33. This data should be interpreted with reservation because the vulnerability is calculated based on just a few reliable data.

#### AUDITORS

The risk is 0.19.

Audit activities in Serbia may be performed by certified auditors solely within audit companies. The Chamber of Certified Auditors, as a professional association of auditors, has been active since 2006 and works on the improvement of auditing and accounting activities, organisation of the professional exam for issuing a licence for the performance of annual financial statement audits. It is composed of certified auditors employed with audit companies, internal auditors, as well as audit companies. According to the Chamber data, there are currently 54 audit companies in Serbia and 189 individuals are licensed to perform annual financial statement audits. The factors causing a decrease in the risk include a relatively well organised and regulated market, absence of cash payments, as well as the change of the supervisory authority for supervising the implementation of anti-money laundering

regulations. Namely, in 2011, the competence for supervising the implementation of the AML regulations was transferred from the auditors' association to the Administration for the Prevention of Money Laundering. The Guidelines for the Implementation of the Law for Accountants and Auditors were issued in March 2012. The Guidelines were published on the Administration website and sent to licensed audit companies with an explanation that they had to bring their internal regulations into compliance with the Guidelines and the Law. In April and May 2012, a questionnaire was sent to all audit companies where they were supposed to answer the questions regarding the implementation of the Law on the Prevention of Money Laundering. Based on the questionnaire results, more than 90% of the audit companies prepared a risk analysis and apply customer due diligence measures. Five suspicious transactions were reported by audit companies in the period from the beginning of 2012 to date. The formation of the Supervision Department is in progress and the plan is to employ eight inspectors by the end of the year. These eight inspectors will be responsible for carrying out supervision of accountants, auditors, tax advisors, companies engaged in money transfer in Serbia (the Foreign Exchange Inspectorate conducted the supervision of money transfer across the national borders) and factoring and forfeiting within Serbia. Two working groups will be formed within the Department: the Group for Supervision of Accountants and Auditors (with 4 inspectors, of which two have already been employed and one is in the process of employment) and the Group for Supervision of Other Reporting Entities (with four inspectors). What could result in a failure to fulfil the working plan of the Administration is the lack of premises. Namely, although the employment of more inspectors is planned and although there are funds for them, there are insufficient premises. The building where the Administration is located is small and inadequate to accommodate the existing number of people.

The factors that may cause a risk increase are the lack or inefficiency of inspecting the work of auditors and the integrity of auditors in terms of selecting a representative sample.

#### ACCOUNTANTS

The risk is 0.29

The accountant activities are regulated by the 2006 Law on Accounting and Auditing. When it comes to accountants, the problem is that it is impossible to determine the exact number of individuals, legal entities and entrepreneurs that are engaged in this

activity. Namely, in accordance with the Law on Accounting and Auditing, the performance of bookkeeping activities does not require any licence and anyone may engage in this activity. What also hinders the work on the collection of precise data is the lack of any sanctions if a person/entity is registered for the performance of one activity as core activity, while completely engaging in another activity.

According to the Tax Administration data, the total number of businesses engaged in accounting, bookkeeping and auditing activities is 7,364. If the number of audit companies is subtracted from this number, we get 7,310 businesses engaged in accounting activities, assuming that all that are engaged in these activities are actually registered for their performance with the Business Register Agency.

There is no precise data, either, when it comes to the total annual revenues in the sector. The data that is precise and relates to the total annual revenues from the "accounting, bookkeeping and auditing" activities was RSD 10,276,747,839 in 2011. If the assumed income of all audit companies is subtracted from this data, we get assumed revenue from accounting activities in Serbia, which was RSD 9,583,720,857 in 2011. The factor that also increases the risk is doing business in cash.

The data are not collected in a systematic manner when it comes to accountants involved in the commission of a criminal offence. However, in one of the major indictments for money laundering against Darko Šarić and his organised criminal group, an accountant was also indicted as an accomplice in the criminal offence of money laundering. The Typologies of Money Laundering in the Republic of Serbia published in January 2012 mention accountants as well. The Typologies state that based on the experience of the Administration, prosecutor's offices and inspection authorities, the work of accountants is one of the key levers of criminals in the money laundering process because it was necessary to create a semblance of legality for certain transactions through accounting after committing a criminal offence.

The factors causing a risk decrease are the efforts of the Administration for the Prevention of Money Laundering to include accountants in the system. The risk analysis during September 2012 identified 100 accounting agencies and they were sent a questionnaire on whether they had established an anti-money laundering system. The results of this questionnaire will serve as a basis for preparing an inspection plan based on the risk assessment-based system. For the time being, we have several suspicious transaction reports by accountants. There

are no cash transaction reports because all cash transactions exceeding EUR 15,000 are carried out through banks. The supervision of the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing among accountants was also transferred into the competence of the Administration in 2011. The Guidelines for the Implementation of the Law were issued and there was intensive work during this year on raising the awareness of accountants of the possibilities of them being abused for money laundering. In accordance with the Law on the Prevention of Money Laundering and Terrorism Financing, every certified person must have a licence for the performance of anti-money laundering activities. The Administration organises exams for obtaining the licence. The first exam for accountants was held on 28 June 2012 and over 300 candidates passed it. This is a sign that the system began to develop in this segment as well.

The general conclusion is that there is certain progress when it comes to the development of PML/TF system in the non-financial segment of the AML system, especially when with regard to the activities of accountants and auditors, but that significant additional steps should be taken with the aim of further development, especially in the areas of legal profession, real estate agents and games of chance.

We have conducted studies in the last few months as to whether some other legal entities and individuals should be included as reporting entities under the Law on the Prevention of Money Laundering and Terrorism Financing. The object of our attention was the operation of pawnshops. Namely, the operation of pawnshops in Serbia is not regulated by any specific law and pawning takes place according to the general rules of the law on contracts and torts. The Market Inspectorate conducted targeted inspections in pawnshops and found that the pawned items included movable items made of precious metals, art objects and automobiles, that the pawning period lasted from 15 to 30 days, that it was frequently extended and that the fee ranged from 6% to 25% of the value of the pawned item. This area should certainly be studied in more detail in the future, but the preliminary results do not indicate the money laundering risk.

A study of the methods of informal money transfer across the national border is under way in Serbia. A working group was formed, but although it is certain that there is such method of money transfer across the national border, especially between the Serbian nationals working in the Western Europe and their families in Serbia, the

volume of money transfer is still unknown. It is impossible to get official data, but some data may be obtained using the interview method.

What is interesting as a potential channel for money laundering and what is not the subject of assessment according to the World Bank methodology is the abuse of the non-profit sector for money laundering. A working group was formed in Serbia that aims to assess the situation in the non-profit sector from the aspect of possibility of its abuse for terrorism financing, especially taking into account the aspect of financial transparency of the non-profit sector. However, there are indications that this sector is being abused for money laundering as well. A study was conducted within the Administration of the operation of non-governmental organisations and of the possibilities of their abuse primarily for money laundering. According to the data of the Business Register Agency, there are 17,910 registered civic associations and additional 45 foreign associations in Serbia. Before 2011, this number was significantly higher and exceeded 43,000, but at that time civic associations included sports associations and religious and political organisations, which are now excluded from the list. After their separation from non-governmental organisations, sports associations are now registered with the Business Register Agency within a separate group as associations in the area of sports. According to the study of the Office for Cooperation with Civil Society conducted in October 2011, most non-governmental organisations are located in the territory of Vojvodina (37%), followed by Belgrade (30%), while the rest of the non-governmental organisations in Serbia are evenly distributed across the territory of the Republic of Serbia. In 2010, most non-governmental organisations had a budget of less than EUR 20,000, while one in ten had over EUR 100,000. According to the 2011 data, the non-governmental organisations were mostly funded from the following sources: self-financing (41%), funding from the local government (20%) and funding from international donors (12%). The most common ways in which non-governmental organisations are funded include project-based funding (31%), membership-based (23%) and institutional support (13%). According to the Administration's study, what increases the money laundering risk is the fact that, due to the nature of operation of the above organisations, donors are not fully aware of how the donated funds are spent.

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM<sup>24</sup>

| Sources of risks (threats and vulnerabilities)          | Necessary action / goal  | Primary authority                 | Secondary authority  | Detailed action plan   | Notes / Issues regarding implementation  |
|---|--|-----------------------------------|--|--|--|
| 1. All predicate criminal offences stated in the report | Uniform and comprehensive records                                | Prosecutor's office               | Ministry of the Interior (Moi), Administration for the Prevention of Money Laundering (APML), Tax Police (TP), Court, Republic Statistical Office, Directorate for Management of Seized and Confiscated Assets, Customs Administration | Electronic keeping of registers or records. Uniform methodology of report preparation. Detailed records relating to the value of proceeds generated, as well as assets recovered based on the Law on the Recovery of Criminal Assets. Establishing a system of assigning a unique case number. Enable the interconnection of databases for criminal investigations and electronic exchange of information and access to databases to prosecutors with the police, Customs Administration, Tax Administration and other relevant authorities. |  |
|   | Permanent periodic review of the functioning of the whole system | Standing Coordination Group (SCG) |  | Establishment of an integrated system for statistical monitoring of money laundering cases in the whole system, starting from suspicious transaction reports (STR) to criminal reports and to judgement.   | Statistics must also be kept regarding the case, persons and assets that are the subject of the case and, eventually, recovery.  |
|   |  |                                   |  | Once a month or once every two months SCG discusses changes in the system and the results that the system produces.  | Oblige all SCG members to submit once a month a written report on anti-money laundering measures taken.<br><br>The APML employees working on the tasks relating to the SCG Secretariat prepare a consolidated report for discussion at the SCG meetings. |

<sup>24</sup> The plan is based on the analyses of working groups. The sequence of activities to be undertaken is not given according to the level of priority. All proposed measures and activities will be taken into account when preparing the new National Strategy for the Prevention of Money Laundering and Terrorism Financing.



PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                                       | Necessary action / goal   | Primary authority                          | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation  |
|--|---|--|---------------------|---|--|
| 2. <b>Effectiveness in the implementation of criminalisation of money laundering</b> | Improve the capacity of judicial office holders in dealing with indictments and improve the effectiveness and speed of money laundering proceedings. Intensify work on money laundering indictments and proceedings | Republic Public Prosecutor's Office (RPPO) | APML                | Develop and issue binding instructions on the methodology for money laundering cases for prosecutors that will be applied in practice but that will also be required training material.   |  |
|  |   | Courts, Ministry of Justice (MoJ)          |                     | Continuously collect and publish the case law in this area, which will serve as training material, but also as a basis for discussion at the meetings of the SCG and informal discussion groups.  |  |
|  | Strengthen the capacity of all authorities involved in money laundering cases   | RPPO                                       | APML                | Set up an APML training centre and develop programmes of advanced training for employees in all authorities dealing with money laundering cases, with an emphasis on prosecutors and on the basis of a detailed analysis of training needs at the system, institution, department and personal level.   | Advanced training programmes are based on the practice of the countries that have a large number of convictions for money laundering, but taking into account the specific situation in the Republic of Serbia. These convictions must be for money laundering regardless of the predicate offence and with large amounts of assets recovered in these cases.  |
| Strengthen the mechanisms of cooperation at the national level                       |   |  |                     | Identify particularly motivated employees (the so-called champions), with foreign language knowledge, who will go through advanced training in accordance with the best international practice of advanced training and who will promote the work on money laundering cases and motivate other employees for more advanced work on these cases. | It has been proven in the international practice that the so-called champions in certain areas, i.e. employees that are particularly motivated and educated, bring the necessary energy and motivation and knowledge for the promotion of the topics that are new in the legal system (as ML and TF still are). In combination with experienced employees, especially prosecutors, this yields the best results. Due to the abundance of material in English and the evident lack of such material in Serbian, these employees' excellent foreign language skills are essential. |



PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)   | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation  |
|--|---|-------------------|---------------------|--|--|
| <b>3. Policy strategy and its implementation</b> | Adopting a new strategy and its implementation, as well as strengthening the activities on the implementation of the current strategy | SCG               | APML                | Set up a working group and draft a new national strategy.  |  |
|  |   |                   |                     | Adopt the new national strategy.   | In preparing the new ML strategy, involve to a greater extent the citizens and other stakeholders in order to understand their perception of the money laundering problem so that the new strategy would lead to greater stakeholder satisfaction. |
|  |   |                   |                     | Raising awareness in relevant government authorities, as well as raising awareness of the general public in order to obtain political support for the implementation of the national strategy.   | Awareness raising is done through holding seminars and presentations to policy decision-makers, as well as awareness raising of the general public in order to secure broad support for the implementation of the strategy.                        |
|  |   |                   |                     | Strengthening the role and position of the SCG.  | Establish the SCG Secretariat.   |
|  |   |                   |                     | Conduct a survey of awareness of the money laundering problem among citizens and other stakeholders, as well as of their perception of the efficiency of the Administration and other government authorities in preventing and combating money laundering. Periodically repeat the "satisfaction assessment" (survey). | Check the strategies of other similar authorities, the Mol strategy in particular.   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal                | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation  |
|--|--|-------------------|---------------------|---|--|
| 4. Capacity of financial crime prosecutors     | Strengthen the capacity of prosecutors | RPPO              | MoJ, APML           | Strengthening the HR capacity in prosecutor's offices.  | Appointing several prosecutors specialised in financial crime, as well as employing economic forensic experts in each prosecutor's office  |
|  |  |                   |                     |   | Prosecutors specialised in money laundering go through training based on mock trial exercise.  |
|  |  |                   |                     | Permanent advanced training and raising awareness of prosecutors in connection with the significance of money laundering cases. | Prepare the programmes of advanced training of prosecutors based on the practice of the EU countries and other countries that will enable better utilisation of the existing legal provisions. |
|  |  |                   |                     |   | Inclusion of money laundering topics in the annual training plans of the Judicial Academy.   |
|  |  |                   |                     | Improving the financial status of prosecutors.  | Finding ways to ensure adequate remuneration of prosecutors working on large money laundering cases.   |
|  |  |                   |                     |   | One of the remuneration methods may be further advanced training abroad.   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                    | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation   |
|---|--|-------------------|---------------------|---|---|
| 5. Capacity of officers conducting financial crime investigations | Strengthen the capacity of officers working on financial crime cases | Mol               | APML                | Permanent advanced training.  | Active participation of police officers in the work of the APML training centre as lecturers, as well as trainees.  |
|   |  |                   |                     |   | Continue studying money laundering topics at the Policy Academy (their inclusion in the annual training plans).   |
|   |  |                   |                     |   | In cooperation with the international organisations and countries that have well-developed technical assistance programmes, develop programmes of advanced training abroad for officers working on large money laundering cases. This may serve at the same time as a method of remunerating particularly motivated officers. |
|   |  |                   |                     | Strengthening the financial status of officers conducting financial crime investigations. | Finding methods for adequate remuneration of officers working on large money laundering cases   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal           | Примарни орган                                     | Secondary authority | Detailed action plan         | Notes / Issues regarding implementation  |
|--|-----------------------------------|--|---------------------|------------------------------|--|
| 6. Capacity of presiding judges                | Strengthen the capacity of judges | Judicial Academy, Supreme Court of Cassation (SCC) | APML                | Permanent advanced training. | Inclusion of money laundering topics in the annual training plans of the Judicial Academy.   |
|  |                                   |  |                     |                              | Involvement of judges with experience in money laundering cases in the work of the APML training centre.   |
|  |                                   |  |                     |                              | Constantly collect and publish case law in this field, which will serve as training material but also as a basis for discussion at the meetings of the SCG and informal discussion groups. |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal   | Primary authority | Секундарни орган | Detailed action plan  | Notes / Issues regarding implementation  |
|--|---|-------------------|------------------|---|--|
| 7. Domestic cooperation                        | Strengthening the role and position of the SCG.   | SCG               | APML             | Supplement the decision on the establishment of the SCG in order to formally strengthen this body. Prepare and adopt the Rules of Procedure.  |  |
|  |   |                   |                  | Set up SCG subgroups that will separately deal with certain parts of the system (preventive measures, supervision, national cooperation, international cooperation, training, criminal prosecution, legal matters and other). Formalise the work of these subgroups through amendments to the Decision on the SCG. Examine the justifiability and options for setting up a permanent SCG Secretariat that will provide technical support to the expanded SCG and its subgroups. |  |
|  | Strengthening and encouraging professional discussions in government authorities, as well as the general public | SCG               | APML             | Encourage the establishment of informal discussion groups.  | Informal discussion groups would bring together experts dealing with PML/TF issues in different areas (financial sector, government authorities, scientific community i.e. institutes and universities) in order to exchange opinions, experience and views. Such work would contribute to raising awareness of all participants, increasing the level of knowledge and formulation of new ideas aimed at the improvement of the system; |
|  |   |                   |                  |   | The space for the work of informal discussion groups may also be provided by setting up a blog page on the APML website.   |
|  | Strengthening inter-departmental cooperation on specific money laundering cases                                 | RPPO              | SCG              | Encourage the training of specialised prosecutor-led working teams for the work on very large and important cases.  | Identifying particularly motivated prosecutors who will initiate the formation of these teams.   |
|  |   |                   |                  |   | Formalise the work of these teams through special decisions on team leading, powers and responsibilities of each team member in each specific case.  |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                            | Necessary action / goal   | Primary authority                     | Secondary authority   | Detailed action plan  | Notes / Issues regarding implementation   |
|---|---|---------------------------------------|---|---|---|
| <b>8. Analysis of the data from suspicious transaction reports (STRs)</b> | Accelerating the STR analysis process   | APML, SCG                             | MFE, National Bank of Serbia (NBS)  | Set up a central register of accounts of individuals.   |   |
|   | APML capacity building  | Ministry of Finance and Economy (MFE) |   | Urgently provide adequate premises for the APML so that the full number of employees could be employed based on the Rulebook on Job Classification.                                     |   |
|   | Increase the quality of transaction reports by banks                                | APML                                  | NBS   | Continue with and raise to a higher level the provision of feedback to banks on the results of their reports and introduce some kind of feedback in connection with individual reports. |   |
|   |   | APML, National Bank of Serbia (NBS)   | Association of Serbian Banks (ASB)  | Prepare a strategy for strengthening the role of compliance officers in banks   | Координирана акција УСПН, НБС и УБС на јачању улога овлашћених лица у финансијском систему (састанци са највишим руководством у банкама да се овлашћеним лицима у банкама додели више ресурса, како материјалних тако и кадровских. Али и ојача њихово место у систему и њихова самосталност у раду). |
|   | Increase the number of suspicious transactions reported by other reporting entities | APML                                  | Supervisors of certain reporting entities and associations of certain reporting entities  | Intensify the activities on supervising the implementation of the Law on the Prevention of ML&TF  | Ојачати Одељење за надзор у УСПН у кадровском, материјалном смислу и у смислу неопходне обуке.  |
|   |   |                                       |   | Prepare a strategy for training other reporting entities in connection with suspicious transactions and the implementation of the Law on the Prevention of ML&TF in general.            | На основу процене ризика сваког појединачног сектора обвезника ван банкарског сектора направити листу приоритета у вези са обуком. Највише пажње посветити секторима који су ризичнији.   |
|   |   |                                       | Prepare as comprehensive a register of non-bank reporting entities as possible, with data on the level of implementation of the Law on the Prevention of ML&TF, training level and other. |   |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|---|---|
| 9. Financial integrity                         | Strengthening financial integrity and business ethics in the society | SCG               |                     | Strengthening the work on the detection and prosecution of financial criminal offences.                               |   |
|  |  |                   |                     | Strengthen the work on the adoption and consistent implementation of the codes of conduct for civil servants.         |   |
|  |  |                   |                     | Public campaign aimed at strengthening professional ethics. Consistent implementation of the anti-corruption strategy |   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal              | Primary authority                            | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation |
|--|--------------------------------------|--|---------------------|---|---|
| 10. Formal economy                             | Reduce the level of informal economy | Tax Administration (TA), Market Inspectorate | MFE                 | Centralise the data on property in the entire territory of Serbia. Since this is within the competence of local self-government units, the data are fragmented. |   |
|  |                                      |  |                     | Strengthen the Labour Inspectorate, inspection and sanctioning of informal labour.  |   |
|  |                                      |  |                     | Intensify the enforcement of Article 36 of the Law on the Prevention of ML&TF.  |   |
|  |                                      |  |                     | Strengthen the capacity of the TA in terms of financial and human resources and adequate training on money laundering.  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)       | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan                                  | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|---|---|
| 11. Capacity of officers in charge of asset recovery | Strengthen the capacity of officers employed with the Financial Investigation Unit (FInvU) | MoI               | FInvU               | Setting up regional FInvUsit in larger cities.        |   |
|  |  |                   |                     | Employ more officers in the FInvU.                    |   |
|  |  |                   |                     | Provide more financial resources for the FInvU needs. |   |

| Sources of risks (threats and vulnerabilities)  | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|---------------------|--|---|
| 12. Integrity of financial crime prosecutors  | Strengthen the integrity of prosecutors                                      | RPPO              | MoJ                 | Adopt integrity plans for all prosecutor's offices and insist on their consistent implementation.  |   |
|   |  |                   |                     | Complete the reform of prosecution organisation.   |   |
|   |  |                   |                     | Strengthen the transparency of prosecutors' work.  |   |
|   | Insist on consistent implementation of the National Anti-Corruption Strategy | SCG               |                     | Appoint the SCG representatives that will be members of a body in charge of the implementation of the anti-corruption strategy. Involve the representatives of the body for the implementation of this strategy in the SCG work as well. |   |
| Include the reports on the implementation of the anti-corruption strategy in the agenda of the SCG meetings. Involve the representatives of the Anti-Corruption Agency in the SCG work. |  |                   |                     |  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|---|---|
| <b>13. Criminal sanctions</b>                  | Harmonisation of case law  | SCC, MoJ, RPPO    | APML                | Set up and encourage the work of an informal forum of the heads of case law departments of higher and appellate courts (organising technical meetings in order to exchange information, views and case law in connection with the criminal offence of money laundering)                 |   |
|  | Raise the awareness of prosecutors and judges of the significance and benefits of money laundering prosecution | SCC, MoJ, RPPO    | APML                | Regular publication of bulletins and technical publications on the proceedings and convictions for money laundering. These bulletins and publications would also be used as the training material for the Judicial Academy and Police Academy, as well as for the APML training centre. |   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|--|---|
| <b>14. Integrity of presiding judges</b>       | Strengthen the integrity of judges   | SCC, MoJ          | APML                | Adopt integrity plans for all courts and insist on their consistent implementation.  |   |
|  | Insist on consistent implementation of the National Anti-Corruption Strategy |                   |                     | Complete the judicial reform in order to establish a high level of independence and professionalism.   |   |
|  |  |                   |                     | Strengthen the transparency of the work of courts in accordance with the Constitution, current laws and particularly the Law on Free Access to Information of Public Importance. |   |
|  |  |                   |                     | Include the representatives of the Anti-Corruption Agency in the SCG work.   |   |



PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)        | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|---------------------|--|---|
| 15. Integrity of officers in charge of asset recovery | Strengthen the integrity of officers in charge of asset recovery | MoI, MoJ          |                     | Adopt integrity plans for all organisational units of the MoI, especially the FinvU and the Directorate for Management of Seized and Confiscated Assets of the Ministry of Justice, and insist on their consistent implementation. |   |
|   |  |                   |                     | Insist on consistent implementation of the Anti-Corruption Strategy  |   |
|   |  |                   |                     | Include the representatives of the Anti-Corruption Agency in the SCG work.   |   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority            | Detailed action plan  | Notes / Issues regarding implementation |
|--|--|-------------------|--------------------------------|---|---|
| 16. Transparency of businesses and trusts      | Increase the level of transparency of businesses through the provision of data on beneficial ownership in these companies.                         | MFE               | Business Register Agency (BRA) | Make a detailed analysis of the legislative framework and international standards in the field of registration of businesses in order to find an appropriate way of prescribing the obligation of submission and registration of data on the beneficial owners in legal entities. |   |
|  |  |                   |                                | Ensure that the data on beneficial owners are available to the competent government authorities in the shortest time possible.  |   |
|  | Include capacity of the TA MoI, as well as the links between the competent authorities in order to reduce the number of phantom economic entities. | MoI, TA           | APML                           | Include capacity of the TA MoI, as well as the links between the competent authorities in order to reduce the number of phantom economic entities.  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                      | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|---------------------|--|---|
| 17. Integrity of officers conducting financial crime investigations | Strengthen the integrity of officers conducting financial crime investigations | MoI               |                     | Adopt integrity plans for all organisational units of the MoI and insist on their consistent implementation. |   |
|   |  |                   |                     | Insist on consistent implementation of the Anti-Corruption Strategy  |   |
|   |  |                   |                     | Include the representatives of the Anti-Corruption Agency in the SCG work.                                   |   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|---|-------------------|---------------------|--|---|
| 18. Asset recovery orders (decisions)          | Strengthen the effectiveness of the implementation of asset recovery orders | RPPO              | FInvU               | Strengthening the capacity of the authorities that execute orders.   |   |
|  |   |                   |                     | Regular meetings of representatives of the police and prosecutor's office to exchange views and in connection with the implementation of orders. |   |
|  |   |                   |                     | Adopt amendments to the law in order to shorten the seizure procedure.   |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)  | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|---------------------|--|---|
| 19. International cooperation in criminal cases | Improvement of the system for monitoring mutual legal assistance (MLA), as well as the improvement of efficiency in the work with letters rogatory | MoJ               |                     | Improve the mutual legal assistance (MLA) monitoring system in the Ministry of Justice so that statistical data are also kept on the types of MLA and the criminal offences to which this assistance relates.                    |   |
|   |  |                   |                     | Specialisation of the work on requests for MLA and extradition for the purpose of easier monitoring of data on requests. For example, designate one or several courts that would be exclusively competent for extraditions, etc. |   |
|   |  |                   |                     | Employ more officers for MLA tasks.  |   |
|   |  |                   |                     | Due to increasingly complex MLA requests, it is necessary to design and conduct systematic training in all courts, prosecutor's offices and MoJ, particularly regarding the use of multilateral MLA instruments.                 |   |

| Sources of risks (threats and vulnerabilities)  | Necessary action / goal  | Primary authority | Secondary authority                 | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|-------------------------------------|--|---|
| 20. International cooperation in asset recovery | Improvement of the system for monitoring mutual legal assistance, as well as the improvement of efficiency in the work with letters rogatory   | MoJ               |                                     | Improve the system for monitoring mutual legal assistance in the MoJ so that statistical data are also kept on all cases relating to the recovery of proceeds of crime.  |   |
|   | Intensify the cooperation of the Ministry of Justice and the financial investigation unit in connection with the cases of recovery of proceeds of crime with an international element. | MoJ, MoI          | Judicial Academy and Police Academy | Design a programme for joint training of employees in the MoJ and FIU.   |   |
|   | Strengthen the capacity of the MoJ for mutual legal assistance   | MoJ               | Judicial Academy                    | Due to increasingly complex MLA requests, it is necessary to design and conduct systematic training in all courts, prosecutor's offices and MoJ, particularly regarding the use of multilateral MLA instruments. |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal                              | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|--|---|
| <b>21. Independent sources of information</b>  | Accelerate the access to independent sources of data | MoI, APMI, MFE    |                     | Networking for the purpose of direct electronic access to databases of Infostan, BRA, electricity bills and other by competent government authorities in order to avoid unnecessary red tape in accessing these data |   |

| Sources of risks (threats and vulnerabilities)    | Necessary action / goal   | Primary authority                     | Secondary authority                | Detailed action plan   | Notes / Issues regarding implementation  |
|---|---|---------------------------------------|------------------------------------|--|--|
| <b>22. Customer identification infrastructure</b> | Accelerate the access to independent sources of data on beneficial owners | APML, NBS, Securities Commission (SC) | Associations of reporting entities | Make a detailed analysis of access to independent sources of information on beneficial owners, particularly in connection with access to various data abroad   | A document that will contain the data on the sources of information in the country and abroad, the method of accessing these data and the availability of certain sources in terms of legal and factual obstacles to obtaining them. |
|   |   |                                       |                                    | Prepare and, if needed, amend the Manual on Independent Sources of Information that reporting entities will use as a guideline in identifying these sources, the options of access to these sources and other. Include this Manual in the training material in the APML training centre. |  |
|   |   |                                       |                                    | Work on the education of reporting entities about the options of access to different sources of information.   |  |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority           | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|-------------------------------|--|---|
| <b>23. Auditing and accounting practices</b>   | Intensify the supervision of the work of auditing companies                              | MFE               | Chamber of Certified Auditors | Impose adequate sanctions against all auditors who violated the rules of profession and the auditing standards   |   |
|  |  |                   |                               | Through the work of its Disciplinary Committee, the Chamber of Certified Auditors should penalise those certified auditors who violated the Code of Professional Ethics and the International Auditing Standards |   |
|  | Strengthen the reputation of the profession as a whole (incl. auditors)                  | MFE               | Chamber of Certified Auditors | Work on the improvement of the system of charging for auditing services and thereby on the reduction of unfair competition.  |   |
|  | Develop the integrity of accounting profession   | MFE               | Professional associations     | Encourage the work of professional associations.   |   |
|  |  |                   |                               | Establish the codes of ethics and insist on consistent implementation of these codes.  |   |
|  | Exert influence towards an increase in the reliability of financial statements and books | MFE               |                               | Carry out a detailed, official and reliable analysis of practice in Serbia in connection with the completeness, accuracy and reliability of financial statements and books.                                      |   |
|  |  |                   |                               | Based on the performed analysis of current situation, adopt a detailed action plan that will relate to the improvement of the current situation and elimination of detected deficiencies.                        |   |
|  |  |                   |                               | Intensify the work on investigations and indictments for the criminal offence of abuse of authority in the economy.  |   |
|  |  | Mol, RPPO         |                               |  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation  |
|--|---|-------------------|---------------------|--|--|
| <b>24. Availability of tax information</b>     | Intensify the implementation of the Law on Tax Procedure and Tax Administration           | TA                |                     | Strengthen the capacity of the TA and of the TP in particular.   |  |
|  |   |                   |                     | Intensify the auditing and sanctioning of the failure to report taxable income   |  |
|  | Continue the work on the abolishment and prevention of introduction of parafiscal charges | MFE               | TA                  | Strengthen the citizens' awareness of the culture of paying and reporting income for taxation purposes, but also informing the public and the citizens about the use of the funds they paid towards tax and other charges. | Design a public campaign system in order to inform the public what charges there are in the Republic of Serbia. These data must be available to all citizens. It is also necessary to centralise all data kept in local self-government units in order to get comparable data in each local self-government unit |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                           | Necessary action / goal   | Primary authority | Secondary authority                     | Detailed action plan  | Notes / Issues regarding implementation                     |
|--|---|-------------------|---|---|---|
| <b>25. Banking systems for AML-related record keeping and monitoring</b> | Improve the bank IT systems and records that enable: automatic customer classification according to the money laundering risk level, automatic retrieval of data on the level of risk of the customer, automatic access to data as to what product will not be granted to customers of a particular risk level, monitoring transactions according to different criteria (especially of PEPs, international sanctions and similar) | APML              | NBS, Association of Serbian Banks (ASB) | Meeting with senior management of banks that do not have adequate IT systems.                                       |   |
|  |   |                   |   | Training bank employees regarding the requirements they should meet.  | Take into account the provisions governing data protection. |
|  |   |                   |   | Preparation of acts in the form of recommendations for an Adequate IT system.                                       | Active participation of banks is expected.                  |
|  |   |                   |   | Consider the introduction of inspections, checking the inadequate of adequate IT systems.                           |   |
|  | Improve the use of records for identifying unusual and suspicious transactions (ST)   | APML              | NBS, ASB                                | Training of bank employees.   |   |
|  |   |                   |   | Consider improving the recommendations for ST identification.   |   |
|  |   |                   |   | Standardising the notes relating to suspicious transactions not to be reported to the APML.                         |   |
|  | Introduction of statistics on the products used in transactions to be reported as suspicious  | APML              | NBS                                     | Consider the possibility of making these data transparent by publishing them on the APML website or in another way. |   |
|  |   |                   |   | Further training of bank employees.   |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation                     |
|--|--|-------------------|---------------------|--|---|
| <b>26. Weaknesses in corporate governance</b>  | Identification of weaknesses in corporate governance and its further development | APML, NBS         | ASB                 | Assessment of existing regulations with a tendency towards improvement.  |   |
|  |  |                   |                     | Meeting with representatives of bank senior management.  | Active participation of bank senior management is expected. |
|  |  |                   |                     | Organising training and workshops for top management representatives with the aim of raising awareness of the importance of ML/TF risk management. | Active participation of bank senior management is expected. |

| Sources of risks (threats and vulnerabilities)             | Necessary action / goal  | Primary authority | Secondary authority                     | Detailed action plan  | Notes / Issues regarding implementation                     |
|--|--|-------------------|---|---|---|
| <b>27. Availability of independent information sources</b> | Improve the existing bases of data relating to the Single Account Register (RIR) and of data in the BRA and enable the availability of data of reporting entities relating to e.g. gas bills, phone bills, utility bills and similar | BRA, NBS          | APML, TA, NBS, Mol, Prosecutor's office | Organise an intersectoral meeting in order to agree on the rights of access to databases relating to the register of individual accounts. | Take into account the provisions governing data protection. |
|  |  |                   |   | Enable the availability of historical data in connection with the registration of data of legal entities with the BRA.                    |   |
|  |  |                   |   | Identifying the beneficial owner of the party when registering businesses with the BRA.   |   |



PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|---|-------------------|---------------------|--|---|
| <b>28. Level of knowledge of bank officers</b> | Regular improvement of employee knowledge in the PML/TF field, raising awareness of the consequences of mistakes in their work and regular informing of new ML schemes and typologies | APML              | NBS                 | Organise trainings, seminars and interactive workshops; consider the need for improving the regulations in the part relating to checking the knowledge of employees who received training. |   |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|--|---|
| <b>29. Compliance function</b>                 | Improve the internal and external control system   | APML              | NBS                 | Organise trainings, seminars and interactive workshops for employees engaged in internal control of implementation of the PML/TF regulations as well as for those engaged in external audit. |   |
|  | Appointment of a senior manager as compliance officer for the implementation of PML/TF regulations |                   |                     | Consider the need for improving the regulations in the part relating to specifying that the bank compliance officer should be a senior manager.  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)  | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|---|--|-------------------|---------------------|--|---|
| <b>30. Weaknesses of internal and external audit of the implementation of the regulation governing PML/TF</b> | Prescribing the obligation that the external audit report also contain a part relating to PML/TF   | APML, NBS         | ASB                 | Consider the need for improving the regulation by prescribing the obligation of carrying out external audit of the implementation of the regulation governing PML/TF.  |   |
|   | Strengthening employee capacities in the organisational unit dealing with internal audit and their continuous training in the PML/TF field |                   |                     | Give recommendations to banks and other reporting entities to organise, according to their size and business complexity, a service dealing with internal control of the implementation of PML/TF regulations; organise training, seminars and workshops of internal control staff. |   |

| Sources of risks (threats and vulnerabilities)                     | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|--|---|
| <b>31. Penalty for failing to adhere to the PML/TF obligations</b> | Accelerate court proceedings for not failing to PML/TF obligations | MoJ               | APML, NBS           | Intensify training of employees in the judiciary and prosecutor's offices. |   |
|  |  |                   |                     | Consider giving priority to the proceedings relating to PML/TF.            |   |

| Sources of risks (threats and vulnerabilities)           | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation   |
|--|---|-------------------|---------------------|---|---|
| <b>32. Knowledge of officers dealing with securities</b> | In-house education, training and licensing of compliance officers | APML, SEC         |                     | Preparation of training programmes, implementation of new procedures, licensing compliance officers, assistance in resolving disputable issues and providing opinions and instructions regarding the implementation of regulations. | Predominant activity of the APML and SEC in licensing, education and advanced training of personnel and in providing opinions and instructions. |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)             | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation   |
|--|--|-------------------|---------------------|--|---|
| 33. Integrity of officers in firms dealing with securities | Improve the system of internal control and selection of compliance officers. | APML, SEC         |                     | Improvement of internal control, education and licensing of compliance officers. | Predominant activity of the APML and SEC. |
|  |  |                   |                     | Continuous supervision.  | Continuation of supervision.              |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal           | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation   |
|--|-----------------------------------|-------------------|---------------------|---|---|
| 34. Commitment to good corporate governance    | Education and regular inspections | APML, SEC         |                     | Licensing compliance officers, organising courses, printing publications. | Predominant activity of the APML and SEC in licensing, education and advanced training of personnel and in providing opinions and instructions. |
|  |                                   |                   |                     | Continuous supervision.   | Continuation of supervision.  |

| Sources of risks (threats and vulnerabilities) | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|---|-------------------|---------------------|--|---|
| 35. Quality of supervision in AML terms        | Employing new personnel and permanent education and advanced training | SEC               |                     | Employment and advanced training of new personnel in accordance with financial capacities. |   |

| Sources of risks (threats and vulnerabilities)                            | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation |
|---|---|-------------------|---------------------|---|---|
| 36. Knowledge of employees in voluntary pension fund management companies | Increasing the overall level of knowledge regarding AML and efficiency of the AML system. | APML, NBS         |                     | Providing training of compliance officers in management companies regarding the AML system, including ST identification and analysis. |   |
|   |   |                   |                     | Providing training for all employees regarding the AML system, including ST identification and analysis.                              |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities) | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|-------------------|---------------------|--|---|
| 37. Quality of supervision regarding AML       | Keep (on-site and off-site) supervision at the existing level. | NBS               |                     | Regular off-site inspection through a annual questionnaire.  |   |
|  |  |                   |                     | On-site inspection of management companies (inspection of the AML system as part of the comprehensive inspection). |   |
|  |  |                   |                     | Continuous training of the NBS employees.  |   |
|  |  |                   |                     | Off-site inspection of the AML system if needed.   |   |

| Sources of risks (threats and vulnerabilities)              | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation   |
|---|---|-------------------|---------------------|--|---|
| 38. Knowledge of officers in companies engaged in insurance | Increasing the overall level of knowledge regarding STs and efficiency of ST analysis | APML, NBS         |                     | Providing training of compliance officers regarding ST detection and analysis.   | Identification of potential sources of training material, as well as assistance in creating the suspicious transaction identification system. |
|   |   |                   |                     | Providing guidelines and training for all employees regarding STs.   | Development of adequate procedures and instructions to employees regarding the performance of AML activities.                                 |
|   |   |                   |                     | Internal audit function – providing continuous assessment of policies and procedures of reporting entities relating to PML/TF. | Cooperation with the central bank. Regular supervision of compliance.   |

| Sources of risks (threats and vulnerabilities)                           | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation                                   |
|--|--|-------------------|---------------------|---|---|
| 39. Systems for record keeping and monitoring regarding APML in insurers | Improving the systems for transaction monitoring and analysis with the aim of creating more efficient ST identification systems. | APML, NBS         | APML, NBS           | Development of a system for detection and identification of suspicious transactions within the system for their analysis. | Detailed activities will depend on the results of supervisory activities. |
|  |  |                   |                     | Supervision of suspicious transaction reporting systems and practice.   | Cooperation with the central bank. Regular supervision of compliance.     |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)   | Necessary action / goal  | Primary authority | Secondary authority | Detailed action plan  | Notes / Issues regarding implementation                      |
|--|--|-------------------|---------------------|---|--|
| <b>40. Quality of supervision regarding APML</b> | Improve the efficiency and effectiveness of capacities for ST data analysis in the Financial Intelligence Unit (FIU) | APML, NBS         | APML, NBS           | Detection of problems in suspicious transaction identification and reporting systems. |  |
|  |  |                   |                     | Further training of FIU and NBS employees.  | Identify potential training material and its sources.        |
|  |  |                   |                     | Training of/guidelines to reporting entities (supervised entities).                   |  |
|  |  |                   |                     | Supervision of ST reporting systems and practice in reporting entities.               | Cooperation with the NBS. Regular supervision of compliance. |

| Sources of risks (threats and vulnerabilities)  | Necessary action / goal   | Primary authority | Secondary authority | Detailed action plan   | Notes / Issues regarding implementation   |
|---|---|-------------------|---------------------|--|---|
| <b>41. Size and turnover volume of these sectors. Cash in the exchange office sector and the sector of money transfer services in payment operations; after the adoption of the Law on Payment Services, more reporting entities are expected to engage in money transfer service, which will lead to a risk increase in this area. Street dealers. Training level of reporting entities.</b> | <p>Improve and enhance the system for monitoring and analysing transactions in the exchange office sector. Increase the number of inspectors that would cover the areas of exchange office operations, factoring and forfeiting and money transfer in international payment operations.</p> <p>Improve the cooperation with other government authorities.</p> <p>Professional training and education of employees.</p> <p>Higher-quality cooperation with reporting entities.</p> | TA, APML, SCG     | APML, NBS           | <p>Improve and enhance the system for reporting, monitoring and analysing transactions in the exchange office sector in cooperation with the NBS. Carry out further training of employees and different types of training and education by experts with the aim of knowledge expansion and experience exchange.</p> <p>Deepen and intensify the cooperation with the APML and other government authorities and the NBS.</p> <p>Increase the number of employees in the future and improve their working conditions.</p> <p>Two-way cooperation with reporting entities and their better education.</p> | As of 06/10/2012, the TA took over the activities and employees of the Foreign Exchange Inspectorate, so the Detailed Action Plan will probably be adjusted in view of the capacity increase. |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                                       | Necessary action / goal  | Primary authority        | Secondary authority    | Detailed action plan   | Notes / Issues regarding implementation |
|--|--|--------------------------|------------------------|--|---|
| 42.<br>MODULE 7  | Amend the Law on the Prevention of Money Laundering and Terrorism Financing and introduce notaries public as reporting entities. Appoint a supervisory authority.                  | FIU (APML)               |                        | Form a working group.  |   |
|  |  |                          |                        | Prepare a draft LPMLTF.  |   |
|  |  |                          |                        | Submit it for the official adoption procedure.   |   |
|  | Consider new amendments to the Law on Tax Procedure and Tax Administration, as well as to other relevant laws in order to determine the supervisory authority for games of chance. | MFE                      |                        | Form a working group: Games of Chance Administration, Foreign Exchange Inspectorate (TA), Ministry of Finance and Economy, APML.       |   |
|  |  |                          |                        | Determine whether it is necessary to amend some of the laws or adopt a by-law.   |   |
|  | Consider amendments to the Law on Accounting and Auditing to make registration a mandatory requirement for the work of accountants   | MFE                      |                        |  |   |
|  | Increasing the number of staff in the Supervision Department with the aim of more efficient supervision of accountants, auditors and others.                                       | APML                     |                        |  |   |
|  | Training the reporting entities in practical implementation of the Law with an emphasis on risk-based approach (RBA)   | APML, supervisory bodies |                        | Preparing a training plan through workshops.   |   |
|  |  |                          |                        | Prepare a set of adjusted and developed regulations for each group of reporting entities ( <i>what you need to do if you are...</i> ). |   |
|  | Training the supervisors based on the RBA Supervision principle  | APML, NBS                |                        | Organise regular meetings of supervisory authorities.  |   |
| Training needs analysis.   |  |                          |                        |  |   |
| Designing the training plan and programme for each respective supervisory authority. |  |                          |                        |  |   |
|  |  |                          | Training the trainers. |  |   |

PROPOSED ACTIONS AND MEASURES FOR THE IMPROVEMENT OF THE ANTI-MONEY LAUNDERING SYSTEM

| Sources of risks (threats and vulnerabilities)                              | Necessary action / goal  | Primary authority   | Secondary authority | Detailed action plan                           | Notes / Issues regarding implementation   |  |
|---|--|---|---------------------|--|---|--|
| <b>MODULE 7 (continued)</b>   | Adopt the Law on Real Estate Trade   | Ministry of Foreign and Domestic Trade and Telecommunications |                     | Form a working group and propose a draft.      |   |  |
|   |  |   |                     | Submit it for the official adoption procedure. |   |  |
|   |  |   |                     | Јавна расправа.                                |   |  |
|   | Consider amending the Decree on the Classification of Business Activities so that real estate agencies would have to be registered under a single code | MFE   |                     |  |   |  |
|   | Consider amending the Decree on the Classification of Business Activities so that accountants would have to be registered under a single code          | MFE   |                     |  |   |  |
|   | Training the lawyers with the aim of including them in the AML system  | APML, Bar Association   |                     |  | Public debate.  |  |
|   |  |   |                     |  | Specific topics (the method of implementation of the Law in lawyers, reporting suspicious transactions, RBA). |  |
| Consider uniform regulation of fit & proper standards in all relevant laws. | APML   |   |                     |  |   |  |

**LIST OF ACRONYMS:**

|               |   |
|---------------|---|
| <b>BRA</b>    | - Business Register Agency  |
| <b>SCC</b>    | - Supreme Court of Cassation  |
| <b>LPMLTF</b> | - Law on the Prevention of Money Laundering and Terrorism Financing |
| <b>SEC</b>    | - Securities and Exchange Commission                                |
| <b>FinvU</b>  | - Financial Investigation Unit                                      |
| <b>NBS</b>    | - National Bank of Serbia   |
| <b>NRA</b>    | - National Risk Assessment  |
| <b>MFE</b>    | - Ministry of Finance and Economy                                   |
| <b>MoJ</b>    | - Ministry of Justice   |
| <b>MLA</b>    | - Mutual Legal Assistance   |
| <b>MoI</b>    | - Ministry of the Interior  |
| <b>ML</b>     | - Money laundering  |
| <b>TP</b>     | - Tax Police  |
| <b>STR</b>    | - Suspicious Transaction Report                                     |
| <b>TA</b>     | - Tax Administration  |
| <b>RBA</b>    | - Risk-based approach   |
| <b>RPPO</b>   | - Republic Public Prosecutor's Office                               |
| <b>SCG</b>    | - Standing Coordination Group                                       |
| <b>PML/TF</b> | - Prevention of money laundering and terrorism financing            |
| <b>ST</b>     | - Suspicious transaction  |
| <b>ASB</b>    | - Association of Serbian Banks                                      |
| <b>APML</b>   | - Administration for the Prevention of Money Laundering             |
| <b>FIU</b>    | - Financial Intelligence Unit                                       |



# TERMS

**Cash transaction** is the physical receiving/giving of cash from/to a customer.

**Egmont Group** is an international association of financial intelligence units that meets regularly and discusses ways of cooperation, especially in the area of information exchange, training and transfer of knowledge and expertise. The goal of the Egmont Group is to be a forum for FIUs from all around the world in order to improve cooperation in combating money laundering and terrorism financing and support the implementation of national programmes in this area.

**Corruption Perception Index** is an index based on surveys that measures the perception level of corruption in the public sector, i.e. among the employees in the public sector. It is based on surveys conducted by independent institutions, as well as on the perceptions of relevant experts regarding the presence of corruption in particular countries.

**MoneyVal** is a Council of Europe committee that brings together experts who assess the compliance of member countries with all relevant international standards for combating money laundering and terrorism financing in the area of legal, financial and law enforcement sectors, through a peer review process of mutual evaluation.

**National Strategy for Combating Money Laundering and Terrorism Financing** (Official Gazette of RS, No. 89/08). The National Strategy for 2008-2013 was adopted by the Government. The purpose of the Strategy is to give recommendations for overcoming the problems and improving the existing system based on the description and analysis of the situation and trends in crime, as well as the analysis of legislative, institutional and operating PML/TF framework.

**Offshore** legal entity is any foreign legal entity that does not or must not perform production or commercial activities in the country in which it is registered.

**Money laundering is:** conversion or transfer of criminal assets; concealment or misrepresentation of the true nature, origin, location, movement, disposal, ownership or rights with respect to criminal assets; acquisition, possession or use of criminal assets.

**Risk-Based Approach** – any reporting entity is obliged to prepare an analysis of the risk of money laundering and terrorism financing in accordance

with the guidelines issued by the authority competent for supervising the implementation of the law (e.g. the NBS issued the guidelines based on which banks adopt their internal PML/TF regulations and procedures). The analysis includes risk assessment for each group or type of customers, business relations and services provided by the reporting entity. The assessed risk may be low, medium or high. Based on this assessment, the reporting entity determines what level of attention and extent of measures and actions it will assume in the discharge of its obligations under the Law. A high-risk example is doing business with a foreign official (in international literature: politically exposed person) who exercises or exercised in the past year a public office in a foreign country or international organisation.

**The Project Against Money Laundering and Terrorist Financing in Serbia – MOLI Serbia** is a project mostly financed from the European Union funds and implemented by the Council of Europe. The purpose of the project is the improvement of the capacity of the PML/TF system in Serbia in terms of legislation, professional skills and operational capacities. The project started in November 2010 and will last until November 2013.

**The Standing Coordination Group for Supervising the Implementation of the National Strategy for Combating Money Laundering and Terrorism Financing.** The Government of the Republic of Serbia made the Decision on the Establishment of the Standing Coordination Group (SCG) in 2009. The SCG has so far held fourteen meetings. The SCG members are representatives of government authorities involved in the PML/TF system: the Administration for the Prevention of Money Laundering, the Tax Administration, the Customs Administration, the Ministry of Justice and Public Administration, the Public Prosecutor's Office of the Republic, the National Bank of Serbia, the Ministry of the Interior, the Security Information Agency, the Military Security Agency, the Military Intelligence Agency and other authorities.

**Suspicious transaction** exists when there are grounds for suspicion of money laundering and terrorism financing in connection with a transaction or the customer performing this transaction.

**Transaction** is any accepting, giving, exchanging, keeping, disposing or other handling of assets in reporting entities.

**FATF** (Financial Action Task Force) is an intergovernmental body that aims to develop and improve

measures and actions for combating money laundering and terrorism financing at the national and international levels. The FATF makes recommendations that should serve as guidelines to countries in combating illegal activities that the FATF assessed as a kind of “overall harm”. The original forty recommendations were formulated in 1990 as an initiative for combating the abuse of financial systems by persons who launder the money acquired by drug trafficking. Now there are a total of 40 recommendations relating to money laundering and terrorism financing and the proliferation of weapons of mass destruction was identified as threat, so the proliferation, as well as the financing of this type of weapons is the third area of criminal offences present in the recommendations.

**Terrorism financing** is the provision or collection of assets or any attempt of their provision or collection with the intention of using them or with the knowledge that they may be used, fully or partly, for committing a terrorist act by terrorists or by terrorist organisations. Incitement and assistance in the provision and collection of assets is also considered terrorism financing, regardless of whether the terrorist act has been committed and whether the assets were used for committing the terrorist act.

**Financial Intelligence Unit (FIU)** is the “central authority at the national level competent for accepting (and, if possible, requesting), analysing and forwarding to competent authorities reports of financial transactions suspected to be connected with proceeds of crime or reports stipulated by national legislation with the aim of combating money laundering and terrorism financing.” (The definition adopted by the Egmont Group and accepted by other international standards).





