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

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Poland

Progress report and written analysis by the Secretariat of Core Recommendations [1]

27 September 2010

[1] Second 3rd Round Written Progress Report Submitted to MONEYVAL

Poland is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 33rd Plenary meeting (Strasbourg, 27 September – 1 October 2010). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2010)32) at http://www.coe.int/moneyval.

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This is the second 3rd Round written progress report submitted to MONEYVAL by the country. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by Poland on the Core Recommendations (1,5, 10, 13, SR.II and SR.IV), in accordance with the decision taken at MONEYVAL's 32nd plenary in respect of progress reports.

Poland

Second 3rd Round Written Progress Report Submitted to MONEYVAL

1. Written analysis of progress made in respect of the FATF core Recommendations

1.1 Introduction

1. The purpose of this paper is to introduce Poland's second progress report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the third round mutual evaluation report (MER) on selected Recommendations.

2. Poland was visited under the third evaluation round from 14 to 21 May 2006 and the mutual evaluation report (MER) was examined and adopted by MONEYVAL at its 23rd Plenary meeting (5-7 June 2007). According to the procedures, Poland submitted its first year progress report to the Plenary in July 2008.

3. This paper is based on the Rules of Procedure as revised in March 2010 which require a Secretariat written analysis of progress against the core Recommendations[1]. The full progress report is subject to peer review by the Plenary, assisted by the Rapporteur Country and the Secretariat (Rules 38-40). The procedure requires the Plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the Secretariat written analysis, both documents being subject to subsequent publication.

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

5. Poland received the following ratings on the core Recommendations:

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

6. This paper provides a review and analysis of the measures taken by Poland to address the deficiencies in relation to the core Recommendations (Section II) together with a summary of the main conclusions of this review (Section II). This paper should be read in conjunction with the progress report and annexes submitted by Poland.

7. It is important to be noted that the present analysis focuses only on the core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT)

[1] The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by Poland, and as such the assessment made does not confirm full effectiveness.

1.2 Detailed review of measures taken by Poland in relation to the Core Recommendations

A. Main changes since the adoption of the MER

8. Since the adoption of the MER and the First Progress Report, Poland has taken the following measures with a view to addressing the deficiencies identified in respect of the core Recommendations, including

- implementation of a new AML/CFT Law incorporating 3rd EU Directive requirements
- creation of an autonomous offence of financing of terrorism
- achievement of a number of money laundering convictions, including 5 autonomous convictions
- implementation of further outreach and training to the private sector
- implementation of further training to prosecutors and judges on the elements of money laundering offences.

9. Poland has also taken additional measures to address deficiencies identified in respect of the key and other Recommendations, as indicated in the progress report, however these fall outside of the scope of the present report and thus are not reflected therein.

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

Recommendation 1 - Money laundering offence (rated LC in the MER)

10. Deficiency 1 identified in the MER (clarify legislative provisions to ensure that all aspects of the physical and material elements in the Vienna and Palermo Conventions are covered). *At the time of the last progress report Poland reported no changes in respect of this deficiency. Since then the Prosecutor General has presented draft amendments to the Ministry of Justice, which appear to have been accepted by the Ministry. These amendments should be included in an upcoming amendment to the Penal Code (PC).*

11. *The proposed amendments are set out at paragraph 21 of the 2nd progress report. While the English translation may not be entirely accurate, and the language does not clearly replicate the language of the Conventions, it appears that together the 2 proposed amendments arguably cover* conversion or transfer for the purposes of concealing/disguising the proceeds' illicit origin (though whether it also would cover converting or transferring such property for the purpose of helping any person involved in the commission of the criminal offence is debatable). It is less clear whether concealment or disguise of the true nature, source, location disposition...etc. would be covered. Acquisition, possession or use, which the 2006 evaluators found were missing elements, would appear to be covered.

12. Nonetheless these are simply proposed amendments and the offences remain at the present time as they were at the time of the evaluation. While their enactment would improve the criminalisation of money laundering (though not remove all doubts), no timescale for their implementation is given.

13. *Deficiency 2* identified in the MER *(Conspiracy to commit money laundering should be recognised as a criminal offence, unless this is not permitted by fundamental principles of domestic law).* There have been no changes since the evaluation in the legislation. A proposed amendment provides for criminalisation of the preparation to commit a crime. On the assumption that an agreement between 2 or more persons to commit money laundering (where the offence is not completed) would be covered by the

notion of preparation (as is implied from the reply to the questionnaire) then the deficiency would be remedied. No timescale for introduction is given.

14. *Deficiency 3* identified in the MER *(Financing of terrorism in all its forms, as explained in the Interpretative Note to SR.II, should be clearly covered as predicate offences to money laundering).* This deficiency has been partially addressed by the amendment to the PC in Article 165a, though, as noted beneath, financing of terrorism in all its forms as explained in the Interpretative Note to SR.II is still not completely covered.

15. *Deficiency 4* identified in the MER *(*Clarify in the criminal law that property being proceeds covers both direct and indirect property which represent the proceeds (or benefits) of the crime*). Since the last progress report was adopted a further proposed amendment has been drafted which, if implemented, would be welcome as it would clarify the wider scope of forfeiture available in money laundering cases. However the proposed amendment does not address the concept of direct and indirect proceeds in the money laundering offence itself, except inferentially. No timescale is given for the implementation of the amendment.*

16. *Deficiency 5* identified in the MER *(More emphasis should be placed on autonomous prosecution of money laundering by third parties).* Autonomous money laundering has been included in training seminars for judges and prosecutors, and from the statistics provided it appears 2 convictions were achieved for autonomous money laundering in 2009, and 3 so far in 2010.

17. There appears to be a steady number of money laundering investigations (284 in 2008; 253 in 2009) with convictions in 27 and 18 cases respectively in 2008 and 2009. In 2010 so far 13 money laundering cases have been completed with final convictions.

18. The predicate offences are largely fraud based – including fiscal fraud and forgery of documents. All convictions in 2008 were for self laundering and in 2009, 16 of the 18 convictions were for self laundering. 10 of the 13 convictions in 2010 were for self-laundering. Nonetheless, as noted above, money laundering appears now to have been successfully prosecuted as an autonomous offence. All in all therefore, the effectiveness of the money laundering offence appears to have been broadly demonstrated on a desk review, and the evaluators' concerns about insufficient emphasis on autonomous money laundering appear to have been taken into account. The amendments to the legislation still need to be implemented, though use of language which reflects the Convention texts more closely would be preferable.

Special Recommendation II - Criminalisation of terrorist financing (rated NC in the MER)

19. *Deficiency 1* identified in the MER *(An autonomous offence of terrorist financing should be introduced which explicitly addresses all the essential criteria in SR.II and requirements of the Interpretative Note to SR.II be introduced which addresses all aspects of SR.II and its Interpretative Note).*

20. At the time of the evaluation and the adoption of the first progress report financing of terrorism was criminalised on the basis of aiding and abetting an "act of terrorism"; though at the time of the adoption of the first Progress report a draft amendment had been prepared to provide for an autonomous offence of financing of terrorism.

21. The PC has now been supplemented by Article 165a which provides:

> *"Any one who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of a terrorist character shall be subject to imprisonment for 2 to 12 years."*

22. An offence of a terrorist character is defined by Article 115 paragraph 20 of the PC as:

"An act prohibited under penalty of deprivation of liberty up to at least 5 years, committed with the purpose of:

- *serious intimidation of many people;*
- *forcing a public body of the Republic of Poland or of another state or of a body or an international organisation to take certain steps or refrain from certain actions;*
- *serious disturbing in a system of state or economy of the Republic of Poland, of another state or of an international organization, as well as a threat to commit such an act."*

23. The combination of Articles 165a and 115, paragraph 20, PC is a welcome step forward by Poland in addressing the deficiencies identified by the evaluators. The Polish authorities consider that the language of the amendment covers also the collection of funds for a terrorist organization with the purpose of committing an offence of a terrorist character as defined in Article 115 paragraph 20 PC, which is accepted.

24. It is noted that the offence can be committed by legal persons as corporate criminal liability is available in Poland and the penalties appear broadly dissuasive. It is accepted for the purposes of this desk review that intention can be inferred from objective factual circumstances, as the judges had indicated this to the evaluators on-site. It is also accepted that the language of the Polish offence broadly covers the range of funds required by the Financing of Terrorism Convention and SR.II. It is also accepted for these purposes that the necessary ancillary offences would be covered.

25. The financing of terrorism offence is said to cover provision or collection of funds in respect of the two distinct types of terrorist acts in the TF Convention: Article 2 (1) (a) TF Convention (acts constituting offences in the treaties annexed to the Convention) and Article 2 (1) (b) TF Convention offences (any other acts intended to cause death or serious injury to intimidate a polulation or to compel a government or international organisation to do, or refrain from doing, any act). A.2 (1) (b) TF Convention acts appear to be clearly covered by Article 115 PC. Most of the Article 2(1)(a) TF Convention offences in the Annex to the TF Convention appear to be broadly covered in the PC, though it is not entirely clear how the linkage is made between these various offences in the PC and the requirement for the TF offence to apply to offences of a terrorist character as defined in A.115 para.20. On a very broad construction all TF Convention annex offences that appear in the PC might be considered as offences involving "serious disturbing in a system of the State of the Republic of Poland (or of another State)". While this may be a common sense conclusion that a court may come to, it is advised that the linkages should be more clearly made in A.115 para 20 to make direct reference also to the relevant TF Convention Annex Offences that appear in the PC.

26. The SR requires countries to go further than the Convention and criminalise

- *"wilful provision or collection of funds intending that they be used by a terrorist organisation or an individual terrorist for any purpose."*

27. As the financing of terrorism offence in Poland is limited to the financing of an offence of a terrorist character the Polish authorities advise that the provision of funding <u>for any purpose</u> to a terrorist organisation is covered by A.258§2 PC participation in an organised group of a terrorist character. This offence is set out beneath.

Article 258. § 1. Whoever participates in an organised group or association having for its purpose the commission of offences shall be subject to the penalty of deprivation of liberty for a term between 6 months and 3 years.

§ 2. If the group or association specified in § 1 has the characteristics of an armed organisation or its activities are aimed at commission an offence of a terrorist character, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.

3. Whoever sets up the group or association specified in § 1 or 2 or leads such a group or association shall be subject to the penalty of deprivation of liberty for a term of between 1 year and 10 years.

§ 4. Whoever sets up the group or association with a purpose of committing a terrorist crime or leads such a group or association shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years.

28. There is no jurisprudence confirming the Polish interpretation of A.258§2 that this would be covered as an act of participation. While it would be better if this element of the SR was clearly covered in the TF offence itself, this issue has not been treated as a deficiency in this desk review as it would need more detailed discussion with relevant officials. Nonetheless, it seems clear that the funding of an individual terrorist for any purposes is not covered by this provision, or any other provision which the Secretariat has seen.

29. Poland has indicated that they do not consider financing of terrorism to be a domestic problem though, in the absence of information on criminal investigations for financing of terrorism, this cannot be confirmed. While there have been no indictments for financing of terrorism, reports have been sent by the FIU to law enforcement (see SR.IV beneath).

30. The evaluators' recommendation appears to have been largely addressed though the financing of an individual terrorist for any purpose remains a problem, and the linkage in the autonomous offence to the offences in the PC representing the treaties annexed to the TF Convention could be clearer.

Recommendation 5 - Customer due diligence (rated NC in the MER)

31. *Deficiency 1* identified in the MER *(Financial institutions should be clearly required to identify customers when starting a business relationship, when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII and when the financial institution has doubts about the veracity or adequacy of previously obtained identification data).* The AML Act has been amended to bring it into line with Directive 2005/60/EC. It came into force on 22 October 2009 and contains new rules on CDD. The AML Law covers 4 basic CDD measures (financial security measures) including application of them when concluding a contract with a client, when carrying out occasional transactions of more than 15.000 Euros, when there is a suspicion of money laundering or financing of terrorism, where there are doubts about the previously submitted data. CDD in respect of wire transfers covered by the Interpretative Note to SR.VII is provided for by European Regulation 1781 / 2006 which is directly applicable in Poland, subject to the derogation in Article 10 C of the AML Law. The EC Regulation is now sanctionable in Poland, and the identified deficiencies have broadly been covered.

32. *Deficiency 2* identified in the MER *(Identification requirements concerning above threshold transactions should be applicable also to customers of electronic money institutions)*. Electronic money institutions have been brought into financial security measures.

33. *Deficiency 3* identified in the MER *(The Polish authorities should introduce the concept of beneficial owner as it is described in the Glossary to the FATF Recommendations. Financial institutions should be required to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source).* The FATF concept of a beneficial owner is now fully covered with the further clarifications in the EC Directive. One of the financial security measures is verification of the beneficial owner.

34. *Deficiency 4* identified in the MER *(Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship)*. Article 8b paragraph 3 sub paragraph 3 covers this CDD requirement.

35. *Deficiency 5* identified in the MER *(Financial institutions should be required to conduct on-going due diligence on the business relationship and to ensure that documents, data or information collected under CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.)*. This is now covered by Article 8 b, paragraphs 3 and 4 of the AML Law, albeit in slightly different language. The results of analyses of the transactions should be documented (Article 8a paragraph 1).

36. *Deficiency 6* identified in the MER *(Financial institutions should be required to perform enhanced due diligence for higher risk categories of customers, business relationship or transaction, including private banking, companies with bearer shares and non-resident customers.)*. Article 9 e of the AML Act covers enhanced due diligence for higher risk customers. The Law sets out 3 specific situations where, regardless of their own risk assessments, reporting entities are obliged to undertake at least one of the enhanced CDD measures: where the client is not present for identification; where the client is a cross border correspondent and where the client is a PEP. Transactions involving private banking or companies with bearer shares, or non-resident customers are not specifically covered, though the Law defines an open catalogue of criteria for performing such risk analyses, into which these types of situation may fall. On paper the solutions that have been adopted to the assessment of risk look to be in line with the overall FATF risk based approach, though how it is implemented in individual financial institutions' own procedures can only be established in an on-site visit.

37. *Deficiency 7* identified in the MER *(Financial institutions should not be permitted to open an account when adequate CDD has not been conducted. Where the financial institution has already started the business relationship and is unable to comply with CDD it should be required to terminate the business relationship. In both situations mentioned above financial institutions should be required to consider making a suspicious transaction report).* Article 8.b, paragraph 5, adequately addresses this deficiency.

38. *Deficiency 8* identified in the MER (*Financial institutions should be required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times).* Article 8.b, paragraph 1, now covers this issue.

39. In conclusion, the formal deficiencies: identified in respect of Recommendation 5 in the report now appear to have been covered. No information is provided on types of R.5 infringement that have been found in supervision or have been the subject of sanctions so it is difficult to assess in a desk review effectiveness of implementation.

Recommendation 10 - Record Keeping (rated PC in the MER)

40. *Deficiency 1* identified in the MER *(The text of the law should clearly state that all necessary identification data has to be kept for at least five years after the end of the business relationship as required by Recommendation 10).* At the time of the first Progress report it was indicated that an amendment was proposed to require CDD information to be retained for at least 5 years or more following the year in which the business relationships with the customer was terminated. The amendment that appears in the Law today is less clear cut than what was proposed. CDD information is required to be kept for a period of 5 years from the first day following the year in which the transaction was carried out with the client (Article 9 k). It appears that the deficiency has not been cured entirely.

41. *Deficiency 2* identified in the MER *(Financial institutions should be required to keep documents longer than five years if requested by a competent authority).* It appears that there have been no changes here as yet other than a proposal that this should be covered at the request of the GIFI and that this should be placed in the Law. It is unclear what the status of this proposal is currently.

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

42. *Deficiency 1* identified in the MER *(More guidance is needed to ensure that reporting entities place sufficient emphasis on the STR regime (as opposed to the above-threshold reporting regime)).* It should be noted that the evaluation report stated that GIFI had made training a top priority and that GIFI had drawn up warning signs and appropriate indicators for each sector, and in the context of Recommendation 25 considered the work GIFI had done as exemplary.

43. The Polish authorities in this progress report indicate that they have stepped up the guidance they give. In 2009 the 3rd edition of the GIFI guidebook is said to deal *inter alia* with the analysis of suspicious transactions.

44. They also note that enquiries on the practical application of the Law increased by 30% in 2009 compared with 2008. So it is clear that much work is still being done by the GIFI in this area. It is interesting to note however that the number of STRs received year on year have steadily declined from a highpoint of 67,087 in 2005 to 12,715 in 2009. On a desk review it is not possible to assess whether the quantity of STRs has dropped while the quality of them has increased, though with the exception of 2008 the number of money laundering reports sent to law enforcement has remained fairly steady at around 180 reports annually. The Polish authorities consider that the decrease in the number of STRs is as a result of an increase of quality of these reports because of the efforts of the Polish FIU in this area and feedback they have given to obliged institutions.

45. *Deficiency 2* identified in the MER *(More attention should be given to outreach to other parts of the financial and non banking financial sector to ensure that they are reporting adequately).* GIFI has, as noted above, continued its trainings and prepared an e-learning platform. Reports from brokerage houses and insurance have been steadily rising, though STR reports from exchange houses remain very low.

46. *Deficiency 3* identified in the MER *(The AML Act should clearly provide for attempted suspicious transactions to be reported).* The effect of Article 8 (3) and 8 b (5) and A.16 of the AML Act ensure that such attempted transactions are reported and the Polish authorities confirm that this is the case.

47. *Deficiency 4* identified in the MER *(More guidance is required on the width of the financing of terrorism reporting obligation).* Financing of terrorism is an essential part of GIFI Guidance. This deficiency may technically be satisfied, but the reporting obligation on FT remains insufficiently broad as it does not yet cover the financing of an individual terrorist for any purpose.

48. The main thrust of the deficiencies under Recommendation 13 identified in the report have been addressed by the Polish authorities. However the limitations on the width of the STR regime on financing of terrorism do potentially limit the width of the STR regime, and the linkage of reporting to transactions where there is a reasoned suspicion that they may be related to the offence of money laundering appears not wide enough to cover all aspects of Recommendation 13 (which addresses "funds" where there may be no transaction as such).

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

49. *Deficiency* identified in the MER *(The reporting duty needs to be explicitly clarified in the law to include all funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism).* The reporting duty is now in Article 8 paragraph 3 and Article 17 of the AML/CFT Act (whereas A.8(3) is limited to the registering of transactions related to ML and TF). As noted, it is linked to transactions in respect of the offences which are created in the Penal Code. As noted above, the financing of terrorism offence is limited in scope so far as funding of an individual terrorist for any purpose is concerned and this limits the scope of the reporting obligation.

50. The same concern about suspicions being confined to transactions as opposed to the wider notion of funds is also an issue here. Thus SR.IV deficiencies remain and the Polish authorities are encouraged to complete the coverage of SR.II in respect of individual terrorists in this context as well. Notwithstanding this there have been a small number of reports on financing of terrorism: 2083 in 2005, though with no cases opened by the FIU; 412 in 2006; with 3 notifications to law enforcement; 199 in 2007 with 14 notifications to law enforcement; 18 in 2008 with 15 sent to law enforcement; and 49 in 2009 with 21 being sent to law enforcement. As noted earlier there have been no financing of terrorism investigations.

1.3 Main conclusions

51. The report on the Core Recommendations shows significant progress on the preventive obligations under R.5, though there remain some deficiencies under R.10. There have been positive steps on the implementation of R.1 in respect of developing case-law on autonomous money laundering. The progress in addressing the legal problems with criminalisation is more limited and amendments have been pending for some time.

52. The main deficiency is that the financing of terrorism offence still needs to cover the financing of an individual terrorist for any purpose. This potentially impacts on the SR.IV regime and limits the efficiency of suspicious transaction reporting in respect of FT. The Polish authorities are encouraged to remedy this deficiency.

53. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visit, though the Plenary may decide to fix an earlier date at which an update should be presented.

MONEYVAL Secretariat

2. Information submitted by Poland for the second progress report

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

Position as at date of last progress report (7 July 2008)

The Polish Authorities (PA) has given careful consideration to the recommendations of the Council of Europe MONEYVAL Committee and undertakes efforts to implement the same to the extent possible under available legal, financial and human resources.

Since the IIIrd Round Evaluation more and more investigations and preparatory proceedings initiated in the result of suspicious transaction reporting or otherwise, outside the reporting system have lead to many new indictments and convictions for money laundering which is the best proof of effectivnes of each country's AML system. Investigations initiated by the notification from the General Inspector of Financial Information (GIFI – Polish FIU) that did not lead to the indictment for money laundering often ended with prosecution for other crimes (see statistics).

As a member of the European Union, Poland has extended its participation in the making of decisions on new regulations and measures to be adopted in Member States. The representatives of GIFI actively participate in the works of EU and other international foras, such as the working groups of the Egmont Goup, MONEYVAL Committee of the Council of Europe, FATF and will start cooperation with EAG (at the last Plenary meeting Poland received the Observer status).

The following new initiatives are planned:

1. In 2008-9 – the new secured network will be created to ensure information exchange between FIU and prosecutors offices;
2. The new extensive version of training courses will be provided with the use of a website (so called "e-learning");
3. Realization of EU project in Romania – Poland is the project leader and form the September/October together with Romanian FIU will be work on the project "*Fight against money laundering and terrorism financing*";
4. New edition of booklet for obliged institutions – concerning the latest developments in the area of AML/CTF issues;
5. Creation of special Task Force leading by GIFI, to identification, monitoring and counteracting on ML and TF activities in cyber space;
6. The new "Management information system" which is at the final stage of modification. It will present many different measures of status and efficiency of processes ocurring within FIU, e. g. number of active/passive cases per analyst, duration of active analysis of cases, information about documents send from/to reporting institutions/prosecutors and many other information.
7. GIFI has registered and intends to engage actively in the FATF Private Sector Consultative Forum. The Forum is an initiative aimed at further enhancing dialogue between the public and the private sector to combat money laundering and terrorist financing. The cooperation within the Forum develops the exchange of knowledge, experience and documents. So far GIFI principally operates through an electronic contact group. It allows for discussion and comments on the issues raised in the documents submitted.

In the year 2007 the GIFI received 1.920 descriptive notifications on suspicious transactions. The common feature of these notifications is that they include several, a dozen or so and sometimes even several hundreds of transactions that in the opinion of the reporting organisation illustrate and authenticate the suspicion of money laundering. They also include other data and documents that may contribute to the increased effectiveness of the proceedings (e.g. account history, bank account agreement, signature specimen card, copies of documents that were used to open accounts).

As a result of the information received in 2007, the General Inspector of Financial Information:

1. **Initiated 1.358 analytical proceedings**,
2. **Demanded suspension of 1 transaction for the amount of 65.000 EUR**,
3. **Demanded blockade of 97 accounts**, connected with suspicious financial transactions **for the amount of app. 10M EUR (and from their own initiative demanded blockade of 58 accounts for the amount of app. 2M EUR).**

The initiated analytical proceedings concerned the following risk areas, among others:

– illegal or fictitious trade: fuels, scrap metal – 165 proceedings,
– trade in funds most probably originating from fraud or obtained under false pretences – 122,
– trade in funds probably originating from unauthorised access to bank accounts – 14,
– transactions of non-residents – 46,
– transfers of money abroad,
– transfers of money from business entities (suspicion of fictitious invoicing),
– transfer of money related to trading in securities admitted/ not admitted to trading in the public market,
– transfer of real estate related funds.

In comparison to the previous years, the tool of account blockade was most commonly used; it consists in temporal blockade of using all property values collected in the account while maintaining the possibility of their accumulation with incoming funds.

The analytical proceedings conducted formed the basis for blocking demand. It should be noted that the amounts of funds blocked in the account are approximate as during the blockade imposed by GIFI the funds may be paid into the accounts but they cannot be withdrawn.

As a result of the analysis 190 notifications on suspicion of committing the crime as defined in Article 299 of the Criminal Code **concerning 440 entities** and **transactions for the amount of over 200M EUR were submitted to the public prosecutor's office.**

According to the data provided by the Ministry of Justice concerning all proceedings conducted in 2007, the following decisions were issued last year by the public prosecutor's office in the cases on money laundering:
– 296 initiated cases concerning 1436 persons (**out of which 176 cases on the basis of the information received from GIFI**);
– **submitted 82 indictments to court against 288 persons**;
– concluded 63 preparatory proceedings with the decision on investigation discontinuance and 6 proceedings with the decision on the refusal to initiate investigation;
– suspended 57 preparatory proceedings.

The total value of the secured property in cases initiated in 2007 **was the equivalent of app. 11M EUR**. Meanwhile, the data concerning verdict in the money laundering cases indicate that in 2007 **the courts of first instance passed 36 guilty verdicts (55 convicted persons**).

Apart from the notifications submitted to the public prosecutor's office, on the basis of the conducted analytical proceedings, GIFI transmitted 37 items of information on suspicious transactions, inclusive of 22 to the Internal Security Agency, 14 to Fiscal Control Offices and 1 to the Polish Financial Supervision Authority. Whereas acting pursuant to law, GIFI sent 48 motions to tax offices and fiscal control offices concerning examination of the legal origin of particular property values, in order to clarify their origin.

With regard to the manners of money laundering observed when conducting analytical proceedings, it was found that the previously identified methods, sometimes adjusted only to the realities of the financial market and products offered on this market as well as banking services, were still in use.

For a certain time now, it can be observed that the criminal groups laundering money have been increasingly using particular categories of financial services. These services facilitate committing the crime by ensuring:
– anonymity in the course of using,
– global scope (possibility of using the service all over the world),
– 24h easy access to financial resources,
– possibility of transferring basic codes, passwords etc. to third parties,
– speedy transfer of financial resources.

Among the said services there are first and foremost payment cards, internet banking and electronic money transfer systems (Western Union Money Transfer and PayPal, among others). In the case of payment cards, a developed network of ATMs enables withdrawal of very large sums of money in cash, also abroad, simultaneously allowing the person withdrawing cash to remain anonymous in the situation when the card is entrusted with a third party. Internet banking makes it possible to quickly open a bank account without the necessity of contacting bank employees in person. Global scope of the Internet results in the access to funds collected in the account from all over the world and the transactions may be executed also in the places like internet cafes. Such transactions may be executed by third parties who were given the required passwords by the account owner. The WUMT system and other similar systems, enable making almost anonymous transfers of financial resources all over the world. In order to execute the transaction it is only necessary to fill in a payment form and a respective withdrawal form by the recipient of the financial resources. The system offers many additional services, inclusive of the notification of recipient and "on password" remittance, among others.

PayPal is an American company offering money transfer services via Internet and intermediating in transactions on internet auctions. The money transfer system used by PayPal allows every e-mail address holder to safely send and receive financial resources using his credit card or bank account. This system is one of the most popular ways of making electronic payments on internet auctions, and also becomes a cheap way for sellers to accept credit cards instead of using traditional transfers.

In order to counteract money laundering with the use of the abovementioned methods, apart from applying legal tools provided for in the law, General Inspector of Financial Information transmits the knowledge on identified laundering methods to obligated institutions and cooperating units among others in the reissued and updated guide for obligated institutions and co-operating units titled Counteracting Money Laundering. A Guide for Obligated Institutions and Co-operating Units, issued for the first time in 2003.
Moreover, in order to prevent development of money laundering methods, GIFI takes preventive measures, attempting to prevent or limit introducing into the market products and services creating favourable conditions for anonymity of parties to the transaction and at the same time belonging to high risk area.

Within the execution of tasks with regard to **counteracting the financing of terrorism**, 7 proceedings concerning transactions conducted by 77 entities were initiated. The proceedings were initiated on the basis of the information from obligated institutions (5) and on own initiative. Moreover, in relation to the actions taken in this area, 2.960 electronic transactions identified as suspicious were verified.

As a result of the actions taken 14 items of information in this regard were sent to the Internal Security Agency.

GIFI is also a member of the Interministerial Group for Terrorist Threats, co-ordinating actions with regard to counteracting terrorism. At the same time, GIFI representative participates in work of the Permanent Expert Group established at the Interministerial Group for Terrorist Threats in order to monitor terrorist threats, assess their level and nature and to present proposals with regard to legal regulations and development of proper procedures.

An enhancement of co-operation between Police and FIU in the field of exchange data concerning suspected transactions is done in the light of legislative provisions regarding money laundering and terrorism financing regulations and in the light of FIU procedure of blocking bank account.

Polish authorities initiated works on the amendment of the Act on foundations. In June 2007 the project of the regulation was directed to the Parliament. The new act is aimed to implement mechanisms which will prevent abuses in foundations. The revision will facilitate effective conducting supervisory activities and will make foundations operate more transparently.

The implementation of the Third EU Directive is in a process. The draft of the amendment of the Polish AML Act in this regard is currently being consulted at the interministerial level. The implementation schedule foresees forwarding the draft law to the Council of Ministers until the end of June this year and then forwarding it to parliamentary discussion until the end of July 2008.

Several amendments to the penal code were drafted. Two of them provided for criminalization of terrorism financing and substantial enbroadenment of possibilities to decree forfeiture of assets of criminal origin, handed over to the third parties. Due to an earlier parliamentary election, these legislative have been terminated and new projects of amendments in the penal procedure and penal law have been drafted.

An amendment to the penal code drafted on 18 April 2008, (Article 165a) criminalizes financing of an offence of terrorist character. After adoption of the amendment, financing of an offence of terrorist character will automatically become a predicate offence, since an offence of money laundering in Polish penal code is based on the concept of “all crime approach”.

The draft amendment of 18 April 2008 also provides for supplementary provision concerning seizure of objects originating directly from the crime or instrumentalities which were used or intended to be used to commit a crime or constituting evidence in a criminal case. According to the Article 607wa of the amended penal procedure code, if such objects and instrumentalities belong to the UE internals covered by European Arrest Warrant (EAW), it will be possible to seize them on the basis of EAW.

The developments:

1. Establishment of the Polish Financial Supervision Authority (PFSA) – was prescribed by the Act of 21 July 2006 on supervision of the financial market. It started its operation on 19 September 2006, acquiring powers of Pension Funds Supervisory Commission and of the Securities and Exchange Commission. As of the 1st January it also took over competences of the Commission of Banking Supervision. As a result the inspections of banking sector, capital sector and insurance sector to the extent of compliance with anti-money laundering and counter terrorism financing responsibilities is carried out by the single entity – PFSA. It should also be pointed out that the insurance supervision section of the

Office of the Polish Financial Supervision Authority, which is responsible for the supervision of insurance companies activities and estate has intensified its inspections conducted in the insurance companies as regard the introduction into financial circulation of property values derived from illegal or undisclosed sources and on counteracting the financing of terrorism.

2. On 8 August 2007 Poland ratified Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism adopted in Warsaw, on 16 may 2005. The Convention entered into force on 01 May 2008.

3. The structure of prosecutor's offices. On 1 October 2007 The Organized Crime Bureau of The National Prosecutor's Office was devided into Central Unit and 11 Local Departments. Tasks and powers of the Organized Crime Bureau have been defined in the Ordinance of Minister of Justice of 27 August 2007. Local Departments of the Bureau have been vested with authority to conduct investigations in the most serious criminal cases including inter alia: terrorist acts, organized criminality, money laundering and corruption in the governing bodies and judicuiary. Central Unit of the Bureau is entrusted with tasks encompassing: coordination of prosecutors office's activities in the area of investigating money laundering and other aspects of organized crime, management of IT systems used by the Organized Crime Bureau and elaborating reports of statistical data linked with investigations and prosecutions in money laundering cases.

4. More emphasis has been put on training of the prosecutors and judges. National Center for Training of Judges and Prosecutors has organized 8 training seminars dedicated to the latest typology of money laundering, methodology of investigation and identification of proceeds of crime.

5. Establishment the Inter-ministerial Team for Terrorist Threat. Minister for Interior and Administration performs function of the Chairman of the Team which serves as an auxiliary body to the Council of Ministers. Members of the Team are ministers of: National Defence, Finance, Foreign Affairs, chiefs of: special services, Civil Defence, Government Security Agency, Customs, Police, Border Guards, State Fire Service and Military Police as well as General Tax Inspector and General Inspector of Financial Information. The team's tasks are, among others: monitoring terrorist threats, their analysis and assessment, working out projects of standards and procedures in combating terrorism, initiating, co-ordinating and monitoring activities undertaken by pertinent organs of the government administration, especially in the areas of using information and identifying, countering and combating terrorism, moreover, tabling motions to competent ministers to adopt legislative measures aimed at streamlining methods and forms of combating terrorism, developing co-operation with other countries in the field of combating terrorism and the co-ordination of information exchange and joint operations as well as initiating trainings and conferences dedicated to combating terrorism.

6. Modification of legal acts and regulations to meet the requirements of the EC Regulation 1889/2005. Poland had taken an active part in implementation of the EU and the FATF (SR.IX) provisions in a common Community legal and administrative framework. Suitable law changes were made to a statute law separating the community controls on cash movements and domestic ones that had hitherto prevailed. Customs and the Border Guard have had a competence to question persons, may check the form, and may search the person's baggage and means of transport and to seize the cash. Special sanctions are applied at present to infringements of the Community provisions in force with regard to cash controls to fulfill the Community obligation of implementing the effective, proportionate and dissuasive sanctions. There is a dedicated form applied for the purposes of cash controls which covers all the information envisaged by the EU for its risk analysis and statistics. Special internal arrangements were put in place to manage the information deriving from the cash declarations engaging Customs, Ministry of Finance and the General Inspector of Financial Information and led to reinforced cooperation between the FIU and the Customs with a view to developing the financial information contained in the declarations using dedicated IT database. Public is informed on the obligation to declare cash above EUR 10.000 at EU borders via info folders, leaflets, brochures/ information stands and posters. Polish delegation participates in a work of Cash Control Working Group and is familiarized with current developments on cash controls in the EU.

7. Participation of Polish Experts in Council of Europe projects – PA has given careful consideration to the technical assistance to others countries, because the ML and FT have no borders and without effective cooperation between counterparts it will be impossible to fight with both of them. For that reason the Polish experts were deeply involved in the project in Macedonia and Serbia and now are activly involved in the realization of projects in Ukraine and Moldova

8. Egmont Group - The Polish Financial Intelligence Unit took an active part in the activities aiming at transformation of the Egmont Group into a formal international organisation, getting involved in the works of the Implementation Committee (Subgroup for the Secretariat and the EG Charter). The representative of GIFI as the member of the so-called Representative Board took part in the hearings of candidates for the post of the Secretary of the Egmont Group Secretariat. Finalising works on transforming the Egmont Group concentrating the FIUs from 105 countries into a formal international organization took place during the 15 plenary meeting of the Egmont Group which was held in Hamilton on Bermuda Islands. As of the 28th of May 2007 the organization formally became a new international organisation. The Polish Financial Intelligence Unit by a cover letter to the Secretariat of the Group confirmed its membership in the organisation and accepted the Egmont Group Charter. Thanks to participation in the works of the Group, the Polish Financial Intelligence Unit has a possibility of a closer cooperation with the units around the world active in the field of counteracting and combating financial crimes.

9. Cooperation with US Department of Treasury – At the beginning of the year 2007 execution of the co-operation project between the General Inspector of Financial Information and the U.S. Department of Treasury began: mission of the American regional adviser started and arrangements on the work programme were made. As a part of the programme, representatives of Interpol presented guidelines of the pilot project called IMLASS, executed by Interpol with the co-operation of financial intelligence units. Considering the possibility of accession to the programme is one of the elements of the co-operation programme with the U.S. Department of Treasury. Moreover, the following activities were implemented as a part of the project: workshops on analytical proceedings for the officers of the Police, Internal Security Agency, Central Anticorruption Bureau and GIFI employees, a training course on counteracting financing of terrorism for the employees of the Department of Financial Information and the Police and an advisory mission of IT specialist. Also under the project with USA, the Regional Seminar on Combating Money Laundering and Financing of Terrorism was held in November 2007. The project is running also in 2008.

New developments since the adoption of the 1st progress report

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

Since first progress report adopted in 2008 the General Inspector of Financial Information (further referred to as GIFI, i.e. Polish FIU) has put significant effort to enhance the quality and safety of Polish AML/CFT system.

GIFI's activities in this regard focused on undertaking legal action basing on the full implementation of FATF 40 + 9 Recommendations, as well as the EU legal regulations, especially so called 3. AML Directive.

Results

In the years 2008-9 – on the basis of obtained reports on suspicious activities and transactions from obliged institutions as well as cooperative units – the General Inspector of Financial Infromation (the GIFI):

1) initiated 2515 analytical proceedings (some proceedings included even several descriptive reports - SAR, above thousand of individual suspicious transactions - STR and up to several thousand transactions exceeding thresholds),
2) demanded suspension of 1 transaction for the amount of 2.300 EUR,
3) demanded blockade of 422 accounts, connected with suspicious financial transactions for the amount of app. 7,5M EUR.

As a result of carried out analytical proceedings – in these years - 426 reports on suspicion of a crime referred to in Article 299 of the Penal Code committed by 1003 entities were forwarded to competent units of Public Prosecutor's with relation to suspicious transactions for total amount of ca. PLN 4.07 billion.

According to the data submitted by the Ministry of Justice the public prosecutor's office issued the following decisions in cases on money laundering:

1) in 2008:
- 284 cases were initiated with respect to 254 persons (out of which 197 cases on the basis of information received from the GIFI);
- 74 acts of indictment were submitted to courts with respect to 324 persons;
- 81 preparatory proceedings were ended by a decision on discontinuation of investigation and 9 proceedings were ended with a refusal to initiate investigation;
- 66 preparatory proceedings were suspended.

2) in 2009:
- initiated 235 cases, out of which 79 in ad personam phase, concerning 192 persons (out of which 158 cases on the basis of information received from GIFI),
- submitted 65 indictments to courts against 360 persons,
- completed 85 preparatory proceedings by decision on discontinuance of investigation and 2 proceedings with decision of refusal to initiate investigation,
- suspended 61 preparatory proceedings.

In 2008, the courts of first instance issued 27 verdicts of guilty (53 convicted persons) and in 2009 - issued 18 convicting judgements (41 convicts). Moreover according to Ministry of Justice:

- the total value of assets encompassed by security on property in cases initiated in 2008 (in PLN and in other currencies) amounted to the equivalent of approx. PLN 65.4 million.
- in 2009 on the basis of 115 decisions on security on property the properties valued for ca. PLN 28.3 million were covered with the security and 10 judgments on forfeiture of property, benefits originating from crime equal to PLN 7.4 million.

Besides, the GIFI submitted in the above mentioned period of time 330 notifications about suspicious transactions especially related to suspicion of committing other crimes to competent authorities to other cooperative units including:

- 150 to fiscal control offices,
- 99 to ABW (the Internal Security Agency),

- 51 to the Central Bureau of Investigation,
- 19 to the National Police Headquarters,
- 8 to the Central Anticorruption Bureau,
- 1 to Border Guard,
- 2 to other governmental bodies.

The most characteristic areas of money laundering according to GIFI observations in 2009 were:

1) according to similarity to identified methods of money laundering - bogus enterprises and fictitious companies, fictitious account, target account, mixing incomes which can be specified as follows:
   - bogus enterprises and fictitious companies – natural persons, often homeless or with a critical financial situation (bogus enterprises) or businesses established or taken over by offenders mostly for the purpose of money laundering (fictitious companies) the basic task of which is complicating circulation of assets from a crime;
   - fictitious account – a method of money laundering consisting in opening a real account in order to implement one or several transactions in short periods of time, for relatively high amounts, using maximum number of fictitious elements concerning both persons involved in transactions as well as titles of the transactions;
   - target account – concerns a method of money laundering through transfers of large amounts to one account from which they are immediately taken in cash (often this method occurs in the phase of integration of funds coming from a crime, which ends certain 'path" of their circulation or in masking phase where withdrawal of cash constitutes another step to further phase of its circulation with the obvious aim of its separation from the source of origin);
   - mixing incomes – consist in actual mixing of incomes coming from legal business with assets from illegal sources;
2) according to possible predicate offence – penal and fiscal crimes (84 proceedings), fraud and extortion (42 proceedings), unauthorised access to bank accounts (phishing attacks – 42 proceedings), drugs smuggling/trade (4 proceedings);
3) according to risk areas – cases concerning goods and financial marketing with abroad (130 proceedings), property marketing (94 proceedings), illegal or fictitious trade with scrap metal (76 proceedings) and fuel trade (66 proceedings), transactions on accounts of non-residents in Poland (50 proceedings), trade with shares in company capital (14 proceedings), gambling (16 proceedings), car trade (11 proceedings), cases related to textiles trade with Asian countries (8 proceedings), trade with securities accepted to public trading (8 proceedings), prepaid cards (4 proceedings).

In 2008-2009 the GIFI initiated also 19 proceedings concerning suspicious transactions which could be related to terrorist financing. The proceedings were initiated on the basis of reports from obliged institutions and on GIFI`s own initiative. They concerned transactions carried out by persons originating from countries suspected of supporting terrorism or within territory where terrorist groups operate. Particular attention was brought to business activity carried out by these persons. As a result of analysis carried out in the above mentioned cases was directing, under Article 33(3) of the Act, 36 reports to the Anti-Terrorist Centre of Internal Security Agency (ABW) and Department for Terrorism Prevention of ABW.

Additionally, the GIFI carried out 79 controls of obliged institutions within the scope of compliance with their AML and CTF obligations in 2008-2009. After detailed analysis of control results, the justified suspicion of a crime was made, and subsequently 12 reports were submitted to the Public Prosecutor's Office.

Besides, the GIFI obtained information on following controls conducted by supervisory authorities in these years:

- National Bank of Poland – 2086 controls at the money exchange offices,
- National Cooperative Savings and Credit unions – 37 controls at the Credit Union agencies (SKOK),
- Financial Supervision Authority – 18 controls at banks, 40 controls at cooperative banks, 6 controls at brokerage houses, 2 controls at insurance associations, 1 control at the investment fund

management companies and 7 controls at credit institutions branches, and 7 controls in insurance companies,
- Presidents of the Appeal Courts - 56 controls at notaries,
- Department for Customs-Excise Control and Gambling Control (Ministry of Finance) – 6 controls of games parlours with slot machines and 3 control at the casino.

Legislative changes

In 2009, legislative works were continued with regard to the draft of the *Act mending the Act on counteracting the introduction to the financial circulation of financial assets originating from illegal or undisclosed sources and counteracting terrorism financing and amending other Acts*, (referred further to as "The Act"). In the course of parliamentary works, GIFI took part in numerous meetings of parliamentary and senate commissions. Finally, the Act was accepted on 25 June, 2009 and entered into force on 22 October, 2009.

The most significant aim of amendment was adjustment of provisions of the Act to Community regulations in respect of counteracting money laundering and terrorism financing and in particular to the *Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (*O.J. EU L 309 of 25.11.2005, as amended) and *Commission Directive 2006/70/EC laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis* (O.J. EU. L 214/29 of 4 August 2006) as well as regulations in the scope of application of individual limiting means against persons, groups and entities within the territory of the Republic of Poland.

The result of the above mentioned amendment was *inter alia* implementation of new rules concerning customer due diligence, i.e. identification and verification clients and beneficial owners as well as monitoring of current economic relationships with a customers. Besides, the amended act on counteracting money laundering and terrorist financing includes now new or improved prescriptions on:
- feedback to obliged institutions and cooperative units on usage of their reports on suspicious transactions and activities,
- pecuniary penalties imposed on obliged institutions for negligence,
- cooperation with cooperative units (i.e. other administrative bodies).

Moreover the rules of reporting transactions under suspicion of money laundering as well as terrorist financing and internal procedure related to account blockade and transaction suspension were modified.

At the same time, GIFI undertook legislative measures aiming at preparation of regulations the issue of which was provided for in the provisions of amended Act. On 20 October 2009 the *Ordinance of the Minister of Finance on list of equivalent countries* (Dz. U. No. 176, item 1364.) was issued. Moreover, a settlement process concerning *Ordinance of the Minister of Finance on the form and mode of transfer by the Border Guard bodies and customs authorities information to the General Inspector of Financial Information* and works started on amendment of the *Ordinance of the Minister of Finance on determination of a specimen for transactions recording, method of keeping records and mode of provision of data from the record to the General Inspector of Financial Information have been in course.*

Moreover, GIFI actively participated in legislative processes concerning amendments of other legal acts, in particular in situations where drafted amendments could have impact on fighting against money laundering and terrorism financing. An example of such legal acts was the drafting of Act on payment services and drafting of Act on identity cards.

The amendment of the Act introduced several significant legal changes.

One of the crucial amendment to the Polish law, as far as the FATF 2nd Special Recommendation is concerned, is adding to the **Penal code** a new regulation – **Article 165a**, which stands: "Who gathers, transfers or offers means of payment, financial instruments, securities, foreign currency values, property rights or other movable or immovable property with purpose to finance an offense of terrorist character, shall be subject to the penalty of the deprivation of liberty for a term between 2 and 12 years".

According to the **Art. 115 paragraph 20** of the Penal code, as "offense with terrorist character" is considered "act prohibited under penalty of deprivation of liberty up at least to 5 years, committed with purpose of:

- serious intimidation of many people;
- forcing a public body of the Republic of Poland or of another state or of a body or an international organization to take certain steps or refrain from certain actions;
- serious disturbing in a system of state or economy of the Republic of Poland, of another state or of an international organisation, as well as a threat to commit such an act.

Thus, the above offense becomes a predicate one for money laundering, thanks to the "all crime approach" applied in Poland. Definition and penalization of financing of terrorism fulfils also the obligations of the Republic of Poland following from recommendations of the Counter-terrorism Committee of the UN Security Council and the 1999 International Convention for the Suppression of the Financing of Terrorism.

As far as the 3rd FATF Special Recommendation is concerned, the changes in Polish law contain regulations on freezing and confiscation of properties belonging to terrorists and persons financing the terrorist acts. These are amendments to the penal code, fiscal code and penal proceedings code, referring to forfeiture of property.

The question of freezing of property values is regulated by the Act on counteracting money laundering and financing of terrorism (referred further to as "the Act"). The Article 2 paragraph 6a defines "account freezing" as "*prevention against transmission, conversion and use of asset values or carrying out transactions in a manner that might change their volume, value, location, ownership, possession, nature, destination or against any other change which may enable using such asset values"*.

Any obligated institution shall perform freezing of the asset values with due diligence, with the exception of movable and immovable property, on the basis of the European Union legislation imposing specific restrictive measures directed against certain persons, groups or entities, and regulations issued pursuant to

Article 20d paragraph 4, which states: „*The minister competent for financial institutions – in consultation with the minister competent for foreign affairs – may indicate, by regulation, persons, groups or entities which are subject to such freezing as referred to in paragraph 1, taking into account the necessity to comply with the obligations under international agreements or resolutions of international organizations binding the Republic of Poland, and bearing in mind the necessity of combating terrorism and counteracting terrorism financing"*. The Act determines also the manner of:

- introducing and removing subjects from the list created according to the regulation,
- releasing assets from freezing.

Hereby, the Inter-Ministerial Committee of Financial Security is established, acting under the auspices of the General Inspector as a consultative and advisory body within the scope of application of specific restrictive measures against persons, groups and entities.

The grounds for such changes and activities are obligation resulting from:

- COUNCIL REGULATION (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the

flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan;
- COUNCIL REGULATION (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism;
- COUNCIL REGULATION (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran;
- Council of Europe Convention on the Prevention of Terrorism (Warsaw, 16.V.2005)**.**

GIFI's conference on amendment of the Act

Implementation of 3rd AML Directive provisions was significant challenge for obliged institutions. Newly introduced provisions were the cause for numerous enquiries of obliged institutions demanding clarification on application of the amended law. Therefore GIFI organized two-day conference concerning the amendment of the *Act on counteracting money laundering and terrorist financing* which was held on 1 - 2 December, 2009.

First day of the conference was entirely devoted to the representatives of the obligated institutions. 47 guests were invited from the biggest obliged institutions, as well as from the supervising authorities. On 2 December, 2009 was devoted to representatives of the cooperating units. There were also invited 47 representatives of cooperating units. Lecturers at the conference were mainly the heads of suitable Units within the Department of Financial Information, who held discussion on newly introduced regulations that are implementing 3. AML Directive. The representatives of the obligated institutions, as well as those of cooperating units were provided with the newest, third edition of GIFI's guide on AML/CFT issues (including its electronic version).

GIFI's guidebook

In 2009 another, third edition of the guide entitled *"Counteracting money laundering and terrorism financing*" addressed to official use for obliged institutions and cooperating units has been prepared. The main reasons to issue another edition of the guide was amending of the Act and the fact that since publication of the last editions of the guide, knowledge and awareness in the field of counteracting money laundering and terrorism financing has significantly increased. Apart from referring to changes in legal provisions, a totally new part was added concerning risk areas, previous chapters describing methods of money laundering were improved and supplemented and more information was added on counteracting terrorism financing. Also a separate chapter on special measures was included.
Distribution of guide to obliged institutions and cooperating units both in paper form and in electronic form – on CDs (in this from for the first time since the first edition) started in December 2009. The part containing sensitive, detailed information concerning identified methods of money laundering was excluded from electronic version of the guide.

GIFI's training activity - e-learning

One of GIFI's activity since first progress report 2008 was training activity aimed at raising awareness of obliged entities, as well as reaching the sectors that seem to be less conscious of duties imposed by the Act.

In 2009, GIFI provided new edition of a free-of-charge e-learning course entitled "*Counteracting money laundering and terrorism financing"*. The aim of the course is familiarizing the employees of obliged institutions and cooperating units with counteracting money laundering and terrorism financing in the field of binding provisions.

The form of e-learning course means that it is available via Internet both in the scope of enrolment, use of its resources, participation in verification test and obtaining certificate on completion of the course. Details specifying rules of participation in the course are available at the Ministry of Finance website (tabs: Financial security → Fighting money laundering and terrorism financing → Communications). The course is free of charge.

Present edition of E-learning platform prepared by GIFI has been efficient tool to provide guidance for obliged institutions. Since October 2009 until end of August, there were 20 699 certificates issued on graduating from E-learning training in AML/CFT area for financial obliged institutions. Representatives of non-financial obliged institutions were awarded 8044 certificates. Cooperating units in the mentioned period were awarded 1550 certificates. E –learning platform was also used by other entities or subjects who were awarded 2900 certificates. The total number of certified users of e-learning training provided by GIFI amounts to 33 193 participants.

Anticipated period of course availability: till the end of the 1st quarter 2010.

International co-operation

GIFI continued to actively participate in international for a, such as MONEYVAL, European Commission, Egmont Group and others.

GIFI has actively tried to bring added value to the process of building effectively functioning international system of counteracting financing of terrorism. Therefore GIFI organized study visits for representatives from other jurisdictions - law enforcement experts from Algeria, Macedonia and Russia (in 2009) as well as Tunisia and Pakistan (in 2010).

In 2009, GIFI hosted foreign delegation from FIUs in Algeria, Macedonia and Russia. The aim of the visit was comprehensive presentation of Polish system of fighting against money laundering and terrorism financing and sharing experience in this field. During the visits, guests from Algeria, Macedonia and Russia familiarized with activity of Polish institutions and services involved in fighting money laundering and terrorism financing: Department of Financial Information, Public Prosecutor's Office, Polish Financial Supervision Authority, Police, Central Anticorruption Bureau and Counter-Terrorist Centre. The representatives of Macedonia had chance to familiarize with Polish experience in the scope of use of IT tools for special financial analyses.

From 27 June to 1 July, 2010 there was organized a study visit of representatives of authorities responsible for countering ML/FT from Tunisia and Pakistan. The meaningful program of the visit was comprehensive and covered broadly anti-money laundering and terrorist financing area. The study visit has been prepared with the assistance of the Polish Ministry of the Foreign Affairs, with active participation of the General Prosecutor's Office, the Counter-Terrorist Centre, Ministry of Interior and Administration, Police and Border Guards. It consisted of three seminar areas, focused on discussion on the architecture and functioning of Polish AML/CFT system.

Organized seminars covered the following topics: the role of the General Prosecutor's Office in combating terrorism and its financing on the basis of Polish criminal code, the role and tasks of the Counter-Terrorist Centre, Ministry of Foreign Affairs in the fight with terrorism and the role and tasks of the Government Center for Security. Study visit provided for the discussion on the role and tasks of the Ministry of Interior and Administration in the fight against terrorism, the functioning of newly established Asset Recovery Department (in the structure of General Police Headquarters), as well as the engagement in AML/CFT area of Border Guards, issues of their co-operation with the cooperating units. GIFI's employees provided the participants with broadly presented information on Polish FIU, its role and functioning (organizational structure), analytical tools that are used in its every day analytical work, as well as issues focusing on control of the obligated institutions.

GIFI representative, as an observer, participated in Euro—Asian Group on combating money laundering (EAG). GIFI representatives took active part in Working Groups (Technical Support Group and Typological Group) through involvement in preparation of typological questionnaires and through participation in plenary meeting of the Group which took place in Saint Petersburg in Russia.

In 2008-2009, implementation of so called technical support for Group Member States was continued, including in particular the experts' support in the field of IT tools and data modeling for the Financial

Intelligence Unit of Kyrgyzstan (the GIFI representative participated in advisory mission financed by IMF, encompassing analysis of the IT system and analytical tools of the Kyrgyz FIU) and during visit of the Russian Financial Intelligence Unit in Poland.

Co-operation with US Department of Treasury – continuation

In 2008, implementation of "Cooperation Project Between the Ministry of Finance of the Republic of Poland and the US Treasury Department" was continued. The project was signed on December 20, 2006. The basic assumption of the project is to strengthen regional position of the Polish Financial Intelligence Unit as it regards regional co-operation in the region, in the area of counteracting money laundering and terrorist financing.

Within the framework of the co-operation project, in September 2008, the *Second Regional Conference* was organised in Miedzeszyn, near Warsaw. It was devoted to Internet crimes and the issue of *cyberterrorism*, which was attended by representatives of Interpol, EUROJUST, ten financial intelligence units and state authorities, including the Internal Security Agency, the Central Bureau of Investigation of the General Police Headquarters, the General Border Guard Headquarters and the National Security Bureau.

Within the framework of the project, between October 1 and 2, 2008, a study visit was organised for the representatives of the Kyrgyz Financial Intelligence Unit. Moreover, the GIFI representative participated in advisory mission encompassing analysis of the IT system and analytical tools of the Kyrgyz FIU.

In the first half of 2009, realization of the project was continued. Subsequent project tasks were implemented including organization of seminar for Polish customs administration authorities and border guards, carried out by specialists from US Immigration and Customs Enforcement.

The Ministry of Finance of the Republic of Poland with US Department of the Treasury organized also 3rd Regional Conference of the Financial Intelligence Units which took place in Warsaw on 22-23 June, 2009. The conference was a continuation of activities implemented by GIFI with US Department of the Treasury in 2007 (1st Regional Conference of the Financial Intelligence Units in Debe, near Warsaw). At the same time, a meeting closing two-year Polish-American project took place.

The Conference topics were issues related to interpretation and implementation of assumptions of the FATF special recommendation VII and IX concerning money transfers and cash transport abroad respectively.

Conference was attended by ca. 50 persons including representatives of the Financial Intelligence Units from Montenegro, Estonia, Lithuania, Latvia, Russia, Romania and Serbia and representatives of international institutions involved in issues related to implementation special recommendation VII and IX *inter alia:* the European Commission, the Council of Europe, FRONTEX, Organization for Security and Co-operation in Europe as well as representatives of the US Department of Homeland Security and US Immigration and Customs Enforcement. The meeting was attended by representatives of the Polish authorities and institutions involved in issues related to combating money laundering and terrorism financing.

Romanian project

Polish Financial Intelligence Unit has been chosen by Romanian FIU as the one to realize twinning project no. RO/2007-IB/JH/05 *"Fight against money laundering and terrorism financing"* for Romanian FIU. The project has been covered by the European Commission funds within so called *Transition Facility*.

Its objective is to strengthen the Romanian administration and obliged institutions in the field of

counteracting money laundering and terrorism financing through support in developing national strategy and adequate training program in this field for all involved entities.

In December 2009, a contract enabling implementation of Twinning Project was signed. From January 2010, the GIFI's representative started her mission as s long-term adviser in Romania and particular scheduled activities were commenced. 13 expert missions to Romania, two Steering Committee meetings and one internship visit to Warsaw took place by the middle of the year.
The provisional outcomes are:

- elaboration of National Strategy for Combating Money Laundering and Terrorism Financing (the NOPCML), which was approved by the Supreme Council of National Defense,
- AML/CFT training for legal professionals (5 meetings, 160 participants),
- control of reporting entities, strategic analysis and statistical methods training for the staff of the National Office for Prevention and Combating Money Laundering (4 meetings, 50 participants)
- progress in elaborating a guide for reporting entities,
- two weeks internship visit of a group of the NOPCML employees in Warsaw with participation of General Police Headquarters, Internal Security Agency, Central Anti-Corruption Bureau, General Prosecutor's Office.

For more detailed information on GIFI's activities since first progress report, please see the attached GIFI's annual reports for 2008 and 2009.

Polish Financial Supervision Authority (PFSA)

There also have been an important change in the **Banking Act** – the **Article 106a** has been introduced, which authorizes banks to block the funds on accounts. It stands:
"1.When there arises a reasoned suspicion, that the bank activity is used for hiding crime activity or for purposes related to fiscal offense or other offense than referred to in the Article 165a [i.e. financing of terrorism] or Article 299 [i.e. money laundering] of the penal code, the bank shall notify a public prosecutor, police or other body authorized to lead preparatory proceedings.
2. The public prosecutor, police or other body authorized to lead preparatory proceedings, which received the notification referred to in the par. 1, may demand additional information, also in course of activities taken according to the Art. 307 [i.e. verifying proceedings] of the Act of 6th June 1997, penal proceedings code.
3. When there is a reasoned suspicion, that the funds on the account, partially or totally, come from or are related to an offense other than referred to in the Art. 165a or 299 of the penal code, the bank has right to block the funds on this account. The blockade can be imposed exclusively up to the amount of funds gathered on the account, which the suspicion refers to.
4. The blockade of funds on the account, imposed in the circumstances described in the paragraph 3, cannot last more than 72 hours.
5. Once the blockade, referred to in the paragraph 3, is imposed, the bank notifies a public prosecutor immediately.
6. In the time limits determined in the paragraph 4, the prosecutor takes a decision on starting or on refusal to start proceedings, which is immediately notified to the proper bank. The time limits determined in the Art. 307 paragraph 1 of the code of penal proceedings shall not apply. In case the proceedings is started, the prosecutor may order, by decision, to block the funds on the account for the determined period not exceeding three months after the receipt of the notification referred to in the paragraph 5. The notification shall define range, manner and period of account blocking.
7. Against the prosecutor's decision on blocking funds on the account a complaint can be lodged with the court proper for cognizance of the case.
8. The blockade of the fund on the accounts comes to grief if within three months after receipt of notification referred to in the paragraph 5, a decision on property securing is not issued.
9. For the questions of blockade of the funds on the account, not regulated by the Act, the regulations of the penal proceedings code shall apply.
10. The bank is not responsible for damages resulting from performing, in bona fide, the duties determined in the paragraphs 3-5. In such case, if the circumstances described in the paragraphs 3-5

were not related to any offense or to hiding of criminal activities, the liability for the damage resulting from blocking funds on the account is borne by the Treasury."
As far as it regards the architecture of Polish financial supervisory system it is worth to draw also attention to the fact that the Polish Financial Supervision Authority (further referred to as PFSA), since 1st January, 2008 has been consolidated financial regulator in Poland. The merger of three separate regulatory authorities has been finalized once PFSA started to apply the unified approach towards supervision and on-site visits in all sectors of the Polish financial market. In the late 2008 a Unit in the Enforcement Department (within PFSA) was created in order to coordinate all AML/CFT related issues in the PFSA, and also to conduct on-site visits together with other Departments of the PFSA.
Since September 2009 the mentioned Unit has been given the entire responsibility to conduct on-site visits in all financial institutions in Poland. In result the process of unification of the PFSA's AML/CFT supervision over financial institutions has been finalized.
PFSA has actively fulfilled its duty to exercise on-site supervision. Until July, 2010 the PFSA has conducted the following number of specific AML/CFT on-site inspections in the below mentioned types of financial institutions:

In 2008: commercial banks – 11 on-sites, cooperative banks – 18.

In 2009: commercial banks – 6, cooperative banks – 18, branches of foreign credit institutions – 7, insurance companies – 4, brokerage houses – 2, investment fund management company – 1.

In 2010 (as of July,2010): commercial banks – 5, cooperative banks – 13, branches of foreign credit institutions – 8, insurance companies – 3, brokerage houses – 2, investment fund management company – 1.

A steady increase in the total number of entities being controlled is visible, and it should be attributed to the simultaneous increase in the number of PFSA's AML/CFT Unit's staff.

Besides conducting on-site visits, and broadly speaking the suitable coordination, the PFSA's AML/CFT Unit is also responsible for international and national cooperation, training, analysis and intelligence work. In the field of international cooperation the representatives of the PFSA's AML/CFT Unit are present (for the time being) in MONEYVAL, EU 3L3 AML Task Force, and COP of the Warsaw Convention (CETS No 198). The national cooperation focuses mainly on exchange of information between the PFSA and other relevant bodies such as: the Police (also the Central Investigative Bureau), Border Guard, Internal Security Agency, and Prosecutor's Office.

The PFSA's AML/CFT Unit puts much effort in enhancing the awareness of the employees of reporting entities as it also provides training for the aforementioned bodies (except for the Prosecutor's Office), and also has organised an ad hoc training seminar for the Warsaw Council of Public Notaries, on their request. The most important, however, are the training seminars held for the financial institutions being the subject of PFSA's supervision. Each year at least one of the major seminars organised is being devoted solely to the AML/CFT issues. In 2008 there were 89 participants, in 2009 - two seminars- respectively 126 and 97 participants, and in 2010 – 118 participants. The mentioned seminars are focused on presenting the PFSA's stance and guidance to the financial sector on AML/CFT issues, and conducting the dialog on the most important issues.

General Prosecutor's Office

The amendment of the Act a number of new duties of prosecutor's offices has been set forth. Every unit of the prosecution service has been obliged to provide the GIFI not only with information on proceedings initiated or completed in connection with the ML/TF offences but also with precise information on charges brought to suspects. Ministry of Justice has been obliged to contribute to GIFI's annual report, by submitting variety of information e.g. on numbers of investigations, suspects, convictions and convicts, and on amount of proceeds subject to seizure or forfeiture.

Since 2007, a system sanctions prescribed for ML offence has been also changed. Penalty of deprivation of liberty foreseen for aggravated forms of ML has been raised up to 10 years (previously 3 years). Also a maximal fine which can be imposed beside deprivation of liberty has been raised up to 1 500 000 EURO (previously 1 000 000 EURO).

On 9 November 2009 The Public Prosecutor's Office act has been substantially amended. The function of Prosecutor General is no longer exercised by the Minister of Justice. For the time being, Prosecutor General is appointed by the President for a term of six years. Candidates for the position of Prosecutor General are elected by the National Council of Judiciary and National Council of Prosecutors.

Concerning monitoring and supervision over AML/CFT investigations and collection of statistical data, by virtue of the Ordinance of Deputy Prosecutor General of 10 June 2010, the powers previously exercised by the Organized Crime Bureau of The National Prosecutor's Office has been handed over to the Department for Organized Crime and Corruption at the Prosecutor General's Office.

Central Bureau of Investigation (CBS)

Combating money laundering is one of the main tasks for Central Bureau of Investigation and the Criminal Bureau in the Police Headquarters. Therefore, since the adoption of the 1st progress report there have been carried out series of training courses aimed at improving counteracting money laundering and co-operation with the General Inspector of Financial Information.

On the basis of data from investigations and intelligence, it has been estimated that the main areas of money laundering are the markets of liquid and gaseous fuels, scrap metal market and drug-trafficking.

National Asset Recovery Office (BOM)

Indicated by the Council of Ministers in the structure of General Police Headquarters and as a central unit in a network of cooperating authorities. Minister of Justice, Minister of Internal Affairs and Administration, General Inspector of Financial Information, presidents of Prosecutor's offices and Chief General of Border Guard have an obligation to cooperate with Chief General of Police in order to perform efficiently the duties relating to detecting and identification of proceeds from crime and other values connected with criminal activity, as stated in the Resolution of the Council of Ministers in 2009. Agreement of September 15, 2009, between the Minister of Internal Affairs and Administration, Minister of Finance and Minister of Justice services of those authorities facilitated exchange of information. It is supported by Electronic System for Asset Recovery (ESAR) run by the police. That idea of an asset recovery unit gives also opportunities for training. General Inspector of Financial Information cooperates with Plenipotentiary of the Minister of Finance for national asset recovery office.

2.2 Core Recommendations

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

Recommendation 1 (Money Laundering offence)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*Clarify legislative provisions to ensure that all aspects of the physical and material elements in the Vienna and Palermo Conventions are covered.*
Measures reported as of 7 July 2008 to implement the Recommendation of	No changes

the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	In July 2009, Organized Crime Bureau of The National Prosecutor's Office drafted an amendment to the Penal Code aiming at comprehensive implementation of the Moneyval recommendation regarding criminalization of money laundering, in particular its all material and physical aspects. Considering that Prosecutor General has not been vested with authority to commence a legislative procedure, the draft amendments have been forwarded to the Department of Legislation in the Ministry of Justice and also to the Department of Financial Information in the Ministry of Finance. In April 2010, Ministry of Justice informed Department for Organized Crime and Corruption at the Prosecutor General's Office, that aforementioned draft would be included in one of the upcoming amendments to the Penal Code. Formulation of the respective provision regarding material and physical aspects of ML provides as follows : ***Article 299 § 1 P.C.*** *A person who acquires, accepts, possesses, transfers or takes abroad the instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, originated from the benefits related to the committed crime, helps to transfer their ownership or undertakes its conversion or other activities that foil or substantially obstruct the ascertainment of their criminal origin, the place they have been stored, their detection, seizure or forfeiture decision, shall be subject to* *imprisonment from 6 months to 8 years.* ***Art.299 § 8 P.C.*** *A person who uses, in a different manner than prescribed in paragraph 1,* movable or immovable property, originated from the benefits related to the committed crime *shall be subject to the punishment referred to in § 7 (a fine, the penalty of restriction of liberty, the penalty of deprivation of liberty for a term of up to 2 years)*
Recommendation of the MONEYVAL Report	*Conspiracy to commit money laundering should be recognised as a criminal offence, unless this is not permitted by fundamental principles of domestic law.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes
Measures taken to implement the recommendations since the adoption of the first progress report	Aforementioned draft amendment to the Penal Code also provides for criminalization of the preparation to commit ML. Pursuant to the definition of the "*preparation to commit a crime*" set forth in the Penal Code (art.16 § 1 P.C), conspiracy is one of the form of preparation. Formulation of the respective provision regarding criminalization of conspiracy to commit ML, provides as follows: *Article 299 § 7 P.C.* *A person who makes preparations for the offence specified in § 1 or 2 shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.*
Recommendation of the MONEYVAL Report	*Financing of terrorism in all its forms, as explained in the Interpretative Note to SR.II, should be clearly covered as predicate offences to money laundering.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Polish Authorities has prepared draft (is now in Parliament before 2nd reading) amendments to Penal Code (PC) which provided for an autonomous offence of financing terrorism financing. Terrorism financing is planned to be addressed by the provisions of Article165a of PC which speaks that: Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist

	character, shall be subject to imprisonment for a term of up to 3 years. Due to the all-crime approach applied in the article 299 PC (offence of money laundering) terrorism financing will be automatically regarded as a predicate offence.
Measures taken to implement the recommendations since the adoption of the first progress report	By virtue of an amendment of 25 June 2009, to the Act , the Penal Code has been supplemented with **Article 165a** which provides for an autonomous offence of financing of terrorism. Current formulation of **Article 165a** provides as follows: *"Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist character, shall be subject to imprisonment for a term of 2 years up to 12 years.*
Recommendation of the MONEYVAL Report	*Clarify in the criminal law that property being proceeds covers both direct and indirect property which represent the proceeds (or benefits) of the crime.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes
Measures taken to implement the recommendations since the adoption of the first progress report	Draft amendment to the Penal Code, prepared by the Bureau for Organized Crime modifies the rules of confiscation. Paragraph 9 of the Article 299 P.C. clearly provides for forfeiture of both direct and indirect property representing proceeds of crime. Paragraph 10 of the Article 299 P.C. also provides for the possibility to decree a forfeiture of instrumentalities which served the perpetrators of ML, and has been transferred to the third parties. *Article 299* *§ 9. In case of sentencing a person for the crime specified in § 1 or 2, the court shall decree a forfeiture of implements derived directly or indirectly from the crime and a forfeiture of the benefits gained as a result of the crime or their equivalent, even if they do not belong to the perpetrator himself. Forfeiture shall not be decreed in part or in whole in case a given implement,* *benefit or its equivalent shall be returned to the wronged person or other entity.* *Article 299* *§ 10. In case of sentencing a person for the crime specified in § 1,2 or 7, the court may decree a forfeiture of implements, that served the crime or were used to commit the crime, even if they do not belong to the perpetrator.*
Recommendation of the MONEYVAL Report	*More emphasis should be placed on autonomous prosecution of money laundering by third parties.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In the opinion of Polish authorities, the type of money laundering depends on facts established in the course of an investigation and is based on evidence gathered in a given case. Taking this into account, as well as the principle of independence of judges and prosecutors, no legal measures can be taken in order to encourage law enforcement agencies and courts to increase the number of autonomous prosecutions and convictions in this regard. Nevertheless, The Polish Ministry of Justice has intensified the training of prosecutors and judges for the purpose of raising awareness of the importance of autonomous prosecutions. Since June 2007, The National Centre for Training of Judges and Prosecutors has organized a series of 8 training seminars concerning the latest typology of money laundering, methodology of conducting investigations and autonomous prosecutions of money laundering.
Measures taken to implement the recommendations since the adoption of the first progress	National Training Centre for Judges and prosecutors continued series of seminars on ML/TF issues (20-24 April 2009, 12-14 November 2009) which also touched on the topic of autonomous prosecution of money laundering. In 2009-2010 Prosecutor General's Office also cooperated with Warsaw School of Economics and

report	organized seminars on money laundering (including issues of autonomous prosecution) within the framework of post-graduate studies for judges and prosecutors. It is worth mentioning, that Ministry of Justice has started reorganization of the process of investigations involving financial data employing criminal/financial analysts in district and appeal Public Prosecutor's Offices and equipping them with IT-tools supporting analysis (link analysis software). Focusing on good co-operation of Polish FIU with Prosecutor Offices, on 7-11 December 2009, representatives of the GIFI participated as the trainers in the training addressed to the mentioned above analysts employed in Public Prosecutor's Offices. Coordination of types and formats of financial data attached to the GIFI notifications to the prosecutors has been initiated in order to enhance effectiveness of the cooperation. GIFI continued also the distribution of GIFI's Guide among district Public Prosecutor's Offices, as well as appeal ones. There were mainly electronic versions of the guide (25 to district Prosecutor's Offices and 21 to appellate Prosecutor's Offices). Hard copies (3) were delivered to State Public Prosecutor's Office and (1) to one of appellate Prosecutor's Office.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Financial institutions should be clearly required to identify customers when starting a business relationship, when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII and when the financial institution has doubts about the veracity or adequacy of previously obtained identification data.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	PA covered this issue in the draft law (from June this year, which is now in the phase of inter-govenrmental consultation and next will be passed to Council of Ministers, June/July and then to the Parliament) concerning amendments to the Act on 16 November (AML/CTF Law) **Art. 8 b ust. 2:** Due diligence measures shall be applied in particular: 1) when concluding an agreement with the customer; 2) when carrying out an occasional transaction amounting to EUR 15,000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked; 3) when there is a suspicion of money laundering or terrorist financing regardless of the transaction value, customer organisational form and type; 4) when there are doubts about the veracity or completeness of previously obtained data.
Measures taken to implement the recommendations since the adoption of the first progress report	The Act of 16th November 2000 on AML/CFT requires financial institutions, to conduct customer due diligence (hereinafter referred to as CDD) on risk based approach. However the Act provides for 4 basic CDD measures which should be performed in instances stipulated in the Act. According to article **8b section 3** of the Act: "*Financial security measures referred to in paragraph 1* [i.e. referring to RBA],

	consist of: *1) client identification and verification of his identity on the basis of documents or information publicly available;* *2) making attempts, with due diligence, in order to identify a beneficial owner and apply verification measures to identify the identity of, dependent on appropriate risk assessment, in order to provide the obligated institution with data required on the actual identity of a beneficial owner, including the determination of the ownership structure and dependence of the client;* *3) obtaining information regarding the purpose and the nature of economic relationships intended by a client;* *4) constant monitoring of current economic relationships with a client, therein surveying transactions carried out to ensure that transactions are in accordance with the knowledge of the obligated institution on the client and the business profile of his operations and with the risk; and, if possible, surveying the origins of assets and constant update of documents and information in possession.* According to **article 8b paragraph 4** of the Act: *" Financial security measures are applied, in particular:* *1) when concluding a contract with a client;* *2) when carrying out transaction with a client with whom the obligated institution has not previously concluded any agreements of the equivalent of more than 15.000 EURO, regardless of whether the transaction is carried out as a single operation or as several operations if the circumstances indicate that they are linked;* *3) when there is a suspicion of money laundering or terrorist financing regardless of the value of such a transaction, its organizational form and the type of a client;* *4) when there are doubts raised that the previously received data referred to in Article 9 are authentic and complete."* The above quoted provisions set out an obligation to perform the mentioned 4 CDD measures (including identification) in the instances stated above. These instances cover all essential situations in which CDD measures should be performed. Please however do notice the article 8b paragraph 4 uses the phrase "in particular", meaning the catalogue of situation in which the CDD measure are applied is open. The financial institution may on it's discretion decide also to apply CDD measure in other situation, not directly stipulated in article 8b paragraph 4. This gives a large dose of flexibility needed when applying properly the risk based approach. Furthermore, Polish financial institutions are advised during PFSA's trainings to use the FATF's "Risk Based approach – Guidance for Money Service Businesses."
Recommendation of the MONEYVAL Report	*Identification requirements concerning above threshold transactions should be applicable also to customers of electronic money institutions.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Obligations provided for Art 2 subparagraph 1 of AML/CTF Law also apply to electronic money institutions so these institutions are required to fulfil identification requirements concerning above threshold transactions as well. ***Article 2 sub.1e:*** *1) obligated institution: it shall mean:* e)electronic money institutions, branches of foreign electronic money institutions and settlement agents pursuing business pursuant to the Act on electronic payment instruments of 12 September 2002 (Journal of Laws No. 169, item 1385, of 2004 No. 91, item 870 and No. 96, item 959 and of 2006 No. 157, item 1119).
Measures taken to implement the recommendations since the adoption of the first progress report	**Article 2 point 1, letter e)** of the Act stipulates the following obliged institutions: *"electronic money institutions, branches of a foreign electronic money institution and any clearing agent operating under the Act of 12 September 2002 on electronic payment instruments (Journal of Laws No. 169 item 1385, as amended)".* As they are obliged institutions they are obliged to fulfill duties imposed by the Act, inter alia, identification and reporting activities, also including duties referring to

	threshold transactions.
Recommendation of the MONEYVAL Report	*The Polish authorities should introduce the concept of beneficial owner as it is described in the Glossary to the FATF Recommendations. Financial institutions should be required to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	**The definition of beneficial owner provided for in the draft of AML/CTF Law is as follows:** Article 2 sub. 1a: *1a) beneficial owner: it shall mean the natural person who ultimately owns or controls the customer, and also the natural person on whose behalf a transaction or activity is being conducted; the beneficial owner shall at least include:* *a) in the case of legal entities:* *- the natural person who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of stake, shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25% plus one share shall be deemed sufficient to meet this criterion,* *- the natural person who otherwise exercises control over the management of a legal entity,* *b) in the case of foundations and persons or entities entrusted with administration and distribution of property values:* *- where the future beneficiaries have already been determined – the natural person who is a beneficiary of 25% or more of foundation's property or the legal arrangement whereby administration and distribution of property values was entrusted,* *- where natural persons that benefit from the legal arrangement or foundation have yet to be determined – a natural person in whose main interest the legal arrangement or foundation is set up or the legal arrangement whereby administration and distribution of property values was entrusted is made, or in whose main interest it is for the foundation or entity entrusted with administration and distribution of property values to operate,* *1. the natural person who exercises control over 25% or more of the property of the foundation or the legal arrangement whereby administration and distribution of property values was entrusted;* The measures that are to be taken by financial institutions in order to verify identity of beneficial owner refer to general concept of customer due diligence and they are as follows: ***Ariticle 8b para.3:*** *3. Customer due diligence measures shall comprise:* *1) identifying the customer and verifying the customer's identity on the basis of documents or information being in the public domain;* *2) taking actions with due diligence to identify the beneficial owner and taking risk-based and adequate measures to verify his/her identity so that the obligated institution obtains the data concerning the identity of the beneficial owner, including understanding of the customer's ownership and control structure;*
Measures taken to implement the recommendations since the adoption of the first progress	PA introduced the concept of the beneficial owner. In the Act, there is the suitable definition of beneficial owner provided in **Article 2. 1a):** *"beneficial owner, it shall mean:* *a) a natural person or natural persons who are owners of a legal entity or*

report	*exercise control over a client or have an impact on a natural person on whose behalf a transaction or activity is being conducted,* *b) a natural person or natural persons who are stakeholders or shareholders or have the voting right at shareholders meetings at the level of above 25% within such a legal entity, therein by means of block of registered shares, with the exception of companies whose securities are traded within the organized trading, and are subject to or apply the provisions of the European Union laws on disclosure of information, and any entities providing financial services in the territory of a EU-Member State or an equivalent state in the case of legal entities,* c) *a natural person or natural persons who exercises control over at least 25% of the asset values - in the case of entities entrusted with the administration of asset values and the distribution of, with the exception of the entities carrying out activities referred to in Article 69 item 2 point 4 of the Act of 29 July 2005 on trading in financial instruments.*" As it is stated above, financial institutions are obliged to perform CDD measures, one of which is (according to **Article 8b paragraph 3 point 2** of the Act): "*making attempts, with due diligence, in order to identify a beneficial owner and apply verification measures to identify the identity of, dependent on appropriate risk assessment, in order to provide the obligated institution with data required on the actual identity of a beneficial owner, including the determination of the ownership structure and dependence of the client".* By the phrase: "*making attempts, with due diligence*" one should understand that the financial institutions are required to undertake all measures necessary to know the beneficial owner of their clients. It is however up to them, to set out those measure, because the Act introduces also a risk based approach. That is why, basing on the risk of each and every client, the financial institution must decide which of the measures is proper and fit to investigate the beneficial owner. The measures however should be stipulated in the internal procedure of each financial institution. This interpretation was made known to the institutions both by GIFI and the PFSA. It is also worth mentioning that the PFSA is taking active part in preparing a paper on beneficial owner by the EU 3L3 AML Task Force.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The draft of AML/CTF Law provides for in Art. 8b para.3 subpara. 3 that the institutions covered by the Act have to obtain information on the purpose and intended nature of business relationship of the customer. The specific provision is as follows: ***Artticle 8b para.3 subpara. 3:*** *1. Customer due diligence measures shall comprise:* *3)obtaining information on the purpose and intended nature of the customer's business relationships;*
Measures taken to implement the recommendations since the adoption of the first progress report	On the grounds of **Article 8b paragraph 3 point 3** of the Act, the financial institutions are required to: "*obtain information regarding the purpose and the nature of economic relationships intended by a client*", as one of the CDD measures.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to conduct on-going due diligence on the business relationship and to ensure that documents, data or information collected under CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Financial institutions obligations referring to on-going due diligence are set out in art. 8b para. 3 subpara. 4 of the draft AML/CTF Law and these are as follows: ***Art. 8b para.3 subpara. 4:*** *3.Customer due diligence measures shall comprise:* *(…)* *4) conducting ongoing monitoring of the customer's business relationship, including scrutiny of transactions undertaken to ensure that the transactions being conducted are consistent with the obligated institution's knowledge of the customer, the business and risk profile, including, where possible, the source of property values and ensuring that the documents and information held are kept up-to-date.*
Measures taken to implement the recommendations since the adoption of the first progress report	**Article 8b paragraph 3 point 4** of the Act sets out an obligation for the financial institutions to: conduct "*constant monitoring of current economic relationships with a client, therein surveying transactions carried out to ensure that transactions are in accordance with the knowledge of the obligated institution on the client and the business profile of his operations and with the risk; and, if possible, surveying the origins of assets and constant update of documents and information in possession.*" By this provision the ongoing due diligence on the business relationship is being conducted. The financial institutions should specify in their internal procedures how often and in what way the data regarding their clients should be updated. Due to the risk based approach it is expected from financial institutions to apply enhanced due diligence measures to higher risk clients. The internal procedures should reflect additional measures to be taken up in these cases, which also relate to keeping all data up-to-date and relevant. It is also relevant that financial institutions are obliged by the **Article 8a paragraph 1** to: *"(…) carry out ongoing analysis of the transactions carried out. Results of those analyses should be documented in paper or electronic form."* **Article 8a paragraph 2** states: *"All the results of such analyses shall be kept for a period of 5 years, calculating from the first day of the year following the year in which they were conducted(…)"*. This means all written evidence of the transactions analysis should be archived and available.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to perform enhanced due diligence for higher risk categories of customers, business relationship or transaction, including private banking, companies with bearer shares and non-resident customers.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In accordance with the Law the institutions covered by the Act should apply enhanced customer due diligence measures in circumstances which might indicate a higher risk of money laundering or terrorism financing. The specific provisions are as follows: *Article 9e. 1. The obligated institutions shall apply, on a risk-sensitive basis, enhanced customer due diligence measures in situations which can present a higher risk of money laundering or terrorism financing, and at least in the situations set forth in paragraphs 2 and 3.* **Article 19** *Where the customer has not been physically present for identification purposes, to compensate for the higher risk, the obligated institutions shall apply one or more of the following measures:* *1) establishing customer's identity by additional documents or information;* *2) supplementary measures to verify or certify the documents supplied and the authenticity of the signature by the notary public, a government agency, a local government agency or a provider of financial services;* *3) ensuring that the first transaction is carried out through the customer's account opened with the provider of financial services.* **Article 19** *In respect of cross-border correspondent banking relationships with*

	respondent institutions from third countries and equivalent countries, the obligated institutions shall: *1) gather sufficient information on a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the institution and the quality of supervision;* *2) assess the correspondent institution's anti-money laundering and anti-terrorist financing controls;* *3) document the respective responsibilities of each institution;* *4) with respect to payable-through accounts, ensure that the correspondent credit institution has verified the identity and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request;* *obtain approval from management board or designated management board member before establishing new correspondent banking relationships.*
Measures taken to implement the recommendations since the adoption of the first progress report	The Act introduces risk based approach to AML/CFT, and requires the financial institutions to undertake enhanced due diligence, when the risk of money laundering and terrorism financing is higher then normal, on the other hand giving those institutions some freedom as to stipulate the additional CDD measures which shall be undertaken. However the Act provides for situations in which the institutions are always obliged to perform enhanced CDD, and also stipulates exactly the measures which should be undertaken. According to **Article 9e** of the Act: *"1. Any obligated institution shall apply - on the basis of risk analysis – increased security measures against a client in the events which may involve a higher risk of money laundering or terrorist financing and particularly in the cases referred to in paragraphs 2-5.* *2. If the client is absent, the obligated institutions - for the purposes of identification – shall apply at least one of the following measures in order to reduce the risk:* *1) establishment of the identity of the client on the basis of additional documents or information;* *2) additional verification of the authenticity of the documents or attestation of their compliance with the original copies by a notary public, a government body, a local government authority or an entity providing financial services;* *3) ascertainment of the fact that the first transaction was conducted via the client's account in the entity providing financial services.* *3. In terms of cross-border relations with institutional correspondents from countries other than the EU-member states and equivalent countries, any obligated institutions being a provider of financial services shall:* *1) collect information allowing to determine the scope of operations, and whether a provider of financial services is supervised by the state;* *2) assess measures taken by a provider of financial services who is a correspondent in so far as counteracting money laundering and terrorist financing;* *3) prepare documentation defining the scope of responsibilities of each provider of financial services;* *4) ascertain with respect to payable-through accounts - that a provider of financial services, who is a correspondent, conducted the verification of identity and has taken appropriate actions under procedures on the application of financial security measures in relation with clients having direct access to such a correspondent's bank accounts and that it is able to provide, on demand of the correspondent, any data related to the application of financial security measures in regard to a client;* *5) establish cooperation, with the prior consent of a board of directors or a designated member of such a board or a person designated by such a board; or a person designated in accordance with* ***Article 10b paragraph 1*** *[i.e.-* …designating persons responsible for fulfilling the obligations specified in the Act.].

	4. With regard to the politically exposed persons, the obligated institutions: *1) implement procedures based on risk assessment to determine whether such client is a person holding a politically exposed position;* *2) apply measures, adequate to the risk determined by this obligated institution, in order to establish the source of asset values introduced to trading;* *3) maintain constant monitoring of conducted transactions;* *4) conclude a contract with a client after having obtained the consent of the board, the designated member of the management board or a person designated by the board or a person responsible for the activities of the obligated institution.* *5. Under the pains of penal liability for providing data incompatible with the facts, the obligated institutions are required to collect written statements on whether a client is a person holding a politically exposed position."* The quoted article sets out 3 situations (the client is not present for identification, the client is a cross-border correspondent bank and the client is a PEP), in which notwithstanding the institutions own risk based approach rules, each institution is obliged to undertake enhanced CDD measures. The Act also provides for specific measure which should be performed in each of the cases. However this catalogue may be supplemented by the financial institutions with additional measures which it deems fit. When it comes to setting out in legislation the very specific types of situation which generate higher risk of money laundering and terrorism financing (as suggested by the evaluators: private banking, companies with bearer shares and non-resident customers), Polish legislator introduced the wording with open catalogue of situations that shall suggest applying of enhanced CDD, as stipulated above in **Article 9e paragraph 1.** Moreover, the Act provides for set of criteria that should be taken into consideration while RBA is being made by reporting entity, which is stipulated as follows in **Article 10a paragraph 3**: "*When conducting analysis to determine risk value, any obligated institution should, in particular, include the criteria of the following nature:* *1) economic - involving assessment of client's transaction in terms of its business activity;* *2) geographic - involving performance of transactions unwarranted by the nature of business activity, concluded with the operators of the countries where there is a high risk of money laundering and terrorist financing;* *3) objective - involving business activities of high-risk conducted by the client in terms of vulnerability to money laundering and terrorist financing;* *4) behavioural - involving unusual behaviour of the client, in the situation in question."* This open catalogue of criteria to bear in mind while performing a risk analysis allows for more flexibility when it comes to a proper risk analysis. So though the legislation does not provide for casuistic list of high risk categories of customers or situations, it is – also with to the FATF's Risk Based approach – *"Guidance on the risk based approach to combating money laundering and terrorist* financing"– sufficient to allow financial institutions do distinguish them according to their own procedures. It is worth highlighting that GIFI has prepared 3rd edition of its guide-book on counteracting money laundering and terrorism financing, which has been designed for obliged institutions and cooperating units. One of sections covers, among others, the issue of risk areas.
Recommendation of the MONEYVAL Report	*Financial institutions should not be permitted to open an account when adequate CDD has not been conducted. Where the financial institution has already started the business relationship and is unable to comply with CDD it should be required to terminate the business relationship. In both situations mentioned above financial institutions should be required to consider making a suspicious transaction report.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Institutions covered by the Law are banned from opening an account as well as they are required to terminate existing business relationship if they are unable to fulfil customer due diligence obligations. The specific provision in the draft is as follows: ***Article 8b para. 4.****In the event when the obligated institution cannot fulfil the duties referred to in paragraph 3 above*[concerning Customer due diligence measures], *it shall not carry out the transaction, shall not sign an agreement with the customer or shall terminate the agreements concluded and shall transmit to the General Inspector the information on the given customer along with the information on the transaction planned by him/ her, where justified considering the risk of money laundering or terrorism financing.*
Measures taken to implement the recommendations since the adoption of the first progress report	**Article 8b paragraph 5** of the Act states: "*In the event the obligated institution cannot perform its duties referred to in paragraph 3 points 1-3* [i.e. composition of CDD], *it does not carry out the transaction, it does not sign the contracts with a client or it terminates the previously concluded contracts, and submits to the General Inspector, in accordance with the predetermined form, information about such client, along with the information on the specific transaction, where appropriate, taking into account the risk of money laundering and terrorist financing.*" This provision gives specific obligations to the financial institution not to enter into any relations with a client without performing the CDD measures. This article refers also to situation in which the CDD measures cannot be performed during the existing business relations with a client. In each event financial institutions have to follow the letter of this article, that is to terminate the relationship with the client or prevent from executing the transaction, and inform the GIFI, should the institution find it justified on the risk based grounds. At GIFI's website there has been a sample form" provided for use by the obliged institutions in circumstances foreseen by the **Article 8b paragraph 5** of the Act, i.e. submitting information on the customer, towards whom they were not able to perform full CDD measures, based on RBA. The form provided electronically by GIFI focuses on filling in customer data that was obtained despite obstacles, along with the reason of incomplete performance of CDD measures.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.*
Measures reported as of … 2008 to implement the Recommendation of the Report	Institutions covered by the Law are required to apply customer due diligence also to existing customers. There is appropriate time given to do so. **Article 19 of the draft amendment of Polish AML/CTF Law**:" *The obligated institutions shall conduct for their current clients the risk-based assessment, referred to in Article 8b paragraph 1 of the act, […], in the wording provided by this Act, within 12 months as of the date of entering into force hereof."* **Article 8b par. 1**. concerns CDD, as follows: "The obligated institutions shall apply customer due diligence. Its scope shall be determined on the basis of the risk-based assessment, in particular, of the customer type, business relationships, products or transactions."
Measures taken to implement the recommendations since the adoption of the first progress report	Article 17 of the Act of 25 June, 2009 which amended the Act on anti money laundering and counter terrorism financing, imposed on obliged institutions the obligation to conduct - for their current clients- the risk-based assessment, referred to in **Article 8b paragraph 1** of the Act [i.e. applying financial security measures in the scope determined by risk assessment] within 12 month since the date of entering into force of the Act of 25 June, 2009. In result, by the end of 22 October, 2010 all financial institutions are obliged to have applied CDD measures to all existing customers. All provisions of the Act should be applied to all clients since then.

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

Recommendation 5 (Customer due diligence) II. Regarding DNFBP[2]	
Recommendation of the MONEYVAL Report	*Real estate agents, counsels, legal advisers and foreign lawyers should be required to apply CDD measures in all relevant situations according to the FATF Recommendations and not only in the case of suspicious transactions. Accountants should also be covered by these obligations.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	It should be emphasised that obligations provided for in the AML/CTF Law also refer to aforesaid designated non-financial businesses and professions unless explicitly indicated otherwise. There is an exemption from the general obligations of applying customer due diligence imposed by the Act, relevant on certain condition to enumerated professions. Specific provision is as follows: ***Article. 8b para.6.*** *Paragraph 2[when CDD should be applied] shall not apply in the event when a lawyer, a legal counsel, a foreign lawyer, an auditor, a tax advisor and the entity being an external accountant are in the course of ascertaining the legal position of the customer or performing their task of defending or representing the customer in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings.";* **As far as accountatnts are concerned**, the draft law foresees in Art. 2 subpara. 1o) as follows: "1) obligated institution: it shall mean: o) entities being external accountants,".
Measures taken to implement the recommendations since the adoption of the first progress report	The Act imposes on the obliged institutions, among others, the obligation to apply CDD. The catalogue of obliged institutions according to the Act includes also DNFBP's sector, (according to the **Article 2** of the Act)i.e.: • entity operating in the field of games of chance, mutual betting and automatic machine games and automatic machines games of low prizes, • notaries in so far as notary's operations concerning trading in asset values, **attorneys** performing their profession, **legal advisers** practicing his profession outside their employment relationship with agencies providing services to the government authorities and local government units, **foreign lawyers** providing legal services apart from his employment, expert auditors, active tax advisers, • entities operating in so far as **accounts bookkeeping services** • entrepreneurs engaged in: auction houses, antique shops, business factoring, trading in metals or precious/semi-precious stones, commission sale or **real estate brokerage**, • foundations, • associations with corporate personality established under the Act of 7 April 1989 – Law of Associations (Journal of Laws of: 2001 No. 79 item 855; of 2003: No. 96 item 874; of 2004: No. 102 item 1055; and of 2007: No. 112 item 766) and receiving payments in cash of the total value equal to or

[2] i.e. part of Recommendation 12.

	exceeding the equivalent of 15.000 EURO, originating also from more than one operation, • entrepreneurs within the meaning of the Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2007 No. 155 item 1095, as amended), receiving payment for commodities in cash of the value equal to or exceeding the equivalent of 15.000 EURO, also when the payment for a given product is made by more than one operation; In line with **Article 8b paragraph 1** of the Act: *"Any obligated institution shall apply financial security measures for its clients. Their scope is determined on the basis of risk assessment as for money laundering and terrorist financing, hereinafter referred to as "risk assessment", resulting from the analysis, taking into account in particular type of a client, economic relationships, products or transactions."* There are only two exceptions for application of CDD measures, as it is foreseen by the Act in **Article 8b paragraph 2**, *"2. Financial security measures are not applied by:* *1) the National Bank of Poland,* 2) *public operator referred to in Article 2 point 1 letter m)* [i. e. Polish Post] *in the course of providing money transfer services."* One shall highlight, that as far as it concerns duties of reporting entities according to the provisions of the Act, (including application of CDD), they are imposed also on the accountants (see above), according to the **Article 2 paragraph 1) letter o):** " obligated institution, it shall mean: *[…] m) entities operating in so far as accounts bookkeeping services".* The aforementioned duties of applying CDD are stipulated in **Article 8b paragraph 4 of the Act,** referred to as financial security measures: *"3. Financial security measures referred to in paragraph 1, consist of:* *1) client identification and verification of his identity on the basis of documents or information publicly available;* *2) making attempts, with due diligence, in order to identify a beneficial owner and apply verification measures to identify the identity of, dependent on appropriate risk assessment, in order to provide the obligated institution with data required on the actual identity of a beneficial owner, including the determination of the ownership structure and dependence of the client;* *3) obtaining information regarding the purpose and the nature of economic relationships intended by a client;* *4) constant monitoring of current economic relationships with a client, therein surveying transactions carried out to ensure that transactions are in accordance with the knowledge of the obligated institution on the client and the business profile of his operations and with the risk; and, if possible, surveying the origins of assets and constant update of documents and information in possession."* Moreover, the Act does not allow obliged institutions to enter into relation with the customers, to whom the CDD measures cannot be applied, in line with the **Article 8b, paragraph 6** of the Act: *"In the event the obligated institution cannot perform its duties referred to in paragraph 3 points 1-3, it does not carry out the transaction, it does not sign the contracts with a client or it terminates the previously concluded contracts, and submits to the General Inspector, in accordance with the predetermined form, information about such client, along with the information on the specific transaction, , where appropriate, taking into account the risk of money laundering and terrorist financing."*
Recommendation of the MONEYVAL Report	*Poland should fully implement Recommendation 5 and make these measures applicable to DNFBP.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above In the database of GIFI 2050 DNFBP's are registered.
Measures taken to implement the recommendations since the adoption of the first progress report	One shall emphasise that obligations provided for in the Act also refer to aforesaid designated non-financial businesses and professions unless explicitly indicated otherwise. There is an exemption from the general obligations imposed by the Act, relevant on certain condition to enumerated professions. **Article 11 paragraph 5** of the Act foresees the following exception of reporting duties imposed by the Act within DNFBP's sector: *"The obligation to provide information on transactions covered by the provisions of the Act does not apply if lawyers, legal advisers and foreign lawyers, auditors and tax advisers represent their client on the basis of a power of attorney related to proceedings pending or provide advice for the purpose of such a proceeding.*" Moreover, the Act stipulates the situations when DNFBP's entities shall fulfill their reporting obligation on suspicious transactions, in line with the **Article 8 paragraph 3b**: *"Any obligated institutions that are attorneys, legal advisers and foreign lawyers shall exercise the obligation referred to in paragraph 3* [i.e. reporting on suspicious transactions] *when they participate in transactions related to the provision of assistance to their clients, which is planning or carrying out transactions relating to:* *1) buying and selling real estate or business entities ;* *2) money management, securities or other asset values;* *3) opening accounts or their management;* *4) arrangements of payments and extra payments to the initial or share capital, arrangements of contributions to create or conduct business operations of companies or for their administration;* *creation and operation of entrepreneurs in a different form of business organization, and also the management of."* In reference to the application of CDD measures by casinos, namely identification of the client, the Act in **Article 9c** stipulates an obligation to identify customers at the entrance to the casino: **"***In the case of a casino operator, within the meaning of the Gambling Act of 19 November 2009 , the measures referred to in Article 8b paragraph 3 point 1* [i.e. identification of the client] *shall be applied at the entrance of a client to the casino, regardless of the value of gambling chips purchased for gaming."* The Act covers the DNFBP's sector. The catalogue of DNFBP's has been implemented to Polish legislation (including book keeping services, associations and entrepreneurs receiving payment for commodities in cash exceeding 15 000 EUR). Obligations imposed by the Act on DNFBP's encompass as well the application of CDD measures, on the basis of risk analysis, as well as the reporting activity.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 10 (Record keeping) **I. Regarding Financial Institutions**

Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The text of the law should clearly state that all necessary identification data has to be kept for at least five years after the end of the business relationship as required by Recommendation 10.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	It should be noted that the draft of AML/CTF Law indicates a record-keeping obligations. The specific provision is as follows: ***Article 9k. para. 1.*** *The information obtained as the outcome of customer's due diligence shall be kept for at least the period of 5 years or more, starting from the first day of the year following the year in which business relationships with the customer were terminated. In the event of liquidation, merger, division or transformation of the obligated institution, for keeping the said documents the provisions of Article 76 the Act on accounting of 29 September 1994 shall apply.*
Measures taken to implement the recommendations since the adoption of the first progress report	As already mentioned, identification is one of the CDD measures according to the Act. The A**rticle 9k of the Act** says: *"Information obtained as the result of the application of the measures referred to in Articles 8b [CDD measures] and 9e [enhanced CDD) is stored for a period of 5 years from the first day of the year following the year in which the transaction was carried out with the client. In the event of liquidation, merger, division or transformation of an obligated institution, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply to the storage of documentation."* So each financial institution has to keep the mentioned data for 5 years after the end of the business relationship with the client, and this 5 year period is counted from the first day of the year following the one, in which the relationship with the client has been terminated. In cases stipulated at the end of this article the documents are being kept by a designated entity for the mentioned period.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to keep documents longer than five years if requested by a competent authority.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In accordance with the Law the period of record-keeping indicated above might be prolonged at the request of the General Inspector or public prosecutor. The specific provision of the draft is as follows: **Article 9k para. 2.** *The General Inspector or the public prosecutor conducting the procedure concerning the act referred to in Article 165a [i.e. financing of terrorism] or Article 299 of the Penal Code [i.e. money laundering] may request the obligated institution to keep the information obtained as the outcome of customer's due diligence for a definite period of time, longer than set forth in paragraph 1 one above".* (see above for Art. 9 k. para 1).
Measures taken to implement the recommendations since the adoption of the first progress report	The project of new prescription in this domain has been prepared by the Polish FIU and included to the new amendment of the Act on counteracting money laundering and terrorist financing. According to it, the obliged institution is required to keep documents including information on applied customer due diligence longer than 5 years on demand of the GIFI.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 10 (Record keeping) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*Poland should fully implement Recommendation 10 and make these measures applicable to DNFBP.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above
Measures taken to implement the recommendations since the adoption of the first progress report	The Act stipulates the provisions concerning the keeping record of conducted transactions, which refers also to the DNFBP's sector, that is referred to in the catalogue of obliged institutions fulfilling obligations in AML/CFT area. Obliged institutions shall maintain the register of transactions, as it is stipulated in **Article 8 paragraph 4** of the Act: **"***The register of transactions referred to in paragraphs 1 and 3* [threshold transaction and suspicious ones] *shall be stored for a period of 5 years, calculating from the first day of the year following the year in which transactions were recorded. In the event of liquidation, merger, division and transformation of any obligated institution, the provisions of Article 76 of the Act of 29 September 1994 on accounting (Journal of Laws of 2009 No. 152 item 1223, No. 157 item 1241 and No. 165 item 1316) shall be applied in regard to keeping records and documentation."* Moreover, the Act stipulates, that any documentation concerning transactions being executed by the reporting entities shall be stored according to the provisions of **Article 8 paragraph 4a** of the Act: *"Any information on the transactions carried out by the obligated institution and documents related to such a transaction are stored for a period of 5 years calculating from the first day of the year following the year in which the last record associated with the transaction took place."* The Act encompasses also the duty to keep records of ongoing analysis that has been carried out, in line with the **Article 8a 1paragraph 1 and 2**: *"1.Any obligated institution shall carry out ongoing analysis of the transactions carried out. Results of those analyses should be documented in paper or electronic form.* *All the results of such analyses shall be kept for a period of 5 years, calculating from the first day of the year following the year in which they were conducted. In the event of liquidation, merger, division and transformation of any institution obligated to keep records, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply accordingly."* The obligation to keep records of the CDD measures undertaken during applying standard CDD as well as enhanced CDD measures, is encompassed by the provisions of the **Article 9k** of the Act**:** *"Information obtained as the result of the application of the measures referred to in Articles 8b* [i.e. composition of CDD measures] *and 9e* [i.e. enhanced CDD measures] *is stored for a period of 5 years from the first day of the year following the year in which the transaction was carried out with the client. In the event of liquidation, merger, division or transformation of an obligated institution, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply to the storage of documentation."*
(other) changes since the first progress report (e.g. draft laws,	

[3] i.e. part of Recommendation 12.

draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More guidance is needed to ensure that reporting entities place sufficient emphasis on the STR regime (as opposed to the above-threshold reporting regime).*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The increase of inspections conducted by GIFI in the DNFBP's sector should be underlined. During the inspections more detailed guidance aimed at the particular obliged institution have been provided. Moreover in the years 2006 – 2007 GIFI made available an e-learning course to the institutions from DNFBP's sector. The syllabus of the course was based on the materials prepared by the employees of the GIFI and consisted of 9 lessons, and in particular – identification of suspicious transactions. In connection with the implementation of the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing the GIFI is going to publish new (third) edition of manual for obliged institutions and co-operating units which will include more specific guidance for DNFBP's. This book will be available after adoption of amendments to the law. At present specialists from GIFI work on it by using own knowledge based on professional experience and knowledge of other countries and international organizations, especially FATF.
Measures taken to implement the recommendations since the adoption of the first progress report	GIFI provides guidance to obliged institutions in different ways. In 2009 The General Inspector of Financial Information published **third edition of guidebook** for the obliged institutions and cooperating units under the title *Anti-money laundering and terrorism financing*. The handbook combines theoretical and practical knowledge that stems from realizing the duties imposed, by the Act, on the General Inspector of Financial Information and the Department of Financial Information in the Ministry of Finance (i.e. Polish FIU). The manual consists of six parts. Besides the guidance on application of the law in force in the scope of AML/CFT, duties and powers of the obliged institutions in the light of statutory regulations, one can find there information coming from analytical experience of GIFI's employees: in detail, it deals with the analysis of suspicious transactions, with a detailed explanation of definition of money laundering, description of its phases, identified methods, examples of their use in practice, areas of ML/TF risk, indicators of suspicion, and the basic sources of knowledge on such transactions and their parties. Obliged institutions and cooperating units are also assisted by the information on provisions on administrative and criminal liability, i.e. sanctions – penal and pecuniary ones, as well as specific restrictive measures, against persons, groups and entities. The guide covers also issues of co-operation of GIFI with cooperating units, as well as its foreign counterparts. It presents information about international initiatives in the scope of anti-money laundering and terrorism financing. The new edition of the guidebook has been designed in the way offering the suitable AML/CFT guidance in the new legal environment - once the Third AML Directive has been successfully implemented in Poland.

	The main reasons to issue another edition of the guide was amending of the *Act on counteracting money laundering and terrorism financing* and the fact that since the publication of the last editions of the guide, the knowledge in the field of counteracting money laundering and terrorism financing has increased. Apart from referring to changes in legal provisions, a totally new part was added concerning risk areas, previous chapters describing methods of money laundering were improved and supplemented and more information was added on counteracting terrorism financing. Distribution of guide to the obliged institutions and cooperating units, both in paper and electronic form – on CDs (in this from for the first time since the first edition), started in December 2009. The part containing sensitive, detailed information concerning identified methods of money laundering was excluded from electronic version of the guide. Moreover, GIFI has distributed over 1100 guide books to the obliged institutions and cooperating units, including around 200 guide books in electronic version. Another way to provide guidance to the obliged institutions is organizing **e-learning platform**, that is efficient solution to offer guidance to the most possible number of recipients. In 2009, GIFI provided free-of-charge e-learning course entitled "Counteracting money laundering and terrorism financing". The aim of the course is familiarizing the employees of obliged institutions and cooperating units with counteracting money laundering and terrorism financing in the field of binding provisions. The form of e-learning course means that it is available via Internet both in the scope of enrolment, use of its resources, participation in verification test and obtaining certificate on completion of the course. Details specifying rules of participation in the course are available at the Ministry of Finance website (tabs: Financial security → Fighting money laundering and terrorism financing → Communications). The course is free of charge. Present edition of E-learning platform prepared by GIFI has been efficient tool to provide guidance for obliged institutions. Since October 2009 until end of August, there were 20 699 certificates issued on graduating from E-learning training in AML/CFT area for financial obliged institutions. Representatives of non-financial obliged institutions were awarded 8044 certificates. Cooperating units in the mentioned period were awarded 1550 certificates. E –learning platform was also used by other entities or subjects who were awarded 2900 certificates. The total number of certified users of e-learning training provided by GIFI amounts to 33 193 participants. With regard to doubts reported by obliged institutions and cooperating units concerning implementation of statutory obligations, while continuing practice from previous years, **written replies to inquiries** of the obliged institutions were provided by GIFI. Inquiries concerned in particular interpretation of provisions of the *Act*, that has been amended to adjust AML/CFT provisions of the European Union. In 2009 there were 149 inquiries concerning practical application of legal provisions submitted to GIFI, which constitutes 30% more inquiries than last year. The inquiries concerned mostly the interpretation of provisions of the above mentioned Act of 25 June 2009 adjusting national legal order in respect of counteracting money laundering and terrorism financing to the European Union provisions. The employees of the Department of Financial Information provided also clarifications via phone. The subject of these clarifications was similar to the subject of written clarifications. Moreover, on 1 and 2 December, 2009 GIFI organized conference attended by representatives of both, the obliged institutions and the cooperating units. The aim of the conference was discussion on the most significant changes related to

	adaptation of previous legal provisions in respect of counteracting money laundering and terrorism financing to the Community regulations and initiation of activities aiming at clarification of doubts (inquiries) submitted collectively by representatives of the obliged institutions. Conference participants were provided with the third edition of the GIFI's guide. Much effort has been put also by Polish supervisory authorities. The PFSA, as stated above in the questionnaire, holds regular training seminars for the financial institutions. Each year at least one of the major seminar organised is being devoted solely to AML/CFT issues. In 2008 there were 89 participants, in 2009 (in two seminars) 126 and 97 participants, and in 2010 – 118 participants. The mentioned seminars are focused on presenting the PFSA's stance and guidance to the financial sector on AML/CFT issues, and conducting dialog on the most important issues. Sector specific guidance are given by the PFSA during those projects. This educational activity, in conjunction the written guidance provided by the GIFI gives a solid framework for the financial institutions to work in.
Recommendation of the MONEYVAL Report	*More attention should be given to outreach to other parts of the financial and non banking financial sector to ensure that they are reporting adequately.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Due to the fact that the obligated institutions very often reported a demand for training sessions with regard to combating money laundering and financing of terrorism and in order to conduct effective training of employees of these institutions in this field, the training in the so-called traditional form should be replaced with electronic training (*e-learning*). In 2007 two-week e-learning training sessions were launched as of 1 August. 200 persons could participate in the course on a one-off basis (160 employees of obligated institutions and 40 employees of co-operating units), without the necessity of incurring costs related to participation in traditional training, among others costs of business trip and traveling expenses. The syllabus of the course was based on the materials prepared by the employees of the Department of Financial Information and consisted of 9 lessons: - Basic issues related to counteracting money laundering and terrorist financing (preceded by the Introduction); - Entities participating in counteracting money laundering; - Tasks of the obligated institutions; - Identification of suspicious transactions; - "Know your client" programme in the entities covered by the *Act*; - Internal procedure in an obligated institution; - Transfer of information to GIFI; - Control of compliance with the provisions of the *Act*; - Criminal responsibility for the infringement of legal provisions. The course was prepared in accordance with methodology and didactics principles and concentrated mainly on the approach to solving problems related to a selected area and methods of task execution. It also contained interactive elements. The course finished with a test and, after successfully passing the test *on-line*, the participant received the certificate confirming the completion of the course. The total number was 2.074 representatives of the obligated institutions and 116 employees of the co-operating units participated in the e-learning course. In order to intensify the reporting activity of institutions from DNFBP's sector, and in order to provide the above mentioned institutions with the suitable guidance on reporting obligation, from 2006 to 2007 GIFI made available e-learning course for employees of the following institutions from DNFBP's sector: Games of chance, mutual betting – 301 + 542 Real estate agents – 23 + 5 tax advisers – 5 + 10

	Notaries public – 11 + 4 Polish post – 19 + 3 Auditors – 7 Foundations – 3 + 2 Commission sale – 2 Pawn shops – 3 + 2 Legal advisers – 6 Entrepreneurs running activity in the scope of precious and semi-precious metals or stones trade – 3
Measures taken to implement the recommendations since the adoption of the first progress report	In order to help reporting entities to look for suspicious transactions and activities the amended law introduced feedback from GIFI provided to reporting entities in **Article 31 paragraph 2** of the Act: *"Where the basis of the notification referred to in paragraph 1**[notification on suspicious transaction that is to be executed]** had been the information on the transaction – as referred to in Article 8 paragraph 3* [i.e. reporting of STR], *Article 16 paragraph 1[i.e. notification on suspicious transaction to be realized], or Article 17* [notification on the suspicious transaction that has been executed] – *provided by the obligated institution or a cooperating unit, as referred to in Article 15a paragraph 1, the General Inspector shall **submit the information on that fact to it**, no later than within 90 days from the submission of this notification."* GIFI provides guidance (involving the issue of recognizing STRs) to obliged institutions in different ways. In 2009 The General Inspector of Financial Information published **third edition of guidebook** for the obliged institutions and cooperating units under the title *Anti-money laundering and terrorism financing*. The handbook combines theoretical and practical knowledge that stems from realizing the duties imposed, by the Act, on the General Inspector of Financial Information and the Department of Financial Information in the Ministry of Finance (i.e. Polish FIU). The manual consists of six parts. Besides the guidance on application of the law in force in the scope of AML/CFT, duties and powers of the obliged institutions in the light of statutory regulations, one can find there information coming from analytical experience of GIFI's employees: in detail, it deals with the analysis of suspicious transactions, with a detailed explanation of definition of money laundering, description of its phases, identified methods, examples of their use in practice, areas of ML/TF risk, indicators of suspicion, and the basic sources of knowledge on such transactions and their parties. Obliged institutions and cooperating units are also assisted by the information on provisions on administrative and criminal liability, i.e. sanctions – penal and pecuniary ones, as well as specific restrictive measures, against persons, groups and entities. The guide covers also issues of co-operation of GIFI with cooperating units, as well as its foreign counterparts. It presents information about international initiatives in the scope of anti-money laundering and terrorism financing. The new edition (3rd) of the guidebook has been designed in the way offering the suitable AML/CFT guidance in the new legal environment - once the Third AML Directive has been successfully implemented in Poland. The main reasons to issue another edition of the guide was an amendment of the *Act on counteracting money laundering and terrorism financing* and the fact that since the publication of the last editions of the guide, the knowledge in the field of counteracting money laundering and terrorism financing has increased. Apart from referring to changes in legal provisions, a totally new part was added concerning risk areas, previous chapters describing methods of money laundering were improved and supplemented and more information was added on counteracting the financing of terrorism. Distribution of guide to the obliged institutions and cooperating units, both in paper and electronic form – on CDs (in this form for the first time since first edition),

started in November 2009. During a special event – two days conference in December 2009 – 724 copies were distributed to obliged institutions and cooperating units, like banks, investment fund management companies, insurance companies, leasing companies, brokerage houses, Police units, Central Investigation Bureau, Ministry of Internal Affairs and Administration, Internal Security Agency, Central Anti-Corruption Bureau, selected Ministry of Finance departments, tax offices and fiscal control offices, General Prosecutor's Office, district and appellate Prosecutor's Offices and some legal professionals, Polish Post.

Generally circa 1000 hard copies were distributed at that time. The part containing sensitive, detailed information concerning identified methods of money laundering was excluded from electronic version of the guide.

GIFI tries to reach every sector of financial market to offer suitable AML/CFT guidance, so that it prepared **e-learning platform** to provide guidance to the obliged institutions. E-learning course provided by GIFI has a few advantages: it is cheap, it is easily accessible and that is why it reaches every kind of obliged institution, also those from non-banking sector.

In 2009, GIFI provided free-of-charge e-learning course entitled "Counteracting money laundering and terrorism financing". The aim of the course is familiarizing the employees of obliged institutions and cooperating units with counteracting money laundering and terrorism financing in the field of binding provisions.

The form of e-learning course means that it is available via Internet both in the scope of enrolment, use of its resources, participation in verification test and obtaining certificate on completion of the course. Details specifying rules of participation in the course are available at the Ministry of Finance website (tabs: Financial security → Fighting money laundering and terrorism financing → Communications). The course is free of charge.

Present edition of e-learning platform prepared by GIFI has been efficient tool to provide guidance for obliged institutions. Since October 2009 until end of August, there were 20 699 certificates issued on graduating from e-learning training in AML/CFT area for financial obliged institutions. Representatives of **non-financial obliged institutions** (DNFBP's) were awarded 8044 certificates in the given period. Co-operating units in the mentioned period were awarded 1550 certificates. E– learning platform was also used by other entities or subjects who were awarded 2900 certificates. The total number of certified users of e-learning training provided by GIFI amounts to 33 193 participants.

GIFI also provides training in its traditional version, to obliged institutions, focused on DNFBP's sector.

It must be underlined that the representatives of the Department of Financial Information participated as the trainers in conferences and trainings organized in 2009 at the invitation of entities including obliged institutions:

- training organized by the National Chamber of Notaries for representatives of the District Chambers of Notaries on 3-4 September, 2009 in Zakopane, Poland
- conference organized by the Polish Bank Association on 23-24 September, 2009 in Zakrzew, Poland
- 2nd edition of the Conference Banking Management Forum organized on 1-2 October, 2009 in Warsaw,
- training for notaries inspectors from Regional Chambers of Notaries on 19 October, 2009 in Warsaw.

Representatives of the Department also participated in training organized by BRE Bank S.A. for employees of BRE Bank SA capital group and other banks from the country organized in October 2009, in Warsaw.

The basic topic of most of lectures of GIFI representatives during these conferences and trainings was the amendment of the Act *on counteracting money laundering and terrorism financing, and the application of its provisions.*

	GIFI pays attention to the quality of data received from obliged institutions. Among submitted transactions, those received in 2009 and exceeding designated threshold, 13% were transactions – the data of which contained significant errors – making further analysis impossible and requiring corrections made by obliged institutions. Thanks to GIFI's efforts in rising awareness of employees of obliged institutions, who send the information to GIFI, numbers describing the percentage of errors has significantly diminished. There is positive change of quality of information on transactions received by GIFI, as the result of activities undertaken by GIFI and co-operation with obliged institutions in respect of correction of errors in data files. Percentage of errors in years 2008and 2009 reached respectively 12.9 % and 13.0%, as compared with data from the year 2007, when it reached 19.2%. The same percentage datum in years before 2007 exceeded 20%. The transactions that contain significant errors are retained in the temporary database of transactions (they receive the status "to explain"). In order to eliminate from the main database the transactions including errors, some fields in the "transaction form" (i.e. unified form to submit GIFI with data on transactions) have assigned so called "validators", which do not allow transactions to "get into" the main database once they contain errors which prevent from conducting further suitable analysis. There are reports generated, which identify errors in mentioned transactions. The errors are further explained and corrected by obliged institutions. GIFI's employees determined some set of errors that does not affect improperly the analysis of transactions. Thus, although the files contain insignificant errors which prevent them from passing the validation process, they are let into the main database to be further analyzed (as errors do not influence on rganized process). At the end of each month there is a report of errors for suspicious transactions made. The report is generated from the temporary database in which transactions are recognized as those 'to explain' (transactions that have not passed the validation). Then GIFI's employees contact the obligated institutions (the person who is responsible for providing GIFI with data) and point out the errors, explaining how the adjustment should be carried out. Afterwards the obliged institution has to provide written explanations of the situation as well as information on the data file, which has just been corrected.
Recommendation of the MONEYVAL Report	*The AML Act should clearly provide for attempted suspicious transactions to be reported.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The AML Act explicitly formulate concept of attempted suspicious transaction as well as reporting duties imposed on obligated institutions. Therefore taking into account the risk of money laundering or terrorism financing they are reqired to submit the relevant information to the General Inspector. The specific provision is as follows: **Article 8b para. 4** *In the event when the obligated institution cannot fulfil the duties referred to in paragraph 3 above [i.e. elements comprisingCDD], it shall not carry out the transaction, shall not sign an agreement with the customer or shall terminate the agreements concluded and shall transmit to the General Inspector the information on the given customer along with the information on the transaction planned by him/ her, where justified considering the risk of money laundering or terrorism financing.*
Measures taken to implement the recommendations since the adoption of the first progress report	*The Act provides for the obligation to register attempted transactions in line with the* ***Article 8 paragraph 3a*** *of the Act:* *"In the event that the obligated institution does not accept the disposition or order to conduct a transaction, the obligation referred to in paragraph 3* [i.e. registering suspicious transaction] *shall also apply if this institution is aware of or – with due diligence – should be aware of such a transaction in regard to the contract with its*

	client." This provision clearly requires financial institutions to file STR's (because that is what **paragraph 3 of article 8** refers to), even if they do not execute the transaction, or do not receive clients disposition or order to conduct a transaction. In conjunction with article **8b paragraph 5** this covers all possible cases of attempted transactions. Current wording of **Article 8b paragraph 5** of the Act is as follows: *"In the event the obligated institution cannot perform its duties referred to in paragraph 3 points 1-3* [i.e. composition of CDD measures: identification of client and beneficial owner, information on purpose and nature of relationship]*, it does not carry out the transaction, it does not sign the contracts with a client or it terminates the previously concluded contracts, and submits to the General Inspector, in accordance with the predetermined form, information about such client, along with the information on the specific transaction, , where appropriate, taking into account the risk of money laundering and terrorist financing."* It is worth mentioning, that the Act provides also for the regulation on notifying GIFI with any suspicious transaction that is going to be executed, and which, according to the judgment of obliged institution, seems to be suspicious one, according to the **Article 16 paragraph 1 and 1a** of the Act: *"1. Any obligated institution which received a disposition or an order of the transactions, or carried out such a transaction, or has any information about the intention to carry out such a transaction, for which there is a reasoned suspicion that it may be related to the criminal offense referred to in Article 165a* [i.e. financing of terrorism] *and Article 299 of the Penal Code* [i.e. money laundering]*, is obliged to inform to the General Inspector in writing by passing all the data referred to in Article 12 paragraph 1*[i.e. information on transactions that shall be registered] *and Article 12a* [i.e. additional information on parties of transactions in case of suspicious transactions] *along with the indication of prerequisites in favour of suspension of the transaction or blockage of the account, and to indicate the expected date of the implementation. The provision of Article 11 paragraph 4 shall not be applied* [i.e. forwarding information to the General Inspector through the agency of a territorially competent body of professional self-management of notaries, attorneys, legal advisers and foreign lawyers, …] *1a. Where the obligated institution, making the notification pursuant to paragraph 1, is not the institution which is to carry out the transaction, the notice shall also indicate the institution, which is to transact."* **Article 16** of the Act refers both, to transactions for which there are reasonable suspicions of money laundering and terrorist financing.
Recommendation of the MONEYVAL Report	*More guidance is required on the width of the financing of terrorism reporting obligation.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	During trainings for obliged institutions all aspects connected with TF were discussed. Poland is establishing also the new entity which is going to deal with fight against terrorism. According to assumptions the Polish FIU strictly co-operates with this unit what should be connected as well with the increase of the guidance for obliged institutions. In 2007 the co-operation with obligated institutions and cooperating units was performed on many planes, inclusive of conducting training sessions, providing information on application of legal provisions concerning counteracting money laundering and financing of terrorism as well as conducting electronic training sessions – the so-called e-learning, among others. Moreover, a guide for obligated institutions and co-operating units issued by GIFI in 2005, titled *Counteracting Money Laundering – A Guide for Obligated*

	Institutions and Cooperating Units was further distributed among obligated institutions and co-operating units, participants of training sessions and societies of different professions. From 2005 to 2008 the obligated institutions and the cooperating units received free of charge 2.239 copies of the handbook; this constituted 96% of the entire paper edition: ● obligated institutions – 766, ● cooperating units – 1,453 (of which supervising authorities – 320). The guide for the cooperating units and obligated institutions is a source of information concerning the typology of *money laundering* and information about the methods of detecting transactions that might be connected with money laundering or terrorism financing. As regards doubts concerning execution of regulatory obligations reported by the obligated institutions and co-operating units, as in previous years, written responses to questions were provided. In 2007 GIIF received and answered over 60 enquiries concerning practical application of legal provisions. Almost half of them (44%) were transferred by the banks. A great majority of enquiries (81%) concerned application of provisions of the AML/CTF Law. In the autumn 2007, representatives of the Polish Financial Intelligence Unit participated in the VI symposium held under the honourable patronage of the General Inspector of Financial Information by the Polish Police Headquarters with the participation of the Police School in Piła and in the seminar "*Terrorism – counteracting, combating, eliminating consequences"*, held in the Higher Police School in Szczytno. Moreover, the issues of counteracting money laundering and financing of terrorism were presented by GIFI representatives at the forum organised by the magazine "*Banking Law*" monthly held in September 2007 as a part of the cycle of seminars. GIFI was also invited to participate in the work of the *Coalition for Security and Transparency of Trade*. The coalition established by the Polish Bank Association forms a cooperation platform for economic, self-government, scientific and state administration circles with regard to enhancing trade security, also in the possible risk of financing of terrorism. In 2006 lectures and exercises arranged by GIFI covered 12 training activities for the total of 350 persons. The following institutions were the addressees of training activities: ● banks, ● representatives of insurance companies, ● supervising authority (the Polish Securities and Exchange Commission), ● fiscal control authorities, ● tax offices, ● the Police, ● the Prosecutor's Office, ● the Internal Security Agency. The training focused on statutory obligations and identification of suspicious transactions. Apart from training addressed to specific recipients, the Polish FIU participated in seminars, workshops and conferences focused on combating rganized crime, providing information about the typology and examples of *money laundering* and terrorism financing. ●Problems with evidence in terrorism-related crimes and effects of operational activities – conference organised under the auspices of the 1st President of the Supreme Court, ●Revealing asset components – a seminar organised by the High Police

	Training School in Szczytno in cooperation with the Criminal Bureau and the Central Investigation Bureau at the Police Headquarters, •Pragmatics of combating *money laundering* in Poland – the 5th symposium organised by the Police School in Piła. In 2008 GIFI intends to hold a conference on cyber terrorism. The seminar is to be organized by the General Inspector of Financial Information together with the U.S. Department of Treasury under the *Agreement on co-operation between the U.S. Department of Treasury and the Ministry of Finance*. Issues on cyber terrorism covered by the seminar comprise: financing, recruitment, training, possible attacks against the Web, counter measures, like training and INTERPOL Networking. Other matters associated with cyber crime discussed during the seminar encompass: identifying theft, fraud, money laundering and some technical stuff like phishing and BotNets. Moreover, GIFI uses and continuously updates the part of the website of Ministry of Finance, called „Financial Security" which has been devoted to activities of GIFI. The website is another channel designed to broadly communicate with obliged institutions and cooperating units. Except for information on AML /CFT system, GIFI's activities, legal regulations in this area of AML/CFT there is section involving GIFI's communications concerning reporting obligations. GIFI cooperated also actively with Central Bureau of Investigation, especially in the area of special, dedicated trainings concerning TF (2007, 2008 projects – more than 50 specialist were trained). In December 2007, GIFI published on its website communications concerning the FATF documents: *FATF Guidance Regarding The Implementation Of Activity-Based Financial Prohibitions Of United Nations Security Council Resolution 1737, 12 October 2007* and *FATF Statement on Iran, Paris, 11 October 2007.* GIFI forwarded also the above mentioned guidance (with request for further distribution) on Iran to the following associations and institutions: National Council of Counsels, National Chamber of Auditors, National Chamber of Tax Advisors, National Chamber of Legal Advisers, National Council of Public Notaries , Polish Bank Association, the Polish Chamber of Insurance, the Chamber of Brokerage Houses. In 2008 GIFI published on its website *FATF Guidance on Money Laundering & Terrorist Financing Through The Real Estate Sector (29 June 2007)* and *FATF statement on Uzbekistan, Iran, Pakistan, Turkmenistan, São Tomé and Príncipe and transactions with financial institutions operating in the northern part of Cyprus (28 February 2008)*. The guidance and statement were forwarded to associations of obligated institutions, supervisory authorities and cooperating units with recommendation to distribute them to supervised and other relevant agencies.
Measures taken to implement the recommendations since the adoption of the first progress report	GIFI finds it essential to disseminate guidance on FT risk and reporting obligation in this regard. Therefore GIFI publishes on its website guidance for obliged institutions referring to the issues of financing of terrorism. Publication of guidance on counteracting FT is followed by forwarding information on publication of the guidance to the associations of obliged institutions, and cooperating units, especially supervisory authorities, e.g. PFSA. At GIFI's website, under section "Publications" (both in Polish and in most cases – in English), one may find guidance in the scope of counteracting financing of terrorism, i.e.: information on FATF statements on non-cooperating jurisdictions (as of 25 June 2010, 25 February 2010, 18 February 2010, 16 October 2009, 26 June 2009), as well as respectively published information on Public Statements under MONEYVAL CEP, concerning particular jurisdictions concerned, e.g. Azerbaijan. GIFI has published also information on FATF public statements: on cover payments, and numerous RBA guidance, that may support obliged institutions in assessing the risk linked with the transactions that they execute (e.g. RBA Guidance

	in MSB's sector). Lately GIFI has also published communication on guidance concerning financial risk arousing from business relations with Iran. Besides the introduction of international regulations in this regard, GIFI's publication focuses on the fact that any relations with Iran may increase potential risk of FT and it advices obliged institution to draw attention to such transaction and applying the suitable set of CDD measures to mitigate the risk emanating from business transaction with this region. Financing of terrorism is also essential part of guidance offered by the GIFI to the obliged institutions and cooperating units in GIFI's guide and E-learning training. Both involve section focusing on characteristics of financing of terrorism, sectors that may be particularly criminally prone in this regard, together with presentation of methods of detection of transactions that may be used to finance terrorism. Moreover, it is worth underlining, that the employees of GIFI, regularly offer their experience and advice in AML/CFT area to the employees of obliged institutions, when they answer their enquiries concerning ML/TF issues, both in writing and by the phone. GIFI's website, in "Financial Security" section offers easily accessible set of communications concerning the areas that are of interest for employees of obliged institutions, such as: validation of transactions, application of provisions in amended AML/CFT ACT, issues concerning sample register of transactions, the way of maintenance and submitting it to the GIFI. Moreover, on the website GIFI has also published the answers for the most commonly asked enquiries concerning the application of the amended AML/CFT law. NOTE: for further information on GIFI's guide and e-learning platform, please, see also information under section concerning Recommendation 13 and SR IV.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*Poland should fully implement Recommendation 13 in respect to DNFBP.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	To ensure that all obliged institutions properly fulfil reporting obligation in relation to suspicious transactions and in order to outreach some DNFBP's, which had opposed to fulfil their reporting obligation (Polish lawyers enquired Court of Justice of the European Communities on obligations imposed by AML Law from 16 November 2000 that were claimed to be against the professional secrecy law), GIFI informed on its website on the following *Judgment of the Court of Justice of the European communities (Grand Chamber) of 26 June 2007 (Case C-305/05)in this regard*: "the obligations of information and of cooperation with the authorities responsible for combating money laundering, laid down in Article 6(1) of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the

[4] i.e. part of Recommendation 16.

	purpose of money laundering, as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001, and imposed on lawyers by Article 2a(5) of Directive 91/308, account being taken of the second subparagraph of Article 6(3) thereof, **do not infringe the right to a fair trial** as guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Article 6(2) EU. The case came from the actions brought before the Belgian Cour d'arbitrage (Court of Arbitration), by several associations of bars seeking the annulment of certain provisions of a Belgian law transposing into their legal order Directive 2001/97 amending Directive 91/308. **The argument was** that the extension to lawyers the obligation to inform the competent authorities of any fact of which they are aware which might be an indication of money laundering, infringes the principle of the professional secrecy and independence of lawyers, who are protected by the rights enshrined in the Constitution and in the ECHR. The Belgian Cour d'arbitrage turned to the Court of Justice of the European Communities with the question if obligations of information and of cooperation with the authorities responsible for combating money laundering imposed on lawyers do infringe the right to a fair trial. **The Court raised** that the provisions of the Directive 2001/97 amending Directive 91/308 refer only to notaries and independent legal professionals when participating in financial or corporate transactions, including providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity. However – according to the Court – Member States shall not be obliged to apply the obligations laid down in the provisions of article Directive to notaries, independent legal professionals, auditors, external accountants and tax advisers with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings. **Stressing that money laundering has an evident influence on the rise of rganized crime in general, whereas there is more and more awareness that combating money laundering is one of the most effective means of opposing this form of criminal activity, the Court ruled as mentioned above."** Additionally, in order to intensify the reporting activity of institutions from DNFBP's sector, and to provide the above mentioned institutions with the suitable guidance on reporting obligation, from 2006 to 2007 GIFI made available e-learning course for employees of the institutions from DNFBP's sector. There were around 850 institutions from the sector of games of chance and mutual betting trained, as well as over 110 institutions comprising of: real estate agents, tax advisers, notaries public, Polish Post, auditors, foundations, commission sale, pawn shops, legal advisers, entrepreneurs running activity in the scope of precious and semi-precious metals or stones trade. GIFI uses and continuously updates the part of the website of Ministry of Finance, called „Financial Security" which has been devoted to activities of GIFI. The website is another channel designed to broadly communicate with obliged institutions and cooperating units. Except for information on AML /CFT system, GIFI's activities, legal regulations in this area of AML/CFT there is section involving GIFI's communications concerning reporting obligations.Intensifying efforts to outreach the DNFBP's sector and to provide obliged institutions with further guidance, in 2008 GIFI published on its website *FATF Guidance on Money Laundering & Terrorist Financing Through The Real Estate Sector (29 June 2007)*

	and *FATF statement on Uzbekistan, Iran, Pakistan, Turkmenistan, São Tomé and Príncipe and transactions with financial institutions operating in the northern part of Cyprus (28 February 2008)*. The guidance and statement were forwarded to associations of obligated institutions, supervisory authorities and cooperating units with recommendation to distribute them to supervised and other relevant agencies.
Measures taken to implement the recommendations since the adoption of the first progress report	Polish AML/CFT system provides for legislation in regard of reporting suspicious transactions concerning money laundering as well as financing of terrorism (see also section on STRs regarding Financial Sector). There are provisions in the Act that clearly impose the obligation for obliged entities to register and report STRs on ML and TF. According to the **Article 8 paragraph 3** of the Act: *"Any obligated institution conducting a transaction, the circumstances of which may suggest that it was related to money laundering or terrorist financing, is required to register such a transaction, regardless of its value and character."* **Article 8 paragraph 3a** stipulates the obligation to report also attempted transactions: "*In the event that the obligated institution does not accept the disposition or order to conduct a transaction, the obligation referred to in paragraph 3 shall also apply if this institution is aware of or – with due diligence – should be aware of such a transaction in regard to the contract with its client."* To avoid any objections that may hamper reporting obligation in case of legal professions, the Act stipulates clearly the obligation to register suspicious transactions in particular situations, as it regards legal professions, thus in line with the **Article 8 3b**: *"Any obligated institutions that are attorneys, legal advisers and foreign lawyers shall exercise the obligation referred to in paragraph 3 when they participate in transactions related to the provision of assistance to their clients, which is planning or carrying out transactions relating to:* *5) buying and selling real estate or business entities ;* *6) money management, securities or other asset values;* *7) opening accounts or their management;* *8) arrangements of payments and extra payments to the initial or share capital, arrangements of contributions to create or conduct business operations of companies or for their administration;* 9) *creation and operation of entrepreneurs in a different form of business organization, and also the management of.* **Article 11 paragraph 1** of the Act imposes obligation to provide GIFI with information on registered transaction, threshold and suspicious ones: *"Any obligated institution provides information on transactions registered in accordance with Article 8 paragraphs 1 and 3 to the General Inspector. Such a provision involves sending or delivering data from the register of transactions referred to in Article 8 paragraph 4, also using computer data storage carriers."* Reporting regime on suspicious transactions involves legal professionals, as well. It is clearly stated in the Act. To enhance the effectiveness of reporting activity, i.e. to foster reporting action, GIFI publishes its guidance (III edition of the guide, as well as e-learning platform) and it organizes traditional training, also for DNFBP's sector (vide info under Recommendation 13 and respective guidance). (see above, under sections concerning guidance). Moreover, GIFI publishes some guidance on its website, e.g. information on "FATF RBA guidance in precious metal and stones", "RBA guidance for the money services business".
(other) changes since the first progress report (e.g. draft laws,	

draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*An autonomous offence of terrorist financing should be introduced which explicitly addresses all the essential criteria in SR.II and requirements of the Interpretative Note to SR.II.be introduced which addresses all aspects of SR.II and its Interpretative Note.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The Ministry of Justice has prepared draft amendments to the Penal Code (PC) which provided for an autonomous offence of terrorism financing. Terrorism financing is planned to be addressed by the Article.165a of PC which speaks that: *Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist character shall be subject to imprisonment for a term of up to 3 years.*
Measures taken to implement the recommendations since the adoption of the first progress report	By virtue of an amendment of 25 June 2009, to the AML/CFT Act, the Penal Code has been supplemented with **Article 165a** which provides for an autonomous offence of financing of terrorism. Current formulation of A**rticle 165a** provides as follows: *"Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist character, shall be subject to imprisonment for a term of 2 years up to12 years."* The autonomous offence of terrorism financing adopted as an amendment to The Penal Code (PC) covers the collection, transfer and other activities with regard to financing perpetration of the acts referred to in **Article 2 § 1** of the UN Convention for the Suppression of the Financing of Terrorism. Polish authorities are of the opinion that wording of the amendment covers also collection of funds for a terrorist organization with the purpose of financing commitment of an offence of a terrorist character set forth in **Article 115 § 20 PC**. Provision of funds for a terrorist organization for any other purposes, even legitimate ones, by virtue of **Article 258 § 2 PC** can be considered as a form of participation in the criminal group and infer criminal liability on the basis of current Polish legislation.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The reporting duty needs to be explicitly clarified in the law to include all funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above
Measures taken to implement the recommendations since the adoption of the first progress report	Amended AML/CFT Act equalizes duties imposed on obliged institutions in the scope of the reporting transactions that may be linked with money laundering with the duties imposed on obliged institutions in the scope of reporting on transactions that may be connected with financing of terrorism. Present wording of the Act includes reference not only to the money laundering, but also to the financing of terrorism. Suspicion of financing of terrorism reference has been added to the wording of the **Article 8 paragraph 3, Article 16 and Article 17** of the Act, as follows: "***Article 16 paragraph 1****. Any obligated institution which received a disposition or an order of the transactions, or carried out such a transaction, or has any information about the intention to carry out such a transaction, for which there is a reasoned suspicion that it may be related to the criminal offense referred to in Article 165a* [i.e. financing of terrorism] *and Article 299 of the Penal Code* [i.e. money laundering], *is obliged to inform to the General Inspector in writing by passing all the data referred to in Article 12 paragraph 1*[i.e. information on transactions that shall be registered] *and Article 12a* [i.e. additional information on parties of transactions in case of suspicious transactions] *along with the indication of prerequisites in favour of suspension of the transaction or blockage of the account, and to indicate the expected date of the implementation. The provision of Article 11 paragraph 4 shall not be applied* [i.e. forwarding information to the General Inspector through the agency of a territorially competent body of professional self-management of notaries, attorneys, legal advisers and foreign lawyers, (…)] Respectively, the above mentioned amendment has been introduced to the content of e-learning platform, as well as GIFI's guide, that has been distributed among obliged institutions. Moreover, in the scope of counteracting financing of terrorism, the **Article 20 paragraph 2** of the Act stipulates the obligation to provide GIFI with suitable information on freezing orders within undertaking specific restrictive measures against persons, groups and entities, in line with European Union legislation, or national regulations if issued, as follows: *"Any obligated institution, while performing such freezing, submits all the data in its possession and related to the freezing of asset values to the General Inspector, electronically or in paper form."* NOTE: For freezing orders, see further section under SR III.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Changes since the last evaluation	In connection with the implementation of the third Directive of UE the Poland is changing law of counteracting money laundering and terrorism financing. One of the main changes will be explicite addition of institutions dealing with a service for the transmission of money to the list of obliged institutions. See also above
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	The reporting obligation is imposed on every obliged institution in line with the Act. It covers financial institutions, as well as institutions from DNFBP's sector. See above.

2.3 Other Recommendations

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

Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The confiscation regime should clearly allow for confiscation of instrumentalities which have been transferred to third parties.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes have been made.
Measures taken to implement the recommendations since the adoption of the first progress report	Draft amendment to the Penal Code, prepared by the Bureau for Organized Crime modifies the rules of confiscation. Paragraph 10 of the Article 299 P.C. provides for the possibility to decree a forfeiture of instrumentalities which served the perpetrators of ML, and has been transferred to the third parties. *"Article 299* *§ 10. In case of sentencing a person for the crime specified in § 1,2 or 7, the court may decree a forfeiture of implements, that served the crime or were used to commit the crime, even if they do not belong to the perpetrator."* According to the AML Act, General Inspector of Financial Information has the authority to trace and identify property. In details: ***"Procedure for transaction suspension and account blockage*** ***Article 16.*** *1. Any obligated institution which received a disposition or an order of the transactions, or carried out such a transaction, or has any information about the intention to carry out such a transaction, for which there is a reasoned suspicion that it may be related to the criminal offense referred to in Article 165a and Article 299 of the Penal Code, is obliged to* *inform to the General Inspector in writing by passing all the data referred to in Article 12 paragraph 1 and Article 12a along with the indication of prerequisites in*

	favour of suspension of the transaction or blockage of the account, and to indicate the expected date of the implementation. The provision of Article 11 paragraph 4 shall not be applied. *1a. Where the obligated institution, making the notification pursuant to paragraph 1, is not the institution which is to carry out the transaction, the notice shall also indicate the institution, which is to transact.* *2. Upon the receipt of the notice, the General Inspector shall promptly confirm the receipt thereof in writing, stating the date and the time of collection of the notice.* *3. Such a notification and a confirmation referred to in paragraphs 1 and 2 may be also provided on the information storage carrier.* *4. Pending such a receipt of the request referred to in Article 18 paragraph 1, but no longer than for 24 hours after the confirmation of the receipt of the notification referred to in Article 16 paragraph 2, the obligated institution shall not carry out the transaction covered by the notice.* ***Article 17.** If the notice, referred to in Article 16 paragraph 1, can not be made before performing - or during performing - a disposition or an order to carry out the transactions, the obligated institution shall provide the information about the transaction immediately after its completion, giving the reasons for the prior absence of such a notice.* ***Article 18.** 1. If from the notice referred to in Article 16 paragraph 1, it follows that the transaction to be carried out may be related to any criminal offense referred to in Article 165a and Article 299 of the Penal Code, The General Inspector may - within 24 hours of the date and time* *indicated on the confirmation referred to in Article 16 paragraph 2 - provide the obligated institution with a written request to suspend the transaction or block the account for no more than 72 hours from the date and time indicated on the confirmation thereof. At the same time, the General Inspector shall notify the competent public prosecutor on a suspicion of having committed a crime and shall provide him with any information and documents concerning the suspended transaction or the account blocked.* *2. The request to suspend the transactions or to block the account may be issued only by the General Inspector, or a total of two employees of the unit, as referred to in Article 3 paragraph 4, authorized by the General Inspector in writing.* *3. The transaction is suspended or the account blocked by the obligated institution immediately upon the receipt of the request referred to in paragraph 1.* *4. The suspension of the transactions or the blockage of the account by the obligated institution, in the manner specified in paragraphs 1 and 3, shall not arouse any disciplinary, civil, criminal, or otherwise specified responsibility defined by separate provisions.* *5. Saturdays, Sundays and public holidays shall not be included in the time limits referred to in paragraph 1.* ***Article 18a.** 1. The General Inspector may submit a written request to the obligated institution to suspend a transaction or block the account without having previously received the notification referred to in Article 16 paragraph 1, if the information in possession of which he is indicates the conduct of activities aimed at money laundering or terrorist financing.* *2. In the case referred to in paragraph 1, the General Inspector may request the suspension of a transaction or block the account for no more than 72 hours after the receipt of the request by the obligated institution.* *3. The provisions of Articles 18, 19 and 20 shall apply accordingly.* ***Article 19** 1. In the event that the General Inspector receives the notification referred to in Article 18 paragraph 1 second sentence, the prosecutor may order, by decision, to suspend this transaction or block the account for a definite period, but no longer than 3 months from the day of* *the receipt of this notification.*

	2. In the decision referred to in paragraph 1, the General Inspector defines the scope, manner and time-limits of the suspension of the transaction or the blockage of the account. The decision may be appealed to the court competent to hear the case. *3. (revoked).* *4. The suspension of transactions or the blockage of the account falls if before the expiry of 3 months from the receipt of the notification referred to in Article 18 paragraph 1 second sentence, a decision on asset values freezing will not be issued.* *5. In the matters regarding suspension of transactions or account blocking not regulated by the Act, the provisions of the Code of Criminal Procedure shall apply.* ***Article 20** In the event that the account has been blocked or the transaction has been suspended with the breach of the law, the liability for damages resulting from it is borne by the Treasury under the terms defined in the Civil Code."* **Code of Criminal Procedure** provides for security measures on property: "***Article 291**. § 1. In the event of the commission of an offence subject to a fine or forfeiture of material objects, or to imposition of the obligation to redress damage or to pay supplementary payment to the injured or for a public purpose; these penalties may be secured ex officio by levying on the property of the accused.* *§ 2. If an offence is committed against property, or if it causes damage to property, the claims for the reparation of damages may be secured ex officio on the property of the accused.* ***Article 292**. § 1. Security shall be obtained as provided for in the Code of Civil Procedure.* *§ 2. The securing of the impending penalty of the forfeiture of material objects shall consist in the seizure of movables, liabilities and other property rights, and in the prohibition of selling and encumbering the real estate. This prohibition shall be published in the land and mortgage register or, in its absence, in the set of documents filed. If necessary, the court may provide for the administration of the real estate and/or of the firm owned by the accused.* ***Article 293**. § 1. The order securing claims shall be issued by the court or, in the course of preparatory proceedings, by the state prosecutor. Such an order shall determine the scope of the security and the manner of securing.* *§ 2. The order on security shall be subject to interlocutory appeal. The interlocutory appeal against an order from the state prosecutor is examined by the district court where the proceedings are pending.* ***Article 294**. § 1. The security shall be cancelled if no valid and final decision is issued imposing a fine, forfeiture of material objects, supplementary payment to the injured or for a public purpose or obligation to redress damage, or when the accused is not sentenced to pay the claims for reparation of damages, and where no suit for those claims has been filed within three months from the day on which the decision has become valid and final.* *§ 2. If such a suit is brought within the time-limit indicated in § 1 the security remains valid, unless the civil court decides otherwise in civil proceedings.* ***Article 295**. § 1. In an event that an offence described in Article 291 is committed, the Police may effect a provisional seizure of the movables of the suspected person, if there are grounds to fear that he might conceal them. The provisional seizure shall require approval by an order from the state prosecutor issued within 5 days of such a seizure.* *…* *§ 3. A provisional seizure cannot be applied to material objects not subject to execution.* *§ 4. A provisional seizure shall be cancelled if the state prosecutor has not issued an approval or if within fourteen days of the day on which it was effected, an order on the securing of claims has not been issued."*
(other) changes	

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

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Poland should implement legislation to deal with PEPs.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The draft of AML/CTF Law provides for regulations regarding both politically exposed persons definition and measures that should be taken in dealing with them. The specific provision are as follows: *Article 2 subpara 1f. Politically exposed persons: it shall mean foreign natural persons who are entrusted with prominent public functions, such as:* *a) heads of state or of government, ministers, vice-ministers or deputy ministers, heads of central authorities, members of parliament, judges of supreme courts, constitutional tribunals and other court authorities whose decisions cannot be appealed against, except for when under the extraordinary procedure, members of audit boards, members of authorities of other supreme control authorities and management board members of central banks, ambassadors, chargés d'affairs and senior military officials, members of administrative authorities, management or supervision authorities of state-owned companies and members of management and supervision authorities of companies with the controlling stake held by the state treasury,* *b) spouses of the persons referred to in (a) or persons cohabiting with them, parents and children of the persons referred to in (a) and spouses of those parents and children or persons cohabiting with them,* *c) persons, who are or were in close professional or commercial relationship with the persons referred to in (a) and (b), or co-owners of legal entities or arrangements, and also the sole beneficiary of legal entities or arrangements, when established for the benefit of the politically exposed person* *- who hold positions or remain in the relationships referred to in (a) to (c), or when a period shorter than one year elapsed as of discontinuing the same,";* *Article 9e para.4. In respect of transactions and accounts of the politically exposed persons, the obligated institutions shall:* *1) introduce risk-based procedures to determine whether a customer is a politically exposed person;* *2) have adequate measures to establish the source of property values introduced into circulation;* *3) conduct ongoing monitoring of the transactions carried out;* 4) have prior management board or designated management board member, or the person responsible for the institution's operations, approval for carrying out the transaction or concluding the agreement with the customer.
Measures taken to implement the recommendations since the adoption of the first progress report	The FATF Recommendation 6 is implemented into the Polish AML/CFT system following the statutory imposition on obligated (reporting) institutions of so called security measures against a client. As far as a notion of **politically exposed person** is concerned, there are following natural persons assigned by the Act **(Article 2 paragraph 1a point f):**

	" politically exposed person , it shall mean the following natural persons: *a) heads of state, heads of government, ministers, deputy ministers or assistant ministers, members of parliament, judges of supreme courts, constitutional tribunals and other judicial bodies whose decisions are not subject to further appeal with the exception of extraordinary measures, members of the court of auditors, members of central bank management boards, ambassadors, chargés d'affairs and senior officers of armed forces, members of management or supervisory bodies of state-owned enterprises – who hold or held these public functions, within a year since the day they ceased to meet the conditions specified in these provisions,* *b) spouses of persons referred to in point (a), or persons staying with them in cohabitation, parents and children of the persons referred to in point (a) and the spouses of those parents and children or other persons staying in cohabitation with them,* *c) who remain or remained in close professional or business co-operation with the persons referred to in point (a) and, or are co-owners of legal entities, and only ones entitled to assets of legal enetities if they have been established for the benefit of those persons…"* - provided that they are not domiciled in Poland. The Act foresees preventive measures to mitigate the risk connected with dealing with PEPs. According to the **Article 9a paragraph 4** of the Act : *"With regard to the politically exposed persons, the obligated institutions:* *1) implement procedures based on risk assessment to determine whether such client is a person holding a politically exposed position;* *2) apply measures, adequate to the risk determined by this obligated institution, in order to establish the source of asset values introduced to trading;* *3) maintain constant monitoring of conducted transactions;* *4) conclude a contract with a client after having obtained the consent of the board, the designated member of the management board or a person designated by the board or a person responsible for the activities of the obligated institution."* In order to establish the source of asset values introduced to trading, obligated institutions apply measures, adequate to the risk determined by themselves. In line with **Article 9a paragraph 5** of the Act: *"The obligated institutions may collect written statements on whether a client is a person holding a politically exposed position, which are given under the penal liability for providing data incompatible with the facts."* As it was mentioned the Act is in force, and so are also all the measures provided for in it in relation to PEP's. It is however worth mentioning that during one of the above mentioned PFSA's training seminars for financial institutions, their attention was pointed to the World Bank Report: "Stolen Asset Recovery – Politically Exposed Persons. A policy paper on strengthening preventive measures". The most crucial thesis of this document were presented as desired to be used, should the institutions seem this fit.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 7 (Correspondent banking)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*It is recommended that Poland implements legislation to deal with cross-border correspondent banking relationships.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Althoug the AML Act refers to the aforesaid issue specific actitvities in this field in order to deal with cross-border corespondend banking relationship may be undertaken after the Act enters into force. *Article 9e para.3. In respect of cross-border correspondent banking relationships with respondent institutions from third countries and equivalent countries, the obligated institutions shall:* *1. gather sufficient information on a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the institution and the quality of supervision;* *2. assess the correspondent institution's anti-money laundering and anti-terrorist financing controls;* *3. document the respective responsibilities of each institution;* *4. with respect to payable-through accounts, ensure that the correspondent credit institution has verified the identity and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request;* *5. obtain approval from management board or designated management board member before establishing new correspondent banking relationships.*
Measures taken to implement the recommendations since the adoption of the first progress report	As it was quoted before, **Article 9e paragraph 3** of the Act states: *"In terms of cross-border relations with institutional correspondents from countries other than the EU-member states and equivalent countries, any obligated institutions being a provider of financial services shall:* *1) collect information allowing to determine the scope of operations, and whether a provider of financial services is supervised by the state;* *2) assess measures taken by a provider of financial services who is a correspondent in so far as counteracting money laundering and terrorist financing;* *3) prepare documentation defining the scope of responsibilities of each provider of financial services;* *4) ascertain with respect to payable-through accounts - that a provider of financial services, who is a correspondent, conducted the verification of identity and has taken appropriate actions under procedures on the application of financial security measures in relation with clients having direct access to such a correspondent's bank accounts and that it is able to provide, on demand of the correspondent, any data related to the application of financial security measures in regard to a client;* *5) establish cooperation, with the prior consent of a board of directors or a designated member of such a board or a person designated by such a board; or a person designated in accordance with Article 10b paragraph 1* [i.e. designated person responsible for compliance with AML/CFT provisions]*."* Cross-border correspondent banking is a situation treated ex lege as a high risk situation. The above mentioned article creates an obligation to undertake certain measures in given instances. But as it was mentioned earlier, in high risk situation all financial institutions are free to take additional measures, as they

	seem fit to mitigate the risk.
Recommendation of the MONEYVAL Report	*Polish authorities should satisfy themselves that branches with headquarters abroad undertake the CDD process themselves as it is required by Polish Law and do not rely on their headquarters (as the Polish Law does not allow relying on third parties).*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In order to fulfil this duty the AML Act provides for some rules ensuring that relevant application of customer due diligence takes place. Obligated institutions are required to comply with the Act also in branches located abroad as well as they are required to undertake additional measures aimed at complying with anti-money laundering standards. The specific provisions are as follows: *Article 9j para. 1. Obligated institutions having branches and agencies in the territory of the EU non-member states shall take actions aimed at applying due diligence set forth as herein by those branches and agencies.* *2. In the event when the duty set forth in paragraph 1 above cannot be fulfilled, obligated institutions shall apply additional measures to effectively prevent money laundering and terrorism financing.* *3. Obligated institutions shall inform the branches and agencies, referred to in paragraph 1 above, about the introduced anti-money laundering and combating terrorism financing procedure and policy.*
Measures taken to implement the recommendations since the adoption of the first progress report	**Article 9j**.of the Act stipulates that: *"1. Any obligated institution with its branches and subsidiaries in the territory of non-EU member states shall apply the financial security measures defined in the Act in those branches and subsidiaries.* *2. In the absence of the possibility to fulfill obligation referred to in paragraph 1, any obligated institution shall carry out all the activities in order to effectively counteract money laundering and terrorist financing as provided for in the legislation of the countries referred to in paragraph 1.* *3. Any obligated institution shall inform its subsidiaries and affiliates, referred to in paragraph 1, on any introduced internal procedures focused on counteracting money laundering and terrorist financing."* The above quoted **Article 9j** of the Act implements the „know-your-structure" principle, as stated in articles 34(2) and 31(1) of the 3rd AML Directive. The said provisions of the 3rd Directive make it clear that the European legislator deems utterly important to apply EU legal rules on AML/CFT in branches located outside the EU. Moreover it is important to bear in mind the interpretation of article 28(3) of the Directive, as presented In the "*Commission Staff Working Paper - Compliance with the anti-money laundering directive by cross-border banking groups at group level"* (SEC(2009) 939 final): *"(…)The Directive, however, does not set up rules regarding the supervision of groups with institutions established in more than one Member States. As a result, in all Member States, locally established subsidiaries or branches of credit and financial institutions from other Member States (as well as from third countries) are subject to local AML supervision like the local credit and financial institutions."* During one of the on-site visit the PFSA has established that this rule is being fully recognized and is in use by the Polish financial institutions which have subsidiaries in EU Member States.
(other) changes since the first progress report (e.g. draft laws,	

draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Financial institutions should be required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering and terrorist financing schemes.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The AML Act provides for some regulation that may cover the issue albeit specific policies in order to prevent misuse of technological development may be established after the AML Act enters into force. The specific provision is as follows: *Article 9g. Obligated institutions shall pay special attention to any money laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take adequate measures to prevent their use therefore.*
Measures taken to implement the recommendations since the adoption of the first progress report	**Article 9g** of the Act sets out a rule that: *"Any obligated institutions shall apply appropriate measures of financial security in order to prevent money laundering or terrorist financing, which may arise from products or transactions allowing to maintain anonymity."* As a part of risk based approach and mitigation of internal and external fraud risk, financial institutions do take up initiatives to limit their exposure to such threats. One of the biggest brokerage houses in Poland decided to rebuild its IT infrastructure after a series of frauds, where the clients together with the employees of the institution improperly used the brokerage accounts.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 11 (Unusual transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The examiners strongly recommend to address all the subcriteria of Recommendation 11; particularly financial institutions should be required to pay special attention to all complex, unusual large transactions or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, to examine as far as possible the background and purpose of such transactions and to set forth such findings in writing and to keep them available for competent authorities and auditors for at least five years.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The AML Act provisions cover the issues indicated above. The specific provisons of draft are as follows: *Article 8b para. 3 subpara. 4. Conducting ongoing monitoring of the customer's business relationship, including scrutiny of transactions undertaken to ensure that the transactions being conducted are consistent*

	with the obligated institution's knowledge of the customer, the business and risk profile, including, where possible, the source of property values and ensuring that the documents and information held are kept up-to-date. Article 9k. para.1. The information obtained as the outcome of customer's due diligence shall be kept for the period of 5 years or more, starting from the first day of the year following the year in which business relationships with the customer were terminated. In the event of liquidation, merger, division or transformation of the obligated institution, for keeping the said documents the provisions of Article 76 the Act on accounting of 29 September 1994 shall apply.
Measures taken to implement the recommendations since the adoption of the first progress report	As far as unusual transactions are concerned, GIFI has prepared, in 3rd edition of GIFI's guide, special section on typologies. Besides typologies, criteria of typologies (in line with **Article 10 a paragraph 3** of the Act), identified methods of money laundering, one may find there guidance on so called "pattern transactions" that may be helpful in detecting those transactions that differ from typical ones and may arouse suspicion. GIFI's guide suggests that knowing the customer and their typical transactions, employees of obliged institutions may more easily detect those suspicious ones. The guide informs on pattern typologies in particular sectors of obliged institutions, e.g. banks, insurance companies, leasing and factoring companies, brokerage houses, cooperating units. It also provides guidance on so called "pattern accounts" as far as it regards: natural persons that do not run business activity, business entities, as well as other entities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 12 (DNFBP – R.5, 6, 8-11)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend working with the different sectors to improve awareness, and overcome any unwillingness to apply AML/CFT requirements. Information campaigns to this end are required. Polish authorities should continue its efforts in this direction, by offering training, publications etc.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See point concerning R.13
Measures taken to implement the recommendations since the adoption of the first progress report	Rising awareness of different sectors of polish financial market is one of GIFI's duty. GIFI provides guidance (involving the issue of recognizing STRs) to obliged institutions in different ways. In 2009 The General Inspector of Financial Information published **third edition of guidebook** for the obliged institutions and cooperating units under the title *Anti-money laundering and terrorism financing*. The handbook combines theoretical and practical knowledge that stems from realizing the duties imposed, by the Act, on the General Inspector of Financial Information and the Department of Financial Information in the Ministry of Finance (i.e. Polish FIU). The manual consists of six parts. Besides the guidance on application of the law in force in the scope of AML/CFT, duties and powers of the obliged institutions in the light of statutory

	regulations, one can find there information coming from analytical experience of GIFI's employees: in detail, it deals with the analysis of suspicious transactions, with a detailed explanation of definition of money laundering, description of its phases, identified methods, examples of their use in practice, areas of ML/TF risk, indicators of suspicion, and the basic sources of knowledge on such transactions and their parties. Obliged institutions and cooperating units are also assisted by the information on provisions on administrative and criminal liability, i.e. sanctions – penal and pecuniary ones, as well as specific restrictive measures, against persons, groups and entities. The guide covers also issues of co-operation of GIFI with cooperating units, as well as its foreign counterparts. It presents information about international initiatives in the scope of anti-money laundering and terrorism financing. The new edition of the guidebook has been designed in the way offering the suitable AML/CFT guidance in the new legal environment - once the Third AML Directive has been successfully implemented in Poland. The main reasons to issue another edition of the guide was amending of the *Act on counteracting money laundering and terrorism financing* and the fact that since the publication of the last editions of the guide, the knowledge in the field of counteracting money laundering and terrorism financing has increased. Apart from referring to changes in legal provisions, a totally new part was added concerning risk areas, previous chapters describing methods of money laundering were improved and supplemented and more information was added on counteracting terrorism financing. Distribution of guide to the obliged institutions and cooperating units, both in paper and electronic form – on CDs (in this from for the first time since the first edition), started in December 2009. The part containing sensitive, detailed information concerning identified methods of money laundering was excluded from electronic version of the guide. GIFI tries to reach every sector of financial market to offer suitable AML/CFT guidance, so that it prepared **e-learning platform** to provide guidance to the obliged institutions. E-learning course provided by GIFI has a few advantages: it is cheap, it is easily accessible and that is why it reaches every kind of obliged institution, also those from non-banking sector. In 2009, GIFI provided free-of-charge e-learning course entitled "Counteracting money laundering and terrorism financing". The aim of the course is familiarizing the employees of obliged institutions and cooperating units with counteracting money laundering and terrorism financing in the field of binding provisions. The form of e-learning course means that it is available via Internet both in the scope of enrolment, use of its resources, participation in verification test and obtaining certificate on completion of the course. Details specifying rules of participation in the course are available at the Ministry of Finance website (tabs: Financial security → Fighting money laundering and terrorism financing → Communications). The course is free of charge. Since October 2009 until August 2010 there were 20699 certificates issued for financial obliged institutions, **8044 for obliged institutions from DNFBP's sector**, 1550 certificates for cooperating units, 2900 certificates for so called other entities - not being obliged institution nor cooperating unit (e.g. students). Anticipated period of course availability: till the end of the 1st quarter 2010. With regard to doubts reported by obliged institutions and cooperating units concerning implementation of statutory obligations, while continuing practice from previous years, written replies to inquiries of the obliged institutions were provided by GIFI. Inquiries concerned in particular interpretation of provisions of the *Act*, that has been amended to adjust AML/CFT provisions of the European Union.

	In 2009 there were 149 inquiries concerning practical application of legal provisions submitted to GIFI, which constitutes 30% more inquiries than last year. The inquiries concerned mostly the interpretation of provisions of the above mentioned Act of 25 June 2009 adjusting national legal order in respect of counteracting money laundering and terrorism financing to the European Union provisions. The employees of the Department of Financial Information provided also clarifications via phone. The subject of these clarifications was similar to the subject of written clarifications. Moreover, on 1 and 2 December, 2009 GIFI organized conference attended by representatives of both, the obliged institutions and the cooperating units. The aim of the conference was discussion on the most significant changes related to adaptation of previous legal provisions in respect of counteracting money laundering and terrorism financing to the Community regulations and initiation of activities aiming at clarification of doubts (inquiries) submitted collectively by representatives of the obliged institutions. Conference participants were provided with the third edition of the GIFI's guide. GIFI's employees prepare also materials and publication, e.g. for Magazine "Accounting" on "Accountants and AML/CFT issues". It must be underlined that the representatives of the Department of Financial Information participated as the trainers in conferences and trainings organized in 2009 at the invitation of entities including obliged institutions: · in the training organized by the National Chamber of Notaries for representatives of the District Chambers of Notaries on 3-4 September 2009 in Zakopane, · in Conference organized by the Polish Bank Association on 23-24 September 2009 in Zakrzew, · in training for notaries inspectors from Regional Chambers of Notaries on 19 October 2009 in Warsaw. The basic topic of most of exposes of the Department representatives during these conferences and trainings was amendment of the *Act on counteracting money laundering and terrorism financing.* Implementation of 3rd AML Directive provisions was significant challenge for obliged institutions. Newly introduced provisions were the cause for numerous enquiries of obliged institutions demanding clarification on application of the amended law. Therefore GIFI organized two-day conference concerning the amendment of the *Act on counteracting money laundering and terrorist financing* which was held on 1 - 2 December, 2009. First day of the conference was entirely devoted to the representatives of the obligated institutions. 47 guests were invited from the biggest obliged institutions, as well as from the supervising authorities. On 2 December, 2009 was devoted to representatives of the cooperating units. There were also invited 47 representatives of cooperating units. Lecturers at the conference were mainly the heads of suitable Units within the Department of Financial Information, who held discussion on newly introduced regulations that are implementing 3. AML Directive. The representatives of the obligated institutions, as well as those of cooperating units were provided with GIFI's guide on AML/CFT issues (including its electronic version).
Recommendation of the MONEYVAL Report	*Poland should fully implement Recommendations 5, 6, 8, 10 and 11 and make these measures applicable to DNFBP.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As was indicated in this report designated non-financial businesses and proffesions are considered obligated institutions so they are required to fulfil the duties enumerated in the AML Act unless it is provided otherwise. So taking into account above the obligated institutions no mater whether financial or not should udertake measures in order to meet anti- money laundering standards provided for in the Act. Art.8, art. 8a and 8b, art. 9a para. 3, art. 9c

Measures taken to implement the recommendations since the adoption of the first progress report	Duties imposed by the Act in this regard are imposed not only on obliged institutions from financial sector, but also on obliged institutions from DNFBP's sector.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 16 (DNFBP – R.13-15 & 21)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Poland should fully implement Recommendations 13-15 and 21 in respect to DNFBP.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above **Art. 8 para. 3, art. 11 para. 1 and 3 ,art. 16 para. 1** **Art. 29, art. 34** **Art. 10a**
Measures taken to implement the recommendations since the adoption of the first progress report	Duties imposed on obliged institutions are designed not only for financial institutions, but also for DNFBP's sector. DNFBP's sector in Poland is obliged to report on suspicious transactions concerning money laundering and financing of terrorism, in line with **Article 8 paragraph 3** of the Act: "*Any obligated institution conducting a transaction, the circumstances of which may suggest that it was related to money laundering or terrorist financing, is required to register such a transaction, regardless of its value and character."* **Article 8 paragraph 3a** stipulates the obligation to report also attempted transactions: "*In the event that the obligated institution does not accept the disposition or order to conduct a transaction, the obligation referred to in paragraph 3 shall also apply if this institution is aware of or - with due diligence - should be aware of such a transaction in regard to the contract with its client."* To avoid any objections that may hamper reporting obligation in case of legal professions, the Act stipulates clearly the obligation to register suspicious transactions in particular situations, as it regards legal professions, thus in line with the **Article 8 paragraph 3b**: *"Any obligated institutions that are attorneys, legal advisers and foreign lawyers shall exercise the obligation referred to in paragraph 3 when they participate in transactions related to the provision of assistance to their clients, which is planning or carrying out transactions relating to:* *10) buying and selling real estate or business entities ;* *11) money management, securities or other asset values;* *12) opening accounts or their management;* *13) arrangements of payments and extra payments to the initial or share capital, arrangements of contributions to create or conduct business operations of companies or for their administration;* 14) *creation and operation of entrepreneurs in a different form of business organization, and also the management of.* **Article 11 paragraph 1** of the Act imposes obligation to provide GIFI with

	information on registered transaction, the threshold and suspicious ones: *"Any obligated institution provides information on transactions registered in accordance with Article 8 paragraphs 1 and 3 to the General Inspector. Such a provision involves sending or delivering data from the register of transactions referred to in Article 8 paragraph 4, also using computer data storage carriers."* The **Article 11 paragraph 3** of the Act foresees that: *"Such information on transactions referred to in Article 8 paragraph 1 may be forwarded to the General Inspector through the agency of chambers of commerce associating obligated institutions and banks associating co-operative banks."* The Act foresees also the provisions regulating the issue of notifying GIFI on transactions that may be suspicious ones in regard of ML or FT, **in Article 16 paragraph 1**, as follows: *"**1**. Any obligated institution which received a disposition or an order of the transactions, or carried out such a transaction, or has any information about the intention to carry out such a transaction, for which there is a reasoned suspicion that it may be related to the criminal offense referred to in Article 165a* [i.e. financing of terrorism] *and Article 299 of the Penal Code* [i.e. money laundering], *is obliged to inform to the General Inspector in writing by passing all the data referred to in Article 12 paragraph 1*[i.e. information on transactions that shall be registered] *and Article 12a* [i.e. additional information on parties of transactions in case of suspicious transactions] *along with the indication of prerequisites in favour of suspension of the transaction or blockage of the account, and to indicate the expected date of the implementation. The provision of Article 11 paragraph 4 shall not be applied* [i.e. forwarding information to the General Inspector through the agency of a territorially competent body of professional self-management of notaries, attorneys, legal advisers and foreign lawyers, …] The Act provides for provisions concerning the prohibition of "tipping off" in line with the **Article 34** of the Act: ***"**Any disclosure of information to unauthorized parties, including the parties of the transaction or the account holders; on the fact that the General Inspector has been informed about the transactions, the circumstances of which indicate that asset values may be derived from money laundering; or on the accounts of entities for which there is a reasoned suspicion that they have a connection with terrorist financing; or on transactions made by these entities, is prohibited."* The Act imposes on obliged institutions an obligation to designate person responsible for fulfilling AML/CFT duties, as well as introducing internal procedure in this regard, as follows: *"**Article 10a.** 1. Any obligated institutions shall introduce a written internal procedure on counteracting money laundering and terrorist financing.* *2. Such an internal procedure, referred to in paragraph 1, should contain, in particular, the determination of how the financial security measures shall be implemented, transactions registered, analyses performed and risk assessed, transaction information transmitted to the General Inspector, the suspension of transactions, account blocking and account's freezing carried out, and the manner in which the statements referred to in Article 9e point 5 received, if they are received, and how the information is stored.* As far as it concerns Recommendation 21, focusing on countries that may pose higher risk of ML//TF, the Act stipulates respectively, in **Article 10a paragraph 3**: "When conducting analysis to determine risk value, any obligated institution should, in particular, include the criteria of the following nature: 1) economic - involving assessment of client's transaction in terms of its business activity;

	2) **geographic - involving performance of transactions unwarranted by the nature of business activity, concluded with the operators of the countries where there is a high risk of money laundering and terrorist financing;** 3) objective - involving business activities of high-risk conducted by the client in terms of vulnerability to money laundering and terrorist financing; 4) behavioural - involving unusual behaviour of the client, in the situation in question." Moreover, GIFI offers guidance concerning countries that may pose significant risk for the safety of international financial system, such as Iran. GIFI publishes information on guidance issued in this regard by international for a in order to raise awareness of obliged institutions which is aimed at mitigating the ML/FT risk. Lately GIFI has published communication on guidance concerning financial risk arousing from business relations with Iran. Besides the introduction of international regulations in this regard, GIFI's publication focuses on the fact that any relations with Iran may increase potential risk of FT and it advices obliged institution to draw attention to such transaction and applying the suitable set of CDD measures to mitigate the risk emanating from business transaction with this region. GIFI provides for guidance, in different form, devoted also for the DNFBP's sector.(see for more information above, under the section for Rec. 23 and others).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators advise to introduce an additional regime of complementary administrative sanctions such as fines to enhance the AML/CFT compliance, especially in the non financial sector.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The AML Act provides for administrative sanctions, that may be imposed under explicitly indicated prerequisites in the way of General Inspector's decision. The specific provisions of draft are as follows: *Chapter 7a* *Fines* *"Article 34a. 1. An obligated institution that in violation hereof does not fulfil the duty of registration of a transaction referred to in Article 8, paragraph 1 above, the duty of transfer of the documents relating thereto to the General Inspector or the duty of keeping the register of those transactions or documents relating thereto for the requisite period of time shall be liable to a fine.* *2. An obligated institution that in violation hereof does not fulfil the duty of risk analysis for the purpose of applying adequate due diligence measures shall be liable to the fine set forth in paragraph 1 above.* *3. An obligated institution that in violation hereof does not fulfil the duty of application of due diligence measures shall be liable to the fine set forth in paragraph 1 above.* *4. An obligated institution that in violation hereof does not fulfil the duty of ongoing transaction analysis or keeping the documented results thereof for the requisite period of time shall be liable to the fine set forth in paragraph 1 above.*

	5. An obligated institution that in violation of Article 10a, paragraph 3 hereof does not fulfil the duty of ensuring for the employees to participate in the training programme shall be liable to the fine set forth in paragraph 1 above. *6.An obligated institution that in violation hereof does not fulfil the duty of timely execution of a control suggestion or recommendation shall be liable to the fine set forth in paragraph 1 above.* *Article 34b. 1. An obligated institution that does not fulfil the duty set forth in Chapter 2, Chapter 3, Article 12 or Article 14 of the regulation no. 1781/2006 shall be liable to a fine.* *2. An obligated institution that in violation of Article 20d, paragraph 1 hereof does not freeze property values of the person or entity or does not provide the General Inspector with all data held justifying freezing of property values, also electronically, shall be liable to the same fine.* *Article 34c.1. The General Inspector shall impose a fine by way of decision, in the amount not exceeding 2% of the fine base, being the income earned by the penalised obligated institution in the previous calendar year.* *2. In determining the fine, the General Inspector shall take into account the type and scope of violation, the operations of the obligated institution to date and its finances.* *3. The obligated institution shall provide the General Inspector, within 30 days following the date of request receipt, with the data indispensable for determining the fine base, upon request. Should the data not be provided or should the data provided prevent determination of the fine base, the minister responsible for financial institutions may estimate the fine base, however not lower than PLN 1M.* *4. Should the period of the obligated institution's operations be shorter than one calendar year, the amount of PLN 1M shall form the fine base.* *5. The fine shall form income of the state budget.* *6. One fine can be imposed only, should in the course of General Inspector's control a breach referred to in Article 34a be declared.* *7. The procedure on imposing the fine shall be carried out pursuant to the Code of Administrative Procedure.* *8. The General Inspector's decision may be appealed against within 14 days with the minister responsible for financial institutions.* *9. Fines shall be enforced under the enforcement proceedings in administration applicable to enforcement of financial duties.* *10. To the matters not governed herein, the provisions of Chapter III of the Act on tax ordinance of 29 August 1997 (Journal of Laws of 2005 No. 8, item 60, as amended.) shall apply.* *11. The institution supervising the operations of a given obligated institution shall be informed about the fine imposed."*
Measures taken to implement the recommendations since the adoption of the first progress report	Polish AML/CFT system provides for administrative sanctions for violations of the Law. The Act foresees pecuniary penalties for the following breaches of the law (according to the **Chapter 7a of the Act**): ***"Article 34a.*** *Any obligated institution, with the exception of the National Bank of Poland, which:* *1) fails to register the transaction referred to in Article 8 paragraph 1* [i.e. threshold transactions], *fails to provide the General Inspector with the documents relating to this transactions or fails to store the records of the transactions or documents relating to this transaction for the required period of time,* *2) fails to carry out risk analysis essential for the application of appropriate financial security measures,* *3) fails to apply financial security measures,* *4) fails to store documented results of the analysis for the required period of time,* *5) fails to meet the obligation to provide the participation of employees in a training program,*

	6) fails to timely comply within the post-audit conclusions or recommendations, *7) establishes and maintains cooperation with a shell bank.* *shall be subject to pecuniary penalties."* ***"Article 34b.** 1. Any obligated institution that contrary to the following provisions of Regulation No 1781/2006:* *1) Articles 5-7, does not ensure that the transfer of funds is accompanied by complete information on the payer,* *2) Article 8, does not have effective procedures in place to detect the absence of information on the payer* *3) Article 9, does not inform the General Inspector on the fact of regular neglecting to provide relevant information on the payer by payment service provider of the recipient,* *4) Article 12, when acting as go-between as a payment service provider, does not preserve all the information accompanying transfers of funds received on the payer,* *5) Article 14, does not respond completely to the request of the General Inspector on the information on the payer accompanied with transfers of funds, and does not provide the General Inspector with the relevant documents requested by him.* *- shall be subject to pecuniary penalties.* *2. The obligated institution is subject to the same penalty if - contrary to Article 20d paragraph 1 – it does not freeze the asset values of a person, group or entity or does not provide the General Inspector with all the data available to reasoning the freezing of asset values."* **Article 34c** Regulates the regime of imposing the aforementioned penalties, as follows: ***"**1. The penalty shall be imposed by decision of the General Inspector at the amount not higher than 750.000 PLN* [i.e. appr. 187 000 EUR][5]*, and in the event of a breach referred to in Article 34a point 5* [i.e. provision of training program] *not higher than 100.000 PLN* [i.e. appr. 25 000 EUR]. *2. When determining the amount of such a pecuniary penalty, the General Inspector shall take into account the nature and the extent of violations, the previous operation of the obligated institution and its financial capacity.* *3. Pecuniary penalty is the revenue of the state budget.* *4. If the violation referred to in Article 34a is found by the General Inspector in the course of the control, only one pecuniary penalty may be imposed.* *5. Proceedings on inflicting pecuniary penalty are carried out under the provisions of the Code of Administrative Procedure.* *6. The decision of the General Inspector may be appealed against to the minister competent for financial institutions within 14 days of its receipt.* *7. Pecuniary penalties are subject to the enforcement of payment under the provisions of the enforcement procedure in the administration within the scope of the enforcement of pecuniary obligations.* *8. In any undetermined matter, the provisions of Section III of the Act of August 29, 1997 – Tax Ordinance (Journal of Laws of 2005 No. 8 item 60, as amended) shall be applied accordingly for the pecuniary penalty.* *9. The information about the pecuniary penalty imposed shall be communicated to the institution supervising the activities of the obligated institution."* Criminal provisions have also been adjusted to the new wording of the Act: **Article 35 s**tipulates: ***"**1. Any person who acts on behalf of or in the interest of the obligated institution contrary to the provisions of the Act fails to:* *1) register a transaction, to submit documentation relating to this transaction to the*

1. [5] 1 EUR = 4, 0125 PLN, as of 27th July, 2010

	General Inspector or to store the register of such transactions or documentation relating to this transaction for the required period of time, *2) maintain financial security measures, in accordance with the procedure referred to in Article10a paragraph 1, or to store information obtained in connection with the implementation of financial security measures,* *3) notify the General Inspector about the transactions referred to in Article 16 paragraph 1,* *4) suspend a transaction or block an account,* *5) introduce the internal procedure referred to in Article 10a paragraph 1,* *6) designate a person responsible in accordance with Article 10b paragraph 1,* *shall be subject to the* ***punishment of imprisonment of up to 3 years****.* *2. Anyone who, contrary to the provisions of the Act, discloses the information collected in accordance with the authorization of the Act to any unauthorized persons, any account holder or any person to whom the transaction relates to or uses this information in any other manner inconsistent with the provisions of the Act shall* ***be subject to the same punishment.*** 3. *If the perpetrator of an act referred to in paragraphs 1 or 2 acts unintentionally, he/she shall be subject to a fine."*
Recommendation of the MONEYVAL Report	*The competences of the sanctioning authorities should be clarified to avoid double or no sanctioning; legal clarification is needed and working arrangements between the FIU and the supervisory authorities on sanctioning should be set out, preferably by Memoranda of Understanding and greater practical co-ordination.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	To avoid the double sanctioning, GIFI has exchanged the plan of inspection with other Supervisory Authorities. In respect of this there was received also in 2007 the information on the inspections conducted by: – National Bank of Poland – 1.089 in bureaux de change, – General Inspector for Banking Supervision – 32 at the banks, – National Co-operative Savings and Credit Union – 25 in Co-operative Savings and Credit Unions, – Polish Financial Supervision Authority – 3 in brokerage houses and investment fund society, – Heads of Courts of Appeal – 44 in offices of notaries public. The results of the inspections confirmed the existence of irregularities similar to those discovered by the GIFI inspectors. In comparison with the previous years however, the knowledge of statutory obligations of obligated institutions' employees has improved. Following the thorough analysis of the control results, a justified suspicion of committing the crime grew, thus 5 notifications were submitted to the public prosecutor's office. The proceedings were initiated in one of the cases, in another one the public prosecutor's offices refused to initiate proceedings and in the remaining three cases the proceedings were discontinued. Out of all conducted inspections made by GIFI, 33 were planned and 14 were conducted on immediate basis. They were conducted in the following categories of obligated institutions: – banks – 9, – brokerage houses – 8, – investment fund societies and funds managed by them – 6, – insurance companies – 2, – legal advisers – 9, – notaries public – 2, – solicitors – 2, – tax advisers – 2, – real estate agencies – 5,

	– entrepreneurs whose business activity consists in granting secured loans (pawns) – 2. The most important irregularities revealed included the following: - formal irregularities: the failure by the obligated institutions to prepare for the fulfilment of statutory obligations due to the failure to set or to adjust the internal procedure to the provisions of the *Act* and/ or the lack of a person responsible for the fulfilment of obligations imposed by the *Act* (revealed in 78.7% of the controlled institutions); - functional irregularities: insufficient implementation of the provisions of the *Act*, mainly in respect of the obligation to register the transactions, to identify entities participating in the transaction, to identify transactions and notify about them and to keep the register of transactions along with the documents relating to the registered transactions, as well as irregularities in keeping the registers of transactions and transmitting information from these registers to GIFI (revealed in all controlled institutions). The findings of the inspections carried out by GIFI inspectors were submitted to the supervising authorities for further processing. 28 written notifications about the results of controls were also submitted.
Measures taken to implement the recommendations since the adoption of the first progress report	In order to avoid double application of sanctions or a situation that sanctions are not applied at all, the following provisions to prevent the above mentioned situations have been introduced in line with **Article 21** of the Act : "*1. The control of compliance of the obligated institutions – except from the National Bank of Poland – with the obligations within counteracting money laundering and terrorist financing is exercised by the General Inspector.* *2. Such an control shall be carried out by employees of the unit, referred to in Article 3 paragraph 4, hereinafter referred to as "inspectors", authorized in writing by the General Inspector, following the presentation of an auditor business identification card, hereinafter referred to as the "inspector's ID", and a written authorization.* 3. *The control referred to in paragraph 1 may also be carried out, within the frameworks of the surveillance and control performed on terms and procedures specified in separate provisions, by:* *1) the President of the National Bank of Poland – in relation to currency exchange operators;* *2) the Polish Financial Supervision Authority;* *3) the competent heads of customs offices – in relation to operators organizing and exercising games of chance, mutual bets, and operations involving automatic machine games and automatic machine games of low prizes;* *4) presidents of appeal courts – in relation to notaries public;* *5) the National Savings and Credit Cooperative Union;* *6) competent voivods and governors - in relation to associations;* *7) tax audit authorities.* ***3a. Imposing penalties relating to the violations identified by the control, referred to in paragraph 3, falls within the jurisdiction of the General Inspector.*** ***3b. Any entity, mentioned in point 3, submits its schedules of controls to the General Inspector within two weeks following their completion.*** *3c. At the request of the minister competent for public finance, the General Inspector shall carry out control as referred to in paragraph 1– in relation to obligated institution applying for license or permit, provided for in Gambling Act of 19 November 2009.* *4. A written report about the results of the control referred to in paragraph 3, within compliance with the provisions of the Act, shall be forwarded to the General*

	Inspector within 14 days following its completion. *4a. The General Inspector may request the entities listed in paragraph 3, to provide certified copies of the documentation collected during an audit.* *5. The minister competent for financial institutions shall stipulate, by regulation, the standard pattern form of the inspector's ID and shall determine the rules for its issuance and replacement."* **The Act in its Chapter 7a** sets out pecuniary penalties. According to **Article 34c paragraph 1**: *" The penalty shall be imposed by decision of the General Inspector at the amount not higher than 750.000 PLN, and in the event of a breach referred to in Article 34a point 5 not higher than 100.000 PLN."* This article then clearly decides that all administrative fines resulting from the breach of regulations from the Act may be imposed only by the GIFI (please do bear in mind that this is also emphasized in **Article 21 paragraph 3a above**), which states: "Imposing penalties relating to the violations identified by the control, referred to in paragraph 3, falls within the jurisdiction of the General Inspector." Therefore, the PFSA does not launch any administrative proceedings when it comes to the breach of the Act. To foster mutual cooperation, and in accordance with **Article 21 section 3b** of the Act, above mentioned supervisors send the list of entities to be controlled (on AML/CFT related issues) by them in the coming year to the GIFI. Moreover, it is worth mentioning that the GIFI exchanges supervisory information with customs authorities, i.e. previously – Excise Control and Gambling Control Department within the Ministry of Finance, and now – Customs Offices Department – concerning inspections carried out by them in gambling sector. Since the beginning of 2010 such inspections have been carried out by the customs offices (previously they were made by one of the above mentioned Departments in the Ministry of Finance). As it regards the supervision over the casinos in general, it is still the General Inspector of Financial Information who is responsible for that issue, i.e. for performing supervision over the implementation of the necessary anti-money laundering and terrorist-financing measures. See more explanations under the section concerning Recommendation 24 on the inspections in casinos. GIFI exchanges information with other supervisory authorities. Referring to gambling sector, e.g. in 2010 GIFI received information on controls carried out by the Excise Control and Gambling Control Department (within the Ministry of Finance on 4 controls of games arcades with slot machines and 1 control at the casino, as well as 30 inspections carried out (until mid August 2010) by customs offices.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Poland should implement provisions with regard to a prohibition on financial institutions to enter or continue correspondent banking relationship with shell banks.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The draft law introduces the definition of shell bank, which is according to the Art. 2 subpara. 1c of amended AML Act: *„Shell bank: it shall mean a provider of financial services or an entity engaged in equivalent activities, incorporated in the territory of the entity of international jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group".* Moreover the Art. 9f stipulates that *„Obligated institutions shall be prohibited from entering into or continuing a correspondent banking relationship with a shell bank. Obligated institutions shall take appropriate measures to ensure that they do not engage in or continue correspondent banking relationships with a bank that is known to conclude account agreements with a shell bank."* The amended AML Act foresees the sanctioning regime in relation to entering into relationship with shell banks, in line with Art. 34a 8): *"8. An obligated institution that in violation of Article 9f hereof establishes or continues correspondent banking co-operation with a shell bank shall be liable to the fine set forth in paragraph 1 above."*
Measures taken to implement the recommendations since the adoption of the first progress report	The Act provides for the definition of a shell bank, which is stipulated by the **Article 2 paragraph 1c**): ***"shell bank**, it shall mean an entity providing financial services or engaged in equivalent activities, established in the territory of a country in which it does not have any legal address, in such a manner that its actual management and administration are performed, and where such an entity is not affiliated with any financial group operating legitimately."* The Act does not allow for establishing and maintaining any relations with shell banks, as it is stipulated by the **Article 9f of the Act**: *"1. No obligated institution, which is a provider of financial services, shall establish and maintain cooperation within correspondent banking with a shell bank.* *2. No obligated institutions shall establish and maintain cooperation within correspondent banking with any obligated institution which is a provider of financial services concluding contracts on accounts with a shell bank."* Moreover, **Chapter 7a** of the Act, **Article 34a** provides for the pecuniary penalty for "[…] establish[ing] and maintain[ing] cooperation with a shell bank." See above for the section on Recommendation 17 of the report, which presents Polish sanctioning regime. *Besides, what was already mentioned above, it is worth pointing out that notwithstanding the quoted provision, financial institutions are also required to perform enhanced due diligence measures when it comes to the correspondent-banking (as set out in **Article 9e paragraph 3** of the Act.)*
Recommendation of the MONEYVAL Report	*Financial institutions should be obliged to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used by shell banks.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above

Measures taken to implement the recommendations since the adoption of the first progress report	Please do bear in mind the remarks above and also be informed that **Article 9e paragraph 3** directly requires financial institutions to: "*3. In terms of cross-border relations with institutional correspondents from countries other than the EU-member states and equivalent countries, any obligated institutions being a provider of financial services shall:* *1) collect information allowing to determine the scope of operations, and whether a provider of financial services is supervised by the state;* *2) assess measures taken by a provider of financial services who is a correspondent in so far as counteracting money laundering and terrorist financing;* *3) prepare documentation defining the scope of responsibilities of each provider of financial services;* *4) ascertain with respect to payable-through accounts – that a provider of financial services, who is a correspondent, conducted the verification of identity and has taken appropriate actions under procedures on the application of financial security measures in relation with clients having direct access to such a correspondent's bank accounts and that it is able to provide, on demand of the correspondent, any data related to the application of financial security measures in regard to a client;* *5)establish cooperation, with the prior consent of a board of directors or a designated member of such a board or a person designated by such a board; or a person designated in accordance with Article 10b paragraph* 1 [i.e. designated person responsible for compliance with AML/CFT regulations]." Moreover, it is worth mentioning that, in line with the **Article 9f paragraph 2** of the Act, there is general prohibition of co-operation with shell banks: *„No obligated institutions shall establish and maintain cooperation within correspondent banking with any obligated institution which is a provider of financial services concluding contracts on accounts with a shell bank."*
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 21 (Special attention to higher risk countries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*A requirement to pay special attention to business relationships and transactions with persons from countries that do not or insufficiently apply the FATF Recommendations should be introduced.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	There is general obligation imposed on obligated institutions that may apply to relationship and transactions with abovementioned persons. The specific provison is as follows: *Article 9e para. 1. The obligated institutions shall apply, on a risk-sensitive basis, enhanced customer due diligence measures in situations which can present a higher risk of money laundering or terrorism financing, and at least in the situations set forth in paragraphs 2[*customer has not been physically present for identification purposes] *and 3 [*cross-border correspondent banking relationships with respondent institutions from third countries and equivalent countries]. Moreover, to provide some guidelines in this respect, in December 2007, GIFI published on its website communications concerning the FATF documents: *FATF*

	Guidance Regarding The Implementation Of Activity-Based Financial Prohibitions Of United Nations Security Council Resolution 1737, 12 October 2007 and *FATF Statement on Iran, Paris, 11 October 2007.* Additionally, GIFI forwarded the above mentioned guidance (with request for further distribution) on Iran to the following associations and institutions: National Council of Counsels, National Chamber of Auditors, National Chamber of Tax Advisors, National Chamber of Legal Advisers, National Council of Public Notaries , Polish Bank Association, the Polish Chamber of Insurance, the Chamber of Brokerage Houses In 2008 GIFI published on its website *FATF statement on Uzbekistan, Iran, Pakistan, Turkmenistan, São Tomé and Príncipe and transactions with financial institutions operating in the northern part of Cyprus (28 February 2008).* The statement advised countries that their financial institutions take the risk arising from the deficiencies in AML/CFT regime of those countries into account for enhanced due diligence. The statement was forwarded to associations of obligated institutions, supervisory authorities and cooperating units with recommendation to distribute them to supervised agencies and other relevant entities.
Measures taken to implement the recommendations since the adoption of the first progress report	As it was mentioned, **Article 10a paragraph 3** says: "*When conducting analysis to determine risk value, any obligated institution should, in particular, include the criteria of the following nature:* *1) economic – involving assessment of client's transaction in terms of its business activity;* *2) geographic – involving performance of transactions unwarranted by the nature of business activity, concluded with the operators of the countries where there is a high risk of money laundering and terrorist financing;* *3) objective – involving business activities of high-risk conducted by the client in terms of vulnerability to money laundering and terrorist financing;* *4) behavioural – involving unusual behaviour of the client, in the situation in question."* Geographical risk is being widely perceived by the financial sector. However, the PFSA encourages the financial institutions to use at least the following list of higher risk countries: countries from FATF statements, countries from UN sanction lists, OFAC list countries, countries identified as connected to money laundering pointed in International Narcotics Control Strategy Report, and HIDTA – High Intensity Drug Trafficking Areas as well as HIFCA – High Intensity Financial Crime Areas. Moreover, at GIFI's website, under section "Publications" (both in Polish and in most cases – in English), one may find guidance in the scope of counteracting financing of terrorism, i.e.: information on FATF statements on non-cooperating jurisdictions (as of 25 June 2010, 25 February 2010, 18 February 2010, 16 October 2009, 26 June 2009), as well as respectively published information on Public Statements under MONEYVAL CEP, concerning particular jurisdictions concerned, e.g. Azerbaijan. GIFI has also published information on FATF public statements: on cover payments, and numerous RBA guidance, that may support obliged institutions in assessing the risk linked with the transactions that they execute (e.g. RBA Guidance in MSB's sector). Lately GIFI has also published communication on guidance concerning financial risk arousing from business relations with Iran. Besides the introduction of international regulations in this regard, GIFI's publication focuses on the fact that any relations with Iran may increase potential risk of FT and it recommends that obliged institution should draw attention to such transactions and apply the suitable set of CDD measures to mitigate the risk emanating from business transaction with this region.

Recommendation of the MONEYVAL Report	*Financial institutions should be also required to examine the background and purpose of transactions connected with such countries if those transactions have no apparent economic or visible lawful purpose. Written findings should be available to assist competent authorities and auditors.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	There is general obligation regarding application of due diligence measures that may refer to abovementioned circumstances. The specific provisons is as follows: *Article 8b para.3 subpara 4. (Customer due diligence shall comprise:)Conducting ongoing monitoring of the customer's business relationship, including scrutiny of transactions undertaken to ensure that the transactions being conducted are consistent with the obligated institution's knowledge of the customer, the business and risk profile, including, where possible, the source of property values and ensuring that the documents and information held are kept up-to-date.*
Measures taken to implement the recommendations since the adoption of the first progress report	According to the Act, Article **8a paragraph 1,**: *„any obligated institution shall carry out ongoing analysis of the transactions carried out. Results of those analyses should be documented in paper or electronic form."* One element of the analysis is the analysis of the risk (see above, **Article 10a paragraph 3** of the Act). The **Article 8a paragraph 2** of the Act also states: *"All the results of such analyses shall be kept for a period of 5 years, calculating from the first day of the year following the year in which they were conducted. In the event of liquidation, merger, division and transformation of any institution obligated to keep records, the provisions of Article 76 of the Act of 29 September 1994 on accounting shall apply accordingly."* This means all written evidence of the analysis of the transactions should be archived and available. As mentioned in the first progress report and throughout this one, the CDD measures comprise also of the obligation to monitor the customer business relationship and transactions performed**,** as well as confronting it with the obtained information on purpose and nature of business relationship with the client (**Article 8b paragraph 3, point 3 and 4 -** under Section on Recommendation 5)**.**
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Poland should implement an explicit obligation to require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the Polish requirements and FATF recommendations. It should add provisions to clarify that particular attention has to be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations and that the higher standard have to be applied in the event that the AML/CFT requirements of the home and host country differ.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As was indicated in the report in order to fulfil this duty the AML Act provide for some rules ensuring that relevant application of customer due diligence takes place. Obligated institutions are required to comply with the Act also in branches located abroad as well as they are required to undertake additional measures aimed at

	complying with anti-money laundering standards. The specific provisions are as follows: *Article 9j para. 1. Obligated institutions having branches and agencies in the territory of the EU non-member states shall take actions aimed at applying due diligence set forth as herein by those branches and agencies.* *2. In the event when the duty set forth in paragraph 1 above cannot be fulfilled, obligated institutions shall apply additional measures to effectively prevent money laundering and terrorism financing.* 3. Obligated institutions shall inform the branches and agencies, referred to in paragraph 1 above, about the introduced anti-money laundering and combating terrorism financing procedure and policy.
Measures taken to implement the recommendations since the adoption of the first progress report	The **Article 9j** of the Act stipulates: *"1. Any obligated institution with its branches and subsidiaries in the territory of non-EU member states shall apply the financial security measures defined in the Act in those branches and subsidiaries.* *2. In the absence of the possibility to fulfill obligation referred to in paragraph 1, any obligated institution shall carry out all the activities in order to effectively counteract money laundering and terrorist financing as provided for in the legislation of the countries referred to in paragraph 1.* *3. Any obligated institution shall inform its subsidiaries and affiliates, referred to in paragraph 1, on any introduced internal procedures focused on counteracting money laundering and terrorist financing."* The above quoted **Article 9j** of the Act implements the „know-your-structure" principle, as stated in articles 34(2) and 31(1) of the 3rd AML Directive. At this time then, all financial institutions having branches and agencies in the territory of the EU non-member states shall make sure that this establishment uses the EU AML/CFT rules (home member state rule). And if it is impossible, additional measures have to be applied to effectively prevent money laundering and terrorism financing. This provision is even broader then the evaluators actually required, because it refers to branches located in all of the EU non-member states, and not only to branches located in countries which do not or insufficiently apply the FATF recommendations.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Sector specific regulation should be issued by the financial supervisors (including the PSEC which should be also empowered to do so).*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The Polish Financial Supervision Authority (PFSA) – was prescribed by the Act of 21 July 2006 on supervision of the financial market. It started its operation on 19 September 2006, acquiring powers of Pension Funds Supervisory Commission and of the Securities and Exchange Commission. As of the 1st January 2007 it also took over competences of the Commission of Banking Supervision and on 1st January 2008 the General Inspectorate of Banking Supervision. As a result the inspections of banking sector, capital sector and insurance sector to the extent of compliance

	with anti-money laundering and counter terrorism financing responsibilities is carried out by the single entity – PFSA. It should also be pointed out that the insurance supervision section of the Office of the Polish Financial Supervision Authority, which is responsible for the supervision of insurance companies activities and estate has intensified its inspections conducted in the insurance companies as regard the introduction into financial circulation of property values derived from illegal or undisclosed sources and on counteracting the financing of terrorism. On the base of art. 4 Financial Supervision Authority responsibilities shall comprise the following: 1) exercising supervision over the financial market (banking, pension, insurance, capital market, electronic money institutions, supplementary supervision governed by the provisions of the Act on Supplementary Supervision of Credit Institutions, Insurance Undertakings and Investment Firms in a Financial Conglomerate; 2) taking actions fostering proper operation of the financial market; 3) taking actions promoting development of the financial market and its competitiveness; 4) taking educational and informational actions related to the operation of the financial market; 5) participating in the preparation of drafts of legal acts related to financial market supervision; 6) creating opportunities for amicable and conciliatory dissolution of disputes between the participants of the financial market, including in particular disputes arising from contractual relationships between the entities subject to FSA's supervision and the customers buying their services; 7) performing other statutorily assigned tasks.
Measures taken to implement the recommendations since the adoption of the first progress report	The PFSA recognizes GIFI's guidebook as a lead interpretation of AML/CFT regulations for all Polish financial institutions. However, as it was mentioned above, the PFSA also holds an education programme. Each year at least one of the major seminars organised is being devoted solely to AML/CFT issues. In 2008 there were 89 participants, in 2009 (in two seminars) 126 and 97 participants, and in 2010 – 118 participants. The mentioned seminars are focused on presenting the PFSA's stance and guidance to the financial sector on AML/CFT issues, and conducting dialog on the most important issues. It appears to be more efficient to discuss certain issues as they arise. Of course the PFSA also gives guidance during the on-site inspections. Up to the end of July, 2010 the PFSA has conducted the following number of specific AML/CFT on-site inspections in the below mentioned types of financial institutions: In 2008: commercial banks – 11 on-sites, cooperative banks – 18. In 2009: commercial banks – 6, cooperative banks – 18, branches of foreign credit institutions – 7, insurance companies – 4, brokerage houses – 2, investment fund management company – 1. In 2010 (as of July 2010): commercial banks – 5, cooperative banks – 13, branches of foreign credit institutions – 8, insurance companies – 3, brokerage houses – 2, investment fund management company – 1. In comparison to the figures previously given to the evaluators, there is a major increase in AML/CFT on-site visits in capital market entities and in insurance market entities observed. Thanks to this, and thanks to the wide spectrum of institutions taking part each year in training seminars, each sector has its own specific guidance.
Recommendation of the MONEYVAL Report	*The engagement of the prudential supervisors in AML/CFT supervision should be enhanced.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	PFSA delivers anti-money laundering and terrorism financing training to its inspectors on regular basis. There had been some handbooks designed intended for internal use which comprise detailed rules of conduct for the inspectors which are useful during inspections. The Capital Supervision Section had developed a questionnaire which is applied by inspectors apart the form, and facilitates full range of counter money laundering and terrorism financing analysis; whereas inspectors are obliged to verify given answers via appropriate anti-money laundering and counter terrorism financing system analysis in operation in a controlled entity.
Measures taken to implement the recommendations since the adoption of the first progress report	PFSA has access to all relevant financial data which might be useful in prudential supervision. During intelligence work and cooperation with internal government institutions, the PFSA gathers all relevant information on its supervised entities. The risk based approach to create plans for on-site visits has been introduced allowing the PFSA to target those institutions which pose the highest risk to AML/CFT regime in Poland. Employees of the AML/CFT Unit are also engaged in a number of trainings (domestic and foreign ones) to enhance their knowledge. The participation in EU 3L3 AML Task Force also allowed for using widely the experience of other EU supervisors. The National Bank of Poland, which supervises the entities providing currency exchange operations, reported on the following statistics concerning inspection activities: In the year 2008 there were inspected 1093 entities providing currency exchange operations, in 2009 – 994 ones, in 2010 (first six months) – 891 ones. However, when one analyses the irregularities detected, there is positive trend observed, as far as it regards the quality of AML/CFT measures applied by the entities providing currency exchange operations. One may observe decreasing number of entities with irregularities detected (in percentage), respectively in 2008 – 208 entities with irregularities (which is 19%), in 2009 – 101 irregularities (which is 10%) and in the first six months of 2010 – 52 entities with irregularities (which is 6%).
Recommendation of the MONEYVAL Report	*A licensing or registering system should be introduced for MVT services as well as an effective system for monitoring and ensuring compliance with the AML/CFT requirements.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes
Measures taken to implement the recommendations since the adoption of the first progress report	The amended Act on counteracting money laundering and terrorist financing concerns also duties of financial institutions dealing *inter alia* with money remittance (i.e. entities which are not credit institutions and their main activities is money remittance services), which, according to this Act, are obliged institutions. However, there is a new act prepared, which will implement the Directive 2007/64/WE of the European Parliament and of the Council (PSD) into Polish national law. This implementation is in full compliance with the mentioned recommendation. In accordance with the draft of the Payment Services Act (act of national law implementing the PSD Directive) all institutions providing money and value transfer services, will be considered as obligated institutions in the light of AML Act. As a result these institutions will be expected to fulfill all of the requirements expressed in the AML Act. Therefore, it can be said that entry into force of the Payment Services Act would create an effective registering and monitoring system for money or value transfer services. The draft of the Payment Services Act includes also the regulations (Article 76 and

	others) concerning registration of entities providing payment services, including money remittance and supervision of them. Such register will be kept by the Polish Financial Supervision Authority. Besides, some prescriptions concern rules of AML and CFT including regulations as for mechanism of internal controls of compliance with duties in this domain. For detailed information about the process and deadline for the implementation of the Directive PSD into Polish national law please see Recommendation VI.
Recommendation of the MONEYVAL Report	*A licensing system as it is understood by the Basel Core Principles should be introduced for Cooperative Savings and Credit Unions.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Commonly binding Law on cooperatives regulates principles of establishing of cooperative (initiation and termination of its activity). National Association of Cooperative Savings and Credit Unions supervises existing credit unions. All credit unions since very beginning of their activity are obliged to comply with prudential standards and other supervisory regulations established by National Association.
Measures taken to implement the recommendations since the adoption of the first progress report	No changes
Recommendation of the MONEYVAL Report	*Financial supervisors should not only check formal compliance with the AML Act but also overall effectiveness of the AML/CFT systems in the financial institutions.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Inspectors place stronger emphasis on the knowledge and some methods implemented by controlled entities during on-the-spot checks. PFSA delivers continued training to its inspectors on counter money laundering and terrorism financing issues. They are obliged to check the way of counteracting money laundering and terrorism financing in the supervised entities.
Measures taken to implement the recommendations since the adoption of the first progress report	As it was mentioned before, in the late 2008 a special unit in the Enforcement Department of the PFSA was created in order to coordinate all AML/CFT related issues in the PFSA, and also to conduct on-site visits with other departments of the PFSA. In September 2009 the mentioned unit was given the entire responsibility to conduct on-site visits in all financial institutions. In result the process of unification of the PFSA's AML/CFT supervision over financial institutions has been finalized. During the work on synergy effect after the merger, an internal guidebook was created in order to unify the control system. At this moment the PFSA does not use any form of questionnaire during the on-site visit. The sole purpose of the on-site visit is to check fully, whether the AML/CFT regime in the financial institution is set out properly, whether it works and is effective. Compliance with all provisions of the Act is also verified thoroughly.
Recommendation of the MONEYVAL Report	*Inspections of the Insurance and Pension Funds Supervision Commission should cover CFT issues. The PSEC inspections of the AML/CFT area are purely formal and should be enhanced.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above
Measures taken to implement the recommendations since the adoption of the first progress report	The Polish Financial Supervision Authority, since 1st January 2008 is a sole financial regulator in Poland. The merger of three separate regulatory authorities finished when PFSA started to operate a unified approach towards supervision and on-site visits in all sectors of the financial market. In the late 2008 a Unit in the Enforcement Department was created in order to coordinate all AML/CFT related issues in the PFSA, and also to conduct on-site visits with other Departments of the

	PFSA. In September 2009 the mentioned unit was given the entire responsibility to conduct on-site visits in all financial institutions. In result the process of unification of the PFSA's AML/CFT supervision over financial institutions has been finalized. During the work on synergy effect after the merger an internal guidebook was created in order to unify the control system. At this moment the PFSA does not use any form of questionnaire during the on-site visit. The sole purpose of the on-site visit is to check fully, whether the AML/CFT regime in the financial institution is set out properly, whether it works and is effective. Compliance with all provisions of the Act is also verified thoroughly.
Recommendation of the MONEYVAL Report	*The evaluators recommend that the questionnaire of the PSEC should explicitly address CFT issues.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Form thereof has remained unchanged. However before handling it inspectors are to acquire some answers from controlled entity following some questions enclosed in a special survey. After verifying its reliability they are to provide the controlled entity with the form to fulfill it. That survey contains direct and appropriate references to CTF.
Measures taken to implement the recommendations since the adoption of the first progress report	At this moment the PFSA does not use any form of questionnaire during the on-site visit. The sole purpose of the on-site visit is to check fully whether the AML/CFT regime in the financial institution is set out properly, whether it functions and is effective. Compliance with all provisions of the Act is also verified thoroughly. CFT issues are not neglected and are a part of interest during every on-site visit. Due to the Polish military presence (present and past) in some of the world's conflict zones, the problem of terrorism, and financing it from or to the territory of Poland is treated as one of the top priorities.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 24 (DNFBP – Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More controls, and concurrently more resources would be needed to ensure compliance of DNFBP with AML/CFT requirements.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	**Inspections carried out by GIFI** GIFI inspectors conducted 47 controls. It was an increase by 27% (37 controls) in comparison to 2006. Following the analysis of control results from the last three years, in 2007 the focus was shifted to the execution of 3 basic control directions: – activation of operations of obligated institutions – 44.1% of control (units that are not active with regard to transmitting information on transactions or whose activity is minimal), – intensification of operations of obligated institutions – 38.2% of control (units whose activity with regard to transmitting information on transactions is low), – maintenance/ improvement of the quality of operations of obligated institutions – 17.7% of control (units whose activity is at a good or even high level with regard to transmitting information on transactions).

	Particular units were selected for the control taking into account the abovementioned directions and analytical and control GIFI information, control information of supervision authorities and publications in media. Out of all conducted controls, 33 were planned and 14 were conducted on immediate basis. They were conducted in the following categories of obligated institutions: – banks – 9, – brokerage houses – 8, – investment fund societies and funds managed by them – 6, – insurance companies – 2, – legal advisers – 9, – notaries public – 2, – solicitors – 2, – tax advisers – 2, – real estate agencies – 5, – entrepreneurs whose business activity consists in granting secured loans (pawns) – 2. The most important irregularities revealed included the following: - formal irregularities: the failure by the obligated institutions to prepare for the fulfillment of statutory obligations due to the failure to set or to adjust the internal procedure to the provisions of the *Act* and/ or the lack of a person responsible for the fulfillment of obligations imposed by the *Act* (revealed in 78.7% of the controlled institutions); - functional irregularities: insufficient implementation of the provisions of the *Act*, mainly in respect of the obligation to register the transactions, to identify entities participating in the transaction, to identify transactions and notify about them and to keep the register of transactions along with the documents relating to the registered transactions, as well as irregularities in keeping the registers of transactions and transmitting information from these registers to GIFI (revealed in all controlled institutions). The findings of the controls carried out by GIFI controllers were submitted to the supervising authorities for further processing. 28 written notifications about the results of controls were also submitted. **Inspections carried out by supervising authorities** GIFI received the information on the inspections conducted by: – National Bank of Poland – 1089 controls in bureaux de change, – General Inspector for Banking Supervision – 32 controls at the banks, – National Co-operative Savings and Credit Union – 25 controls in Co-operative Savings and Credit Unions, – Polish Financial Supervision Authority – 3 controls in brokerage houses and investment fund society, – Heads of Courts of Appeal – 44 controls in offices of notaries public. The results of the controls confirmed the existence of irregularities similar to those discovered by the GIFI inspectors. In comparison with the previous years however, the knowledge of statutory obligations of obligated institutions' employees has improved. Following the thorough analysis of the control results, a justified suspicion of committing the crime grew, thus 5 notifications were submitted to the public prosecutor's office. The proceedings were initiated in one of the cases, in another one the public prosecutor's offices refused to initiate proceedings and in the

	remaining three cases the proceedings were discontinued.
Measures taken to implement the recommendations since the adoption of the first progress report	Checks carried out by the GIFI. In 2009, GIFI's inspectors conducted 47 inspections. In comparison to 2008, there has been increased not only the number of inspections, but also the diversity of obligated institutions – an entity from the gambling sector was also controlled. The selection of subjects to be controlled embraces the analytical and control data from GIFI's database, as well as information from financial supervision (PFSA) and media releases. The controls included the following types of obligated institutions: Controls in 2009 embraced the following categories of obliged institutions: • banks – 10, • brokerage house – 1, • investment fund management companies and funds they manage - 1, • insurance companies – 2, • legal advisers – 7, • notaries - 7, • attorneys – 2, • tax advisers – 5, • entrepreneurs engaged in real estate brokerage – 2, • auditors – 1, • cooperative banks – 3, • cooperative savings and credit unions – 1, • foundation – 3, • entrepreneurs engaged in leasing activity – 1, • entity engaged in games of chance and mutual betting – 1. The most significant disclosed irregularities were similar to irregularities identified in previous years. They were as follows: · formal: lack of preparation of obliged institutions to implementation of statutory obligations through failure to determine internal procedure or failure to adjust it to the provisions of the Act, lack of provisions of internal procedure indicating implementation of obligations in respect of counteracting of terrorist financing, lack of provisions indicating the need to carry out analysis in order to detect suspicious transactions; improper distinguishing of two modes of proceedings with suspicious transactions determined in Article 8(3) and Article 16 and following of the Act, in the internal procedure; · substantial: low level of Act provisions application, mainly in the field of implementation of the obligation of transaction registration, identification of entities participating in transactions and designating transactions and reporting them, and irregularities in transactions records and providing information from these records to the GIFI. Findings from controls carried out by GIFI controllers were provided to supervisory institutions for subsequent use. After detailed analysis of control results, the justified suspicion of a crime was made, and subsequently 7 reports were submitted to the Public Prosecutor's Office. In 2008 and 2009 the customs offices carried out controls in the casinos in the form of permanent supervision (one of the tasks assigned to the Customs is particular tax surveillance). The controls were connected with the correctness of opening and closing of 'playing tables' and calculation of the results of games on the tables and in the gambling machines. At the beginning of 2010 the amended Act on Customs Service entered into force and since then the customs offices have been performing controls at random rule. They check whether casinos do not violate regulations of the Act on gambling games and the conditions defined in the license (permission) on the basis of which they act. These questions also include the ones which regard anti-money laundering.

	Also there were 21 controls of notaries public in 2008 and 35 controls in 2009 carried out by presidents of courts of appeal.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 27 (Law enforcement authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More emphasis should be placed on Police generated money laundering cases by proactive financial investigation in major proceeds-generating cases.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Money laundering is criminalized under article 299 of the PC, which points necessity for identification of source criminal activity and mechanism used in order to legalize benefits of the crime. Different topic constitute recognition of the conspiracy to commit money laundering as a criminal offence aimed to conceal origin of funds or prevent them from being seized. In light of above the main goal for investigation proceeds is: ● to gather evidence concerning source crime ● to prove connection between illegally gained financial means and individually pointed transaction/group of transactions clearly covered as predicate offences to money laundering. Other important goal is to find out information about material status of perpetrator (suspect during investigation) and additionally connections between illicit proceed and property. In that field an increase in securing/seizure and confiscation of financial means was recorded (see the statistics concerning 2007 below). On the base of internal regulations nr 1426 of Commander-in-Chief from 23rd December 2004) in certain cases such as considerable detriment of National Treasury, interesting modus operandi of organized criminal group, Commander-in-chief of the Polish Police or Regional Police Commanders are in charge to appoint special investigation groups.
Measures taken to implement the recommendations since the adoption of the first progress report	There are no special procedures or legal framework for financial investigations either within the framework of the penal procedure or during the information-gathering phase. The investigations of financial aspects of criminal behaviour, including money laundering, are carried out under the general rules applicable to all investigations. Nevertheless one of the main objectives of the penal proceedings is to establish assets that the suspect possesses, his financial situation, detriment that has been caused and to recover this property. The financial investigation, despite of not being a special procedure, is a very important part of every investigation related to money laundering.
Recommendation of the MONEYVAL Report	*More use should be made of joint teams and co-operative investigations with the GIFI.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The Police for the sake of investigations supervised by Prosecutor Office is using rights described in legal provisions regarding money laundering and terrorism financing regulations and regulations of Code of Penal Conduct from 06 of June 1997. The Police and the Treasury Control Coordination Team was established in January

	2008 to dismantle an organized crime group dealing with extortion of VAT via fictitious trade in cellular phones. The Team comprises representatives of the Police, Offices of the Treasury Control, Department of Departmental Control in the Ministry of Finance and the General Inspector of Financial Information. Its main tasks cover dismantling of the organized group, scrutinized analysis of the criminal method, provide documentary evidence for the prosecution, developing means and methods to counter criminal activities. Also works the Working Group on the Cooperation with Appellate Prosecutor's Office in Krakow in a view of Combating Crime in the Trade of Fuel – consisting the same kind of institutions. Apart from the big joint group needs we also point out that analysts of the FIUs support the prosecutors and investigators from he Police and other law enforcement agencies with their experiences and specialist knowledge both within the trainings provided by the FIU and contacts in connection with conducted proceedings aimed to recognizing and proving money laundering (especially in the terms of realization of the AML/CTF law. Arranging the joint co-operative investigations have proved to be successful. In 2008 the joint cooperation of GIFI, the police and the prosecutor in the case of criminal group smuggling cigarettes resulted in blocking 48 bank and investment accounts amounted to over M1,3 PLN. 26 persons were retained by the police and the total of secured property amounted to app. M11 PLN. The success in the case was the merit of tight cooperation of GIFI, the police and the prosecutor's office. In the case GIFI obtained a report from the Central Bureau of Investigation. They notified about the criminal group smuggling cigarettes, sent data on entities involved in the criminal activity and informed that the group is supported by the bribed bank employee. Given that information GIFI didn't launch the standard procedure of inquiring bank, which held the accounts of criminal group members and FIU explored solely its own databases to search for information on the accounts and transactions. After coordinated investigation with information flow GIFI blocked all the accounts found in its database and in the same day the police arrested key members of the criminal group.
Measures taken to implement the recommendations since the adoption of the first progress report	In practise, the Police regularly exchange information with the GIFI. The units responsible for co-operation within the Police are: Economic Crime Department in Central Bureau of Investigations in the National Police Headquarters, Acts of Terror Department in Central Bureau of Investigations in the National Police Headquarters, Asset Recovery Department in Crime Bureau in the National Police Headquarters and Economic Crime Department in Crime Bureau in the National Police Headquarters. This cooperation is carried out on the basis of the Article 14 and 33 of the Act and on the basis of the Agreement on cooperation between Ministry of Interior and Administration and the GIFI. During the last amendment of the Act on counteracting money laundering and terrorist financing the Article 14 was improved and its scope was broadened. According to this prescription prosecutors, the Internal Security Agency, the Central Anticorruption Bureau and the units subordinated to the minister competent for internal affairs (*inter alia* the Police) immediately inform the GIFI on all their cases related to suspicion of money laundering and terrorist financing. The information indicate, in particular, the circumstances relating to the commitment of the crime and to the persons participating in it. The GIFI immediately notifies the authority – which has sent the information – on the connection between its information and gathered information on STRs and SARs. This article, as well as the Article 33, are the basis of practical, good cooperation between the GIIF and other law enforcement agencies. They gives opportunity for coordination of their activities in the field of AML and CTF as well as for joint actions. Results of such actions are

	often arrests of suspicious persons made simultaneously with blockades of their accounts by the GIFI. In the period from the beginning of 2008 to August 2010, the Polish FIU initiated 31 analytical cases which were conducted in strict cooperation with the Police. These cases concern inter alia laundering money stemming from drug trade, thefts, frauds, fiscal crimes. Their results are following: – 11 notifications on suspicious transactions to the Police, – 11 reports on suspicion of money laundering to the public prosecutors, – blockades of 113 accounts belonging to suspicious persons.
Recommendation of the MONEYVAL Report	*A specialised money laundering Unit with dedicated officers and financial investigators trained in modern financial investigative techniques should be considered to improve the performance of the Police in generating money laundering cases outside of the reporting regime.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Investigations concerning economic crimes including money laundering cases are run by specialist Departments inside of Police forces – Special Units for fighting against economic crime in district and regional police Stations and among others – Economic Departments in Central Bureau of Investigations under supervision of National Prosecutor Office or District Prosecutor Office. Police officers serving in those specialized units have legal or economic background and are regularly trained in the field focused on counterfeiting economic crime and money laundering proceeds.
Measures taken to implement the recommendations since the adoption of the first progress report	There is not any specialised unit within structure of Polish Police devoted to dealing with money laundering. Investigations on the basis of STR obtained from the GIFI are conducted by Economic Crime Departments of the Central Bureau in Investigations (CBI) or by other police units – it depends on the decision made by a prosecutor who receives a notification of the suspicion of committing a crime from the GIFI. Furthermore, other investigations, related to money laundering indirectly and commenced on the basis of information concerning other various offences (predicate offences) are conducted by respective departments of the CBI or other police units. However, reorganization of the process of investigations involving financial data has been started – in district and appeal Public Prosecutor's Offices (supervising also police investigations) criminal/financial analysts have been employed and equipped with IT-tools supporting analysis (link analysis software). Representatives of the GIFI participated as trainers in the training addressed to the mentioned above analysts in the end of 2009. Also coordination of types and formats of financial data attached to the GIFI notifications has been initiated in order to enhance effectiveness of the cooperation and support investigations.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 31 (National co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is recommended to have more coordination of the main AML/CFT players to ensure a consistent approach. The work of the intergovernmental Working Group should be continued and additionally be raised to a more senior strategic level to include other key stakeholders.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	There have been established a few groups aimed at coordinating efforts concentrating on AML/CFT issues on national level. In the area of CFT there are three main initiatives: 1)**Interministerial Group for Terrorist Threats** (of which GIFI is a member), co-ordinating actions with regard to counteracting terrorism. At the same time, GIFI representative participates in work of the Permanent Expert Group established at the Interministerial Group for Terrorist Threats in order to monitor terrorist threats, assess their level and nature and to present proposals with regard to legal regulations and development of proper procedures. 2) **Common Polish-American Group to Fight Terrorism** established in February, 2008. The main areas discussed by the Group are: security of national borders, financing of terrorism and organized crime, cyber-terrorism, cyber-crime, cooperation of Polish and American army; diplomatic efforts supporting CTF measures, crisis management following terrorist attack, coordinating CTF measures on national level, physical security of national critical infrastructure. One of the aims of the Group is preparatory actions to create the basis for exchange of information on known terrorists or persons suspected of terrorism. At present the memorandum in this respect is being negotiated. 3)**Interministerial Task Force on Antiterrorist Center (CAT).** Round the clock, CAT will coordinate and cooperate with the institutions responsible for combating terrorism as well as financing of terrorism. CAT will be functioning within the Internal Security Agency, and it will consist of the employees of the institutions responsible for the fight with terrorism. The purpose of CAT is to support crisis management in situations of terrorist attack, as well as to verify available information on possible threats and working out reaction procedures suitable in cases of terrorist attack emergency situations. CAT is going to cooperate with its foreign counterparts. Additionally the cooperation among the institutions responsible for AML/CFT measures are involved in the following foras: **4) Horizontal Group for International Sanctions** [properly: Interdepartmental Commission on International Sanctions] 5) The Police and the Treasury Control Coordination Team was established in January 2008 to dismantle an organized crime group dealing with extortion of VAT – see above 6) Working Group on Combating Crime in the Trade of Fuel 7) Working Group on Omnibus Accounts, established at the Board for Financial Market Development
Measures taken to implement the recommendations since the adoption of the first progress report	Polish authorities coordinate the actions taken in the scope of counteracting ML and TF. They have created and support the activity of all institutions involved with the fight with money launderers and terrorism via the following interdepartmental groups: **1) The Interdepartmental Team for Terrorist Threats** established under *the Ordinance No. 162 of the Prime Minister of 25 October 2006*, a member of this team is the General Inspector of Financial Information. The Team is a main part of strategic level of Polish counter-terrorism system To basic tasks of Inter-Departmental Team belong: monitoring, analyzing and evaluating of the terrorist threats as well as presenting the opinions and conclusions to the Council of Ministers, working out the projects, standards and procedures in the scope of counteracting terrorism, in particular the standards of evaluating the risk and its level. Members of Inter-Departmental Team are able to initiating, coordinating and monitoring of actions undertaken by the competent organs of state administration, in particular in the area of utilizing information as well as

	recognizing, counteracting and combating terrorism. **2) The Standing Group Expert (SGE) by the Interdepartmental Team for Terrorist Threats**, which is substantive support for the Interdepartmental Team for Terrorist Threats. The SGE comprises of experts from competent services and institutions (including also GIFI) who appropriately represent members of the above mentioned Team. The main tasks of SGE is monitoring, analyzing and assessing the terrorist threats, and monitoring activities undertaken by the competent governmental authorities in the scope of making use of information on terrorist threats. In addition, SGE assesses preparation of Polish public administration to identify, prevent and combat terrorism, as well as to work out proposals how to improve the readiness of the public administration to prevent and combat terrorism. As a result of the initiative of the Group there was *www.antyterroryzm.gov.pl* website prepared, where one may find materials resulting from discussions of the group members. The Standing Group Expert (SGE) by the Interdepartmental Team for Terrorist Threats was established by the *Decision No. 2 of the President of Interdepartmental Team for Terrorist Threats of 8 December, 2006.* Referring to tasks realized in the scope of interdepartmental co-operation on counteracting and combating terrorist threats issues, one shall underline the fact that at present the evaluation of terrorist threats and preparing recommendations in this scope to the Interdepartmental Team for Terrorist Threats has become the objective of Counter-Terrorist Centre within Internal Security Agency (instead of the SGE). This task has been repealed by the *Decision No. 7 of President of the Interdepartmental Team for Terrorist Threats of 15 January, 2009*. CTC is functioning round the clock seven days a week, among others, within coordinating the exchange of information among services and subjects participating in Polish system for recognizing, counteracting and combating terrorist threats. 3) To ensure a consistent approach in coordinating the main counter-terrorist players the Polish authorities founded the **Counter-Terrorist Centre (CAT)** in the Internal Security Agency. CAT supports and coordinates the information flow and carries out analytical work for the sake of counter-terrorist prevention at the operational level. The main role of the Counter-Terrorist Centre is to coordinate, within the analytical and informative scope, the actions taken by services and institutions partaking in the protection of the country against terrorist threats. The Centre performs its duties by: 1. Supporting the decision-making process in the face of a real danger of a terrorist attack; 2. Coordinating operational activities in the scope of fighting terrorism; 3. Fulfilling the analytical and intelligence tasks; 4. Taking part in creation and development of crisis response procedures in case of an attack and preparing algorithms for actions prior to the attack; 5. Monitoring radical media; 6. Post attack support for Polish counter-terrorist services and institutions; 7. International cooperation. The CAT operates on a 24/7 basis. Apart from Internal Security Agency staff, it gathers officers, soldiers and employees from the Police, Border Guard, Government Protection Bureau, Foreign Intelligence Agency, Military Intelligence Agency, Military Counterintelligence Agency and Customs Service. The officers carry out tasks within the competence of the institution they represent. Moreover, the CAT actively cooperates with other bodies of the Polish counter-terrorist system, such as: General Inspector of Financial

	Information, the Government Centre for Security, Ministry of Foreign Affairs, State Fire Service, General Staff of Polish Armed Forces, Military Police and others. The essence of the functioning of the CAT ABW is to coordinate the exchange of information between participants in anti-terrorism security system, enabling the implementation of common procedures to respond in the event of one of four defined categories of risk: • a terrorist incident occurring outside Polish borders that got influence for the Polish security and Polish citizens; • a terrorist incident occurring on Polish territory that got influence for the Polish security and Polish citizens; • obtain information about potential threats that may arise in Poland and abroad; • obtain information relating about money laundering or transfers of the financial resources that could provide the financing of terrorist activities. **3) The Common Polish-American Group to Fight Terrorism** established in February, 2008. The main areas discussed by the Group are: security of national borders, financing of terrorism and organized crime, cyber-terrorism, cyber-crime, cooperation of Polish and American army; diplomatic efforts supporting CTF measures, crisis management following terrorist attack, coordinating CTF measures on national level, physical security of national critical infrastructure. One of the aims of the Group is preparatory actions to create the basis for exchange of information on known terrorists or persons suspected of terrorism. At present two agreements being negotiated on ministerial level, one on general cooperation in combating organized crime matters and specific agreement on fighting terrorism. **4) The Interdepartmental Team for the prevention of illegal proliferation of weapons of mass destruction and the implementation of "Cracow Initiative" - Proliferation Security Initiative (PSI)**, was established by *Ordinance No 36, Prime Minister of 3 April, 2008.* The Team comprises of: President – Secretary of State in the Ministry of Foreign Affairs, competent for the functioning of the Team; members - experts appointed by the Head of the Chancellery of the Prime Minister, Minister of Economy, Minister for Infrastructure, Minister of National Defense, Minister of Justice, Ministry of Interior and Administration, Head of the Internal Security Agency, Head of the Intelligence Agency, General Inspector of Financial Information, the President of the National Atomic Energy Agency, the Chief of Police, Border Guard Commander in Chief, Head of the Customs Service, the secretary – a person appointed by the President. The main tasks of the Team include: elaboration of proposals concerning the positions of the main problems concerning the prevention of illicit proliferation of weapons of the mass destruction, their means of delivery, materials and technology for the production of dual-use and dissemination of knowledge (in particular in nuclear physics), useful in scientific research on production of weapons of the mass destruction, their means of delivery, materials and technologies for its production and dual-use goods, analyzing of legal acts, and submitting to the Council of Ministers the objectives of proposals for legislative action to increase the national capacity to combat the illicit proliferation of weapons of mass destruction, their means of delivery, materials and technology to its production and dual-use goods. **5) Inter-Ministerial Committee of Financial Security**, appointed by GIFI under **Article 20d paragraph 5 of the Act**. This committee is acting under the auspices of the General Inspector as a consultative and advisory body within the scope of application of specific restrictive measures against persons, groups and entities. The committee comprises representatives of the ministers that are responsible for:

	financial institutions, public finance, foreign affairs, justice, national defense, internal affaires, economy, as well as the representatives of the President of the Polish Financial Supervision Authority, President of the National Bank of Poland, Head of the Internal Security Agency, Head of the Central Anti-corruption Bureau. The objective of the Committee shall be, in particular, to present proposals on the inclusion or removal of persons, groups or entities from the list of persons, groups or entities being subject to freezing of asset values. The minister competent for financial institutions – in consultation with the minister competent for foreign affairs – may indicate, by regulation, persons, groups or entities which are subject to such freezing, taking into account the necessity to comply with the obligations under international agreements or resolutions of international organizations binding the Republic of Poland, and bearing in mind the necessity of combating terrorism and counteracting terrorism financing. 6) **The Interdepartmental Team for a Cooperation within the Working Party on Terrorism** in the context of the Polish presidency of the EU Council, and a mechanism for working out the positions. This is an informal group comprising of the representatives of the Internal Security Agency, Ministry of Internal Affairs and Administration, Ministry of Economy, Ministry of Foreign Affairs, General Inspector of Financial Information, General Police Headquarters, Government Center for Security and Ministry of Justice, established to support Polish representative on the suitable merits in works of the group Working Party on Terrorism. 7) Representatives of the General Inspector of Financial Information **are involved in support** for the implementation of objectives of the **Plenipotentiary of the Minister of Finance for national asset recovery office.** GIFI representatives participated in the preparation of the agreement on inter-ministerial co-operation on fulfilling the tasks of detection and identification of illegally obtained proceeds. The agreement between the Minister of Internal Affairs and Administration, Minister of Finance and Minister of Justice concerning cooperation in the detection and identification of proceeds of crime or other property-related crime *on the tasks of the National Asset Recovery Office* was finally concluded on 15 September, 2009. In addition, the representative of GIFI participated in the works of Training and Electronic System for Asset Recovery (ESAR) Team. It should be noted that the main task of the team planned for 2009 was to support the implementation in appropriate units of the Ministry of Internal Affairs and Administration, Ministry of Justice and the Ministry of Finance the ESAR program for its activation, upgrade, use and evaluation. In addition, GIFI has been working hard to date with the General Police Headquarters, Asset Recovery Office in the scope of exchange of information and as far as it regards training for police officers, seizing the assets being criminal proceeds. 8) **Interdepartmental Commission on International Sanctions** is a coordination body set up by Prime Minister Ordinance No. 117 of 14 November 2003 on setting up Interdepartmental Commission on International Sanctions. It is chaired by the Minister of Foreign Affairs and coordinates imposing and implementing international sanctions issues, since in Poland there is no any general statute law governing implementation of international sanction issues. Implementation of international sanctions is carried on under sector-specific legal acts (like Law of 29 November 2000 on foreign trade in goods, technologies and services of strategic importance for national security and the maintenance of international peace and security), and they form a basis for action taken by competent ministers and authorities. The GIFI's representative takes part in work of that Commission.
(other) changes since the first progress report (e.g. draft laws,	

draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 32 (Statistics)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*More detailed statistics should be kept concerning the nature of money laundering investigations, prosecutions and convictions and sentences.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The Polish FIU is going to improve the data base inter alia in the field o statistics. In new IT project what will be realized in the next year the forms of cases' registrations and modifications will be widened by addition of new fields concerning date of change of case classification what should enable to generate easily detailed statistics on processing time of each case. On the basis of Ordinance of 27 July 2007 issued by The Minister of Justice and orders issued by The Head of Organized Crime Bureau at The National Prosecutor's Office on 28 September 2007, Appellate Prosecutors and Heads of Local Departments of Organized Crime Bureau, are obliged to submit precise and complex information on money laundering investigations conducted by the subordinated prosecutors. These pieces of information are processed by the Central Unit of Organized Crime Bureau at The National Prosecutor's Office, which elaborate reports comprising statistical data relevant to assessment of effectiveness of the Polish law enforcement with regard to combating money laundering. Aforementioned statistical data includes *inter alia*: number of the on-going and completed investigations, number and origin of notification of money laundering offence, number of suspects, type of charges brought to the suspects, type of predicate offences, value and type of assets seized in the course of each investigation, number of indictments, number of convictions in ML cases, number of convicts and also number of requests for mutual legal assistance and other forms of requests forwarded to Polish and foreign judicial authorities in ML cases.
Measures taken to implement the recommendations since the adoption of the first progress report	Concerning keeping the statistics on ML/FT investigations, prosecutions and convictions, by virtue of the Ordinance of Deputy Prosecutor General of 10 June 2010, all the powers previously exercised by the Organized Crime Bureau of The National Prosecutor's Office has been handed over to the Department for Organized Crime and Corruption at the Prosecutor General's Office. The scope of information collected remains the same.
Recommendation of the MONEYVAL Report	*More statistics on provisional measures and confiscation is needed.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	On the basis of aforementioned ordinance and orders, statistical data concerning value and type of assets seized in the course of investigations and finally confiscated by virtue of court's sentences, is also collected.
Measures taken to implement the recommendations since the adoption of the first progress report	Statistical data concerning provisional measures and confiscation (e.g. value and type of assets seized and confiscated, number of decisions and sentences on seizure and confiscation) is collected by the Department for Organized Crime and Corruption at the Prosecutor General's Office.
Recommendation of the MONEYVAL Report	*More statistics (e.g. processing times) should be kept to demonstrate the effectiveness of the FIU internally.*

Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As it was explained to the assessors during evaluation an analyse of a case could last from 24 hours (usually in connection with possibilities of money freezing) to even two years (e.g. if analysing the first STR in the case hasn't confirmed relation with ML which was justified on the grounds of information from the next one) – average is 8-9 months.
Measures taken to implement the recommendations since the adoption of the first progress report	See above.
Recommendation of the MONEYVAL Report	*More detailed statistics should be kept to demonstrate the effectiveness of the law enforcement regime overall. Statistics need enhancing to ensure that those reviewing the system have a clearer picture of the types of money laundering cases that are being brought, whether they are prosecuted as autonomously or as self laundering, seize and number of confiscation orders and whether freezing occurs at early stages to prevent proceeds being dissipated.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Reports elaborated at The Organized Crime Bureau of The National Prosecutor's Office also encompass the types of money laundering cases, number of cases where seizure of assets has been applied and the value thereof . Polish National Hq for statistical reasons is collecting data concerning money laundering in Police National Information System. The figures are as follows: ▪ in 2005 – commencement of 150 proceedings; completion of 76 proceedings, 32 with act of prosecution, all together 162 suspects charged with money laundering; detriment - 991.687.979,00 PLN; recaptured property - 1.725.767,00 PLN, ▪ in 2006 – commencement of 200 proceedings; completion of 113 proceedings, 31 with act of prosecution, all together 173 suspects charged with money laundering (art. 299 of Penal Code; detriment - 1.024.146.225,00 PLN; recaptured property - 306.300,00 PLN, ▪ in 2007 – commencement of 217 proceedings; completion of 143 proceedings, 57 with act of prosecution, all together 217 suspects charged with money laundering (art. 299 of Penal Code; detriment - 923.337.942,00 PLN, recaptured property - 2.394.970,00 PLN. Above analysis are in accordance with common ground of Criminal Bureau of National Police Hq and Central Bureau of Investigation.
Measures taken to implement the recommendations since the adoption of the first progress report	Statistical data concerning provisional measures and confiscation (e.g. value and type of assets seized and confiscated, number of decisions and sentences on seizure and confiscation) is collected by the Department for Organized Crime and Corruption at the Prosecutor General's Office.
Recommendation of the MONEYVAL Report	*More statistical data (e.g. nature of mutual assistance requests; the time required to handle them; type of predicate offences related to requests) is needed to show the effectiveness of the system.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Aforementioned reports provide only for the number and the type of requests for international cooperation in ML cases, however on the basis of information submitted by the Appellate Prosecutors, it's possible to establish without undue delay, predicate offences linked with each request as well as the time of executing thereof.
Measures taken to implement the recommendations since the adoption of the first progress report	Concerning keeping the statistics on MLA requests, no changes occurred with regard to collection and processing the data. By virtue of the Ordinance of Deputy Prosecutor General of 10 June 2010, the data is collected and processed by the Department for Organized Crime and Corruption at the Prosecutor General's Office.

Recommendation of the MONEYVAL Report	*Poland should maintain statistics regarding extradition requests for money laundering or financing of terrorism including the time required to handle them.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Reports elaborated at The Organized Crime Bureau encompass only requests for extradition directed by the Polish law enforcement authorities. During the last two years, such requests were not issued in the ML/FT cases.
Measures taken to implement the recommendations since the adoption of the first progress report	Concerning keeping the statistics on extradition, no changes occurred with regard to collection and processing the data. By virtue of the Ordinance of Deputy Prosecutor General of 10 June 2010, the data is collected and processed by the Department for Organized Crime and Corruption at the Prosecutor General's Office.
Recommendation of the MONEYVAL Report	*The National Prosecutor's Office and other relevant authorities should consider to maintain statistical data of the mutual legal assistance requests referring to money laundering cases, or securing / seizure of property on request of foreign countries and on request of Polish authorities.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Statistical data concerning mutual legal assistance requests referring to money laundering cases, or securing / seizure of property on request of foreign countries and on request of Polish authorities, is maintained at The Organized Crime Bureau of The National Prosecutor's Office. During the last two years requests for securing / seizure of property were not issued.
Measures taken to implement the recommendations since the adoption of the first progress report	Concerning keeping the statistics referring to MLA in money laundering cases, securing/seizure of property of foreign countries - no changes occurred with regard to collection and processing the data. By virtue of the Ordinance of Deputy Prosecutor General of 10 June 2010, the data is collected and processed by the Department for Organized Crime and Corruption at the Prosecutor General's Office.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is recommended that Poland reviews its commercial, corporate and other laws with a view to taking measures to provide adequate transparency with respect to beneficial ownership.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In recent years legal regulations have been implemented which may support the fight with money laundering and financing of terrorism (Law of 29 November, 2000 on foreign exchange of goods, technologies and services strategic for national security and maintaining international peace). One of these regulations, which lies in competence of Ministry of Economy, creates internal system of control of legal persons which are responsible for trade and exchange of technological and strategic recourses. The main functions of the system are: 1. Providing invaluable information about trade agreements made by legal persons with foreign countries concerning technology and strategic recourses. 2. Monitoring foreign trade partners, delivery routes, sort of transportation

	and the form of financial settlement and payment on delivery. The system is instrumental for national security and protects legal persons from taking illegal actions which may not stand in conformity with Polish and international law. Although, it was not directly intended to counteract money laundering process, it became effective tool of monitoring legal persons with respect to beneficial ownership.
Measures taken to implement the recommendations since the adoption of the first progress report	Beneficial owner is defined in Article 2 of the AML/CFT Act as: a) a natural person or natural persons who are owners of a legal entity or exercise control over a client or have an impact on a natural person on whose behalf a transaction or activity is being conducted, b) a natural person or natural persons who are stakeholders or shareholders or have the voting right at shareholders meetings at the level of above 25% within such a legal entity, therein by means of block of registered shares, with the exception of companies whose securities are traded within the organized trading, and are subject to or apply the provisions of the European Union laws on disclosure of information, and any entities providing financial services in the territory of a EU-Member State or an equivalent state in the case of legal entities, c) a natural person or natural persons who exercises control over at least 25% of the asset values - in the case of entities entrusted with the administration of asset values and the distribution of, with the exception of the entities carrying out activities referred to in Article 69 item 2 point 4 of the Act of 29 July 2005 on trading in financial instruments. In accordance with Article 8b of the AML/CFT Act any obligated institution shall apply financial security measures for its clients and financial security measures consist of making attempts, with due diligence, in order to identify a beneficial owner and apply verification measures to identify the identity of, dependent on appropriate risk assessment, in order to provide the obligated institution with data required on the actual identity of a beneficial owner, including the determination of the ownership structure and dependence of the client. With regard to Law of 29 November, 2000 on foreign exchange of goods, technologies and services strategic for national security and maintaining international peace some legislative works on amending that law are in progress. Project provides for maintenance of existing mechanisms supporting the fight with money laundering and financing of terrorism.
Recommendation of the MONEYVAL Report	*There are no real measures in place to guard against abuse in the context of R. 33 of bearer shares. Measures should be put in place to address this issue.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	Legislative works aimed at amending Polish civil code and the code of commercial companies are being carried out, however issues of bearer shares abuse has not yet been covered by the scope of the works.
Measures taken to implement the recommendations since the adoption of the first progress report	The Civil Code and the Commercial Companies Code have not been amended since 2008 .
(other) changes since the first progress report (e.g. draft laws, draft regulations or	

draft "other enforceable means" and other relevant initiatives)	

Recommendation 35 (Conventions) and Special Recommendation I (Ratification and Implementation of UN instruments)	
Rating: Partially compliant (R.35 and SR I)	
Recommendation of the MONEYVAL Report	*Poland should (effectively) implement all the provisions of the relevant international conventions it has ratified; inter alia it should introduce a full terrorist financing offence and supplement the European Union mechanisms for freezing under the UNSC Resolutions by domestic procedures for European internals*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As far as penal provisions are concerned, draft amendment to the penal code, introducing an offence of terrorist financing, has been prepared. So far, provisions of the penal procedure code regarding means of assets seizure have not been amended.
(Other) changes since the last evaluation	Since last evaluation Poland has ratified the following relevant international conventions: - *Council of Europe Convention on the Prevention of Terrorism* (ratified 03-03-2008) - *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (ratified 30-05-2007)
Measures taken to implement the recommendations since the adoption of the first progress report	As far as penal provisions are concerned amendment to the penal code, introducing an offence of terrorist financing, had been implemented (art. 165a). Since last evaluation no relevant international conventions has been ratified by Poland. The European Union legislature imposing specific restrictive measures directed against certain persons, groups or entities are applied directly by obliged institutions under Article 20d of the AML/CFT Act. Execution of the obligations under international agreements or resolutions of international organizations binding the Republic of Poland, is safeguarded also by the minister competent for financial institutions who may indicate, in consultation with the minister competent for foreign affairs, by regulation, persons, groups or entities which are subject to freezing, not only envisaged by the EU law or the binding resolutions of international organizations. Then the obligation of implementing those sanctions lies at the side of obliged institutions. Also procedures for unlisting and appellation procedures are established.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation III (Freezing of funds used for terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*A clear legal mechanism to act in relation to European Union internals should be introduced.*
Measures reported	Seizure and confiscation of assets belonging to terrorists, on the basis of penal

as of 7 July 2008 to implement the Recommendation of the Report	procedure, will be admissible after the offence of terrorism financing is introduced into Polish penal code. Poland is in the course of preparation relevant changes to internal legislation with aim to address the issue of freezing of assets of UE internals and questions of de-listing and unfreezing . Amended AML Law provides for the whole Chapter on combating financing of terrorism, as follows: "Chapter 5a Combating Terrorism Financing Article 20d. 1. The obligated institution shall freeze property values of persons and entities listed in the European Union legislation whereby special limiting measures are introduced against certain persons or entities to combat terrorism financing and in the regulation, referred to in paragraph 3, and shall provide the General Inspector with all the data held and providing rationale for freezing of property values, also electronically. 2. Upon fulfilling the requirements referred to in paragraph 1 above, the obligated institution shall not be responsible for the freezing-based damages. 3. To ensure efficient terrorism combating and considering the duty set forth in paragraph 1 above, the Council of Ministers may establish, by way of regulation, the list of persons and entities linked with terrorists, terrorist organisations and persons financing terrorism or terrorist organisations. Article 20e. 1. In the event of freezing property values of a person or entity: 1) which is not a person or entity listed in the European Union legislation whereby special limiting measures are introduced against certain persons or entities to combat terrorism financing or in the regulation referred to in Article 20d, paragraph 3 or 2) whose life or financial situation is poor - the person or entity may apply to the General Inspector for defreezing the property values. 2. In the event of declaring the fact referred to in paragraph 1 subparagraph 1, the General Inspector shall resolve to fully defreeze the property values. 3. In the case referred to in paragraph 1, subparagraph 2 above, the General Inspector shall resolve to fully or partly defreeze the property values, unless the minister responsible for international affairs raises an objection thereto; the General Inspector applies to the minister responsible for international affairs in that respect. 4. The objection referred to in paragraph 3 shall be raised, by way of decision, within 14 days following the General Inspector's application receipt. When particularly justified, the General Inspector shall prolong the deadline for objection to be raised to 30 days following the General Inspector's application receipt, upon request of the minister responsible for international affairs. 5. Public authorities shall provide all the assistance required, including transfer of the documents indispensable for establishing the facts and circumstances referred to in paragraph 1 above. 6. The resolution to defreeze the property values shall be made by way of decision issued by the General Inspector. 7. The General Inspector's decision may be appealed against within 14 days with the minister responsible for financial institutions. 8. The procedure to defreeze property values shall be conducted under the Code of Administrative Procedure. 9. A plaint may be lodged against the decision issued by the minister responsible for financial institutions with the administrative court."
Measures taken to implement the recommendations since the adoption	The Act provides for specific restrictive measures against persons, groups and entities, according to the **Chapter 5a** of the Act. Thus, in **Article 20d paragraph 1** of the Act there is an obligation imposed on obliged institutions, to freeze asset values on the following basis:

of the first progress report	**”***Any obligated institution shall perform freezing of the asset values with due diligence, with the exception of movable and immovable property, on the basis of:* *1) the European Union legislature imposing specific restrictive measures directed against certain persons, groups or entities, and* 2) *regulations issued pursuant paragraph 4”* [i.e. paragraph 4 - determining legal basis of competent authority that indicates subjects on the list]”, as well as the way of conduct for obligated institutions involved in freezing procedure, according to **Article 20d, paragraph 2** and **3**: *”2. Any obligated institution, while performing such freezing, submits all the data in its possession and related to the freezing of asset values to the General Inspector, electronically or in paper form.”* **Paragraph 3 of Article 20d** regulates the issue of freezing procedure initiated with the breach of the law, and it says that the liability for damages resulting from it is borne by the Treasury under the terms defined in Civil Code. The law defines institutional competences and legal basis in reference to freezing procedure, as it is stipulated in **Article 20d paragraph 4**: *“The minister competent for financial institutions - in consultation with the minister competent for foreign affairs - may indicate, by regulation, persons, groups or entities which are subject to such freezing as referred to in paragraph 1, taking into account the necessity to comply with the obligations under international agreements or resolutions of international organizations binding the Republic of Poland, and bearing in mind the necessity of combating terrorism and counteracting terrorism financing.”* The provisions of the Act encompass also the establishment of specially designed advisory body in the scope of freezing procedure, in line with **Article 20d, paragraph 5**: “*Hereby, the Inter-Ministerial Committee of Financial Security is established, hereinafter referred to as “the Committee”, acting under the auspices the General Inspector. The Committee acts as a consultative and advisory body within the scope of application of specific restrictive measures against persons, groups and entities.”* The Act also sets the objectives of the above mentioned committee, as well as its composition, in line with **Article 20 d paragraphs 6 and 7**: *“6. The objective of the Committee shall be, in particular, to present proposals on the inclusion or removal of persons, groups or entities from the list of persons, groups or entities referred to under paragraph 4.* *7. The Committee shall consist of the representatives of:* *1) the minister competent for financial institutions;* *2) the minister competent for public finance,* *3) the minister competent for foreign affairs,* *4) the Minister of Justice,* *5) the Minister of National Defense;* *6) the minister competent for internal affairs;* *7) the minister competent for economy;* *8) the President of the Polish Financial Supervision Authority;* *9) the President of the National Bank of Poland,* *10) the Head of Internal Security Agency;* *11) the Head of the Central Anti-Corruption Bureau;* *12) the General Inspector.”* According to the **Article 20 d, paragraph 8** of the Act, “*The bylaw on the operating mode and work procedures of the Committee shall be set out by the Committee.”* The Act provides for the procedure for rising objections against being subject to listing procedure, in line with **Article 20 d, paragraph 9**: *“ Any person, group or entity on the list, provided under paragraph 4, may step forward with a justified motion to the minister competent for financial institutions,*

	for the removal from the list. Such a motion is subject to the opinion given at the immediate meeting of the Committee." The General Inspector is obliged to inform the referred subjects on initiating the freezing procedure, as it is stipulated in **Article 20d, paragraph 10**: *"In the case of freezing asset values based on the list of persons, groups or entities referred to under paragraph 4, the General Inspector shall - if it is possible - immediately inform the person, the group or the entity whose asset values has been frozen on the fact. Such information should include justification of the act of freezing funds as well as an instruction on how to take further actions in order to be removed from the list, appeal or nullify freezing of asset values."* Polish Law provides for the de-listing procedure and its conditions, in line with **Article 20e paragraphs 1 - 7**: *"1. In the event of freezing asset values, any person, group or entity which:* *1) is not mentioned in the acts of the European Union implementing specific restrictive measures or on the list of persons, groups or entities referred to under Article 20d paragraph 4, or* *2) is in a difficult life or material situation* *- such a person, group or entity may request the General Inspector to be released from freezing of asset values.* *2. In the event referred to in paragraph 1 point 1 the total release from freezing asset values shall be determined.* *3. In the event referred to paragraph 1 point 2, provided the minister responsible for foreign affairs does not object, and after consulting the Committee, the General Inspector may determine a total or a partial release from freezing asset values, if it is not contrary to the binding resolutions of international organizations.* *4. The objection referred to in paragraph 3, is filed, by decision, within 14 days since the receipt of the argument of the General Inspector. In particularly substantiated cases, the General Inspector, at the request of the minister for foreign affairs, extends the deadline for motion filing to 30 days from the date of the receipt of the argument from the General Inspector.* *5. In the case referred to in paragraph 1 point 1, the General Inspector shall decide on the release from freezing asset values ex officio.* *6. In order to establish the facts and circumstances referred to in paragraph 1, all the cooperating units are required to provide all their assistance, including the submission of the copies of any necessary documents.* *7. The decision on the release from freezing asset values shall be by decision of the General Inspector."* The Act provides for the possibility to appeal to the Decision of the General Inspector in regard to the freezing procedure, in line with **Article 20 e, paragraphs 8-10**: *"8. The appeal against the decision of the General Inspector referred to in paragraph 7, shall be filed to the minister competent for financial institutions within 14 days after the receipt of the notification about this decision"* *9. The proceedings shall unfold according to the provisions of the Code of Administrative Procedure.* *10. The decision made by the minister competent for financial institutions may be appealed at the administrative court."*
Recommendation of the MONEYVAL Report	*Guidance should be given to all financial intermediaries, DNFBP and the general public.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	In connection with the implementation of the third Directive of UE the Poland is changing law of counteracting money laundering and terrorism financing. One of the main changes will be addition of separate chapter on counteracting FT. The chapter will include exact procedure of freezing terrorist assets on he basis of the EU regulations concerning financial sanctions on natural and legal person connected

	with terrorism financing. See also above
Measures taken to implement the recommendations since the adoption of the first progress report	With regard to doubts reported by obliged institutions and cooperating units concerning implementation of statutory obligations in regard of freezing procedure, written replies to inquiries of the obliged institutions were provided by GIFI to the obliged institutions. Inquiries concerned in particular interpretation of provisions of the Act, that has been amended to adjust AML/CFT provisions of the European Union. In general in 2009 there were 149 inquiries concerning practical application of legal provisions submitted to GIFI, which constitutes 30% more inquiries than during previous year. The inquiries concerned mostly the interpretation of provisions of the above mentioned Act of 25 June 2009 adjusting national legal order in respect of counteracting money laundering and terrorism financing to the European Union provisions. The employees of the Department of Financial Information provided also clarifications via phone. The subject of these clarifications was similar to the subject of written clarifications. GIFI's employees assisted obliged institutions on freezing procedure clarifications also during organized trainings or meetings.
Recommendation of the MONEYVAL Report	*A clear and publicly known procedure for de-listing and unfreezing in appropriate cases in a timely manner should be developed.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above
Measures taken to implement the recommendations since the adoption of the first progress report	See above, **Chapter 5a, Article 20 e** of the Act.
Recommendation of the MONEYVAL Report	*A general administrative regime for the implementation of SR.III should be considered*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As mentioned above
Measures taken to implement the recommendations since the adoption of the first progress report	See above, **Chapter 5a, Article 20 e** of the Act.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Since terrorist financing is currently not an autonomous offence in Poland, that lack of criminality could be used as the basis for denying mutual legal assistance.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The Ministry of Justice of Poland has prepared draft amendments to the PC which provide for an autonomous offence of terrorism financing. After amending the penal code, denying mutual legal assistance on the basis of the lack of criminality will no longer be valid.
Measures taken to implement the recommendations since the adoption of the first progress report	By virtue of an amendment of 25 June 2009, to the Act, the Penal Code has been supplemented with **Article 165a** which provides for an autonomous offence of financing of terrorism. Current formulation of **Article 165a** provides as follows: *"Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist character, shall be subject to imprisonment for a term of 2 years up to 12 years."*
Recommendation of the MONEYVAL Report	*Since terrorist financing is not an autonomous offence, it is also not possible to prosecute the offences set forth in the requests of foreign countries.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	See above
(Other) changes since the last evaluation	The Ministry of Justice of Poland has prepared draft amendments to the PC which provide for an autonomous offence of terrorism financing. After amending the penal code, prosecuting the offences set forth in the requests of foreign countries will be admissible.
Measures taken to implement the recommendations since the adoption of the first progress report	By virtue of an amendment of 25 June 2009, to the AML/CFT Act , the Penal Code has been supplemented with **Article 165a** which provides for an autonomous offence of financing of terrorism. Current formulation of **Article 165a** provides as follows: *"Anyone who collects, transfers or offers instruments of payment, securities or other foreign exchange, property rights, movable or immovable property, in order to finance an offence of terrorist character, shall be subject to imprisonment for a term of 2 years up to 12 years".* Prosecuting the offences set forth in the requests of foreign countries is admissible.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VI (Money or value transfer services)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Poland should implement Special Recommendation VI.*
Measures reported	Money transfer providers are in the light of the AML Act considered obligated

as of 7 July 2008 to implement the Recommendation of the Report	institutions so they have to fulfil all duties provided for in the Act unless is stated otherwise. The specific provision is as follows: *Article 2 para. 1b provider of financial services: it shall mean an entity pursuing business of accepting repayable deposits or other funds entrusted thereto and granting loans or issuing electronic money, on its own behalf and for its own account, under a licence granted by relevant supervisory authorities,*
(Other) changes since the last evaluation	In April 2008 Polish FIU has organized the meeting with representatives of Western Union (WU) company and explained them all issues concerning AML/CTF regime. The WU is prepared for changes in the law but even now, on the base of regulation from their head office in Vienna, they have special procedures in respect of it.
Measures taken to implement the recommendations since the adoption of the first progress report	The amended Act on counteracting money laundering and terrorist financing concerns also duties of financial institutions inter alia dealing with money remittance (i.e. entities which are not credit institutions and their main activities are money remittance services) which are obliged institutions according to this Act. This Act involves regulations as for pecuniary penalties which should be imposed if obliged institution don't fulfill its duties in the domain of AML/CTF. Thanks to the implementation of the Directive 2007/64/WE of the European Parliament and of the Council (PSD) into Polish national law all payment institutions, branches of payment institutions, offices providing services and their agents will be considered as obligated institutions in the light of the AML Act. As a result they will be supposed to fulfill all duties stated in the Act. In particular these institutions are required to register transactions and indicate persons who carry out transactions. The obligation of the registration concerns transactions exceeding the equivalent of 15000 euro and also those transactions which not necessary exceeding 15000 euro but which are suspected to be linked. Additionally, institutions receiving a client order have to register transaction, regardless their value or character, in the case when the circumstances indicate that money or value may be connected with money laundering or terrorist financing. The implementation of the Directive PSD into Polish national law will be the Payment Services Act. The date for Polish implementation is the end of the year 2010. The draft of the Payment Services Act is prepared**.** It includes inter alia the articles (art. 76 and others) concerning registration of entities providing payment services including money remittance and supervision of them. Such register will be kept by the Polish Financial Supervision Authority. According to the new schedule it is expected that the draft law would be adopted by the Council of Ministers in August 2010 and next it would be submitted to the Parliament. It is said that the entry into force of the national law implementing the PSD Directive would take place before the end of the 2010. In June 2010 the PFSA held a meeting with the Western Union in order to obtain information on its AML/CFT regulation. Due to the participation in EU 3L3 AML Task Force the PFSA has current information on the developments connected with businesses such as Western Union in all of the other EU Member States.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VII (Wire transfer rules)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Poland should implement the whole concept of SR.VII.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	As a member of European Union, Poland is obliged to directly apply Regulation 1781/2006 on the information on the payer accompanying funds transfers to payment service providers of payees. **The European Regulation 1781/2006, which came into force on 1 January 2007, acts to implement the Financial Action Task Force's Special Recommendation VII in the European Union.** The Regulation requires that Payment Service Providers "PSP"s (like banks and wire transfer offices) attach complete information about the payer to funds transfers made by electronic means. They must also check the information that accompanies incoming payments. The purpose of this regulation is to make it easier for the authorities to trace flows of money on occasions where that is deemed necessary. In October 2007 GIFI submitted an inquiry to the General Inspector of Banking Supervision (now in PFSA) and Polish Bank Association to encourage them to exchange opinions on difficulties they meet dealing with issues of European regulations implementing FATF Special Recommendation VII and IX and the situation regarding the application of the *Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds* referred to above. According to the opinion of the Polish Bank Association, transfers of funds with no information on the payer do not exceed 10%. Inspections carried out by supervision authorities, proved that banks, after receiving the transfer with no information on the payer accompanying, launch examining procedures and every time seek to obtain complete information on the payer. Draft amendment of AML Law foresees the **derogations from Art. 3 and 18 of the Regulation 1781/2006**, imposed by Art. 10 c para 1 and 2 of the draft AML Law, which are as follows: *"Article 10c. 1. The provisions of the regulation no. 1781/2006 shall not apply, provided the beneficiary's provider of payment services is able to monitor backwards, using the individual reference number, via the beneficiary, the money transfer coming from a legal entity or a natural person who concluded an agreement on delivery of goods and services, also for the transaction amount being below the equivalent of EUR 1,000.* *2. Article 5 of the regulation no. 1781/2006 shall not apply for the providers of payment services with the registered office in the territory of the Republic of Poland in respect of money transfers for non-profit organisations, charity organisations, organisations pursing research, religious, cultural, educational or social activity, provided the money transfer is not above the equivalent of EUR 150 and is made solely within the territory of the Republic of Poland.";* Draft AML Law foresees the following **sanctioning system** for violation of regulation 1781/2006: *"Article 34b. 1. An obligated institution that does not fulfil the duty set forth in Chapter 2, Chapter 3, Article 12 or Article 14 of the regulation no. 1781/2006 shall be liable to a fine.* *Article 34c.1. The General Inspector shall impose a fine by way of decision, in the amount not exceeding 2% of the fine base, being the income earned by the penalised obligated institution in the previous calendar year.*

	2. In determining the fine, the General Inspector shall take into account the type and scope of violation, the operations of the obligated institution to date and its finances. *3. The obligated institution shall provide the General Inspector, within 30 days following the date of request receipt, with the data indispensable for determining the fine base, upon request. Should the data not be provided or should the data provided prevent determination of the fine base, the minister responsible for financial institutions may estimate the fine base, however not lower than PLN 1M.* *4. Should the period of the obligated institution's operations be shorter than one calendar year, the amount of PLN 1M shall form the fine base.* *5. The fine shall form income of the state budget.* *6. One fine can be imposed only, should in the course of General Inspector's control a breach referred to in Article 34a be declared.* *7. The procedure on imposing the fine shall be carried out pursuant to the Code of Administrative Procedure.* *8. The General Inspector's decision may be appealed against within 14 days with the minister responsible for financial institutions.* *9. Fines shall be enforced under the enforcement proceedings in administration applicable to enforcement of financial duties.* *10. To the matters not governed herein, the provisions of Chapter III of the Act on tax ordinance of 29 August 1997 (Journal of Laws of 2005 No. 8, item 60, as amended) shall apply.* *11. The institution supervising the operations of a given obligated institution shall be informed about the fine imposed."*
Measures taken to implement the recommendations since the adoption of the first progress report	The PFSA checks compliance with the rules set out in the EU Regulation 1781/2006 during all on-site visits in institutions subject to its provisions. Besides, the GIFI is the authority entitled to gathering information according to Art. 9 (2) of Regulation No 1781/2006 EC Regulation No. 1781/2006 of the European Parliament and the Council of 15 November 2006 on information on the payer accompanying transfers of funds: "*Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall take steps, which may initially include the issuing of warnings and settings of deadlines, before either rejecting any future transfers of funds from that payment service provider or deciding whether or not to restrict or terminate its business relationship with that payment service provider.* *The payment service provider of the payee shall report that fact to the authorities responsible for combating money laundering or terrorist financing.*" Apart from the articles concerning usage of measures of customer due diligence (i.e. financial security measures) by the obliged institutions, the Act on counteracting money laundering and terrorist financing involves the prescriptions which concern applying rules of the EC Regulation No. 1781/2006. The Act includes rules of pecuniary penalties imposed on obliged institutions which don't apply the obligations of the EC Regulation No. 1781/2006: "*Article 34b. 1. Any obligated institution that contrary to the following provisions of Regulation No 1781/2006:* *1) Articles 5-7, does not ensure that the transfer of funds is accompanied by complete information on the payer,* *2) Article 8, does not have effective procedures in place to detect the absence of information on the payer,*

	3) Article 9, does not inform the General Inspector on the fact of regular neglecting to provide relevant information on the payer by payment service provider, *4) Article 12, when acting as go-between as a payment service provider, does not preserve all the information accompanying transfers of funds received on the payer,* *5) Article 14, does not respond completely to the request of the General Inspector on the information on the payer accompanied with transfers of funds, and does not provide the General Inspector with the relevant documents requested by him.* *- shall be subject to pecuniary penalties*." Besides, the Act foresees the derogation from Art. 3 and 18 of the EC Regulation No. 1781/2006, imposed by Art. 10 c para 1 and 2 of the draft AML Law, which are as follows: "*Article 10c.(63) 1. The provisions of Regulation No 1781/2006 shall not apply where a payment service provider of the recipient is able - by means of a unique reference number – to monitor back all the transfers of funds to the payer originating from a legal entity, an organizational unit without legal personality or a natural person, who has concluded a contract for the supply of goods and services with the recipient, even if amount of such a transaction does not exceed the equivalent of 1.000 EURO.* *2. The provision of Art. 5 of Regulation No 1781/2006 shall not apply to a payment service provider having their legal address in the territory of the Republic of Poland with reference to transfers of funds to non-profit organizations, exercising charitable, religious, cultural, educational, social, scientific activities, if the transfer of funds does not exceed the equivalent of 150 EURO and takes place only in the territory of the Republic of Poland.*"
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

Special Recommendation VIII (Non-profit organisations)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*It is recommended to undertake a formal analysis of threats posed by the NPO-sector as a whole and then to review the existing system of relevant laws and regulations in order to assess the adequacy of the current legal framework with respect to criterion VIII.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	The analysis of threats posed by the NPO-sector resulted in reviewing the adequacy of laws and regulations that relate to the sector and as an outcome, in May 2006, the Chancellery of the Prime Minister/Polish authorities initiated works on the amendment of the Act on foundations. In June 2007 the project of the amendment was directed to the Parliament. The new regulation precisely settles the conditions under which the foundations may engage in for-profit business operations and obliges to separate values allocated to statutory tasks and values allocated to for-profit business operations (in accounting books statutory operations and business operations should be separated in a way which enables to determine the income, costs and profits from both types of activities). Moreover it sets more precise rules for supervision to be exercised over the foundations. It determines the responsible ministry, obliged to undertake exact actions on foundations, for example initiate proceedings in court in case of illegal activity of a foundation.

	The project predicts that more provisions are obligatory to be covered by status of a foundation as well. According to the new requirements the status should deal with matters related to the procedure of its changing, the issues of the make-up and others on internal control authorities, procedure to recall members of management bodies and the arrangements on allocating property values after the liquidation of the foundation.
Measures taken to implement the recommendations since the adoption of the first progress report	The amendment of the Act on Public Benefit and Voluntary Work which regulates activity of the NPOs is in force since March, 2010. The new regulation lays a duty on NPOs to clearly define the scope of their paid and unpaid public benefit activity (non-profit activity) in articles of association. This provision is complementary to previously introduced regulation, according to which paid and unpaid public benefit work, as well as business activity of a an NPO shall be managed separately in terms of accounting in a manner and to an extent enabling a calculation of revenue, cost and overall result of each activity. The amendment of March 2010 sets also provision forbidding NPOs to use funds received from 1% of personal income tax donated by taxpayers, under separate provisions, in their business activity. The scope of an annual report of these NPOs which are entitled to obtain 1% of PIT has been extended and defined more precisely. According to new regulation NPOs are obliged to give a detailed information about destination of these funds in their annual report, that should be published in the Internet on a NPO's website and on the website of the Ministry of Labour and Social Affairs together with financial report. In accordance with **Article 2 point 1** of the Act – both types of non profit organizations, such as foundations and associations with corporate personality established under the Act of 7 April 1989 - Law of Associations (Journal of Laws of: 2001 No. 79 item 855; of 2003: No. 96 item 874; of 2004: No. 102 item 1055; and of 2007: No. 112 item 766) and receiving payments in cash of the total value equal to or exceeding the equivalent of 15.000 EURO, originating also from more than one operation are considered to be obligated institutions. Such institutions are obliged to follow all rules laid down in the Act and are subject to control within the scope of compliance with AML/CTF provisions.
Recommendation of the MONEYVAL Report	*Consideration should be given to the issuing of guidance to financial institutions on the specific risks of this sector, and of whether and how further measures need to be taken in the light of the Best Practices Paper for SR.VIII. Consideration might usefully be given as to whether and how any relevant private sector watchdogs could be utilised.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes
Measures taken to implement the recommendations since the adoption of the first progress report	The PFSA recognizes GIFI's handbook as a lead interpretation of AML/CFT regulations for all Polish financial institutions. However, as it was mentioned before, the PFSA holds an educational programme. Each year at least one of the major seminars organised is being devoted solely to AML/CFT issues. In 2008 there were 89 participants, in 2009 (in two seminars) 126 and 97 participants, and in 2010 – 118 participants. The mentioned seminars are focused on presenting the PFSA's stance and guidance to the financial sector on AML/CFT issues, and conducting dialog on the most important issues. It appears to be more efficient to discuss certain issues as they arise. Of course the PFSA also gives guidance during the on-site visits. Up to the end of July 2010 the PFSA has conducted the following number of specific AML/CFT on-site inspections in the below mentioned types of financial institutions: In 2008: commercial banks – 11 on-sites, cooperative banks – 18. In 2009: commercial banks – 6, cooperative banks – 18, branches of foreign credit

	institutions – 7, insurance companies – 4, brokerage houses – 2, investment fund management company – 1. In 2010 (as of July,2010): commercial banks – 5, cooperative banks – 13, branches of foreign credit institutions – 8, insurance companies – 3, brokerage houses – 2, investment fund management company – 1. In comparison to figures previously given to the evaluators there is a major increase in AML/CFT on-site visits in capital market entities and in insurance market entities. Thanks to this, and a wide spectrum of institution taking part in training seminars each year, every sector has it's own sector-specific guidance.
Recommendation of the MONEYVAL Report	*It would be helpful to raise awareness for SR.VIII among existing control bodies engaged with the NPO sector so that they also could fully take account of SR VIII issues in their oversight.*
Measures reported as of 7 July 2008 to implement the Recommendation of the Report	No changes
Measures taken to implement the recommendations since the adoption of the first progress report	GIFI prepared e-learning platform on AML/CFT issues (see above for more details.) The last edition of e-learning training was used by 41 foundations as well as 23 associations with corporate personality.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

2.4 Specific Questions

Specific Questions raised in the 1st Progress Report and answers given by Poland
Criminal liability has been extended to legal persons and several types of sanction can be applied (according to the Act of 28 October 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty). Has this new provision been applied yet? If yes, also in money laundering or terrorist financing cases?
Until the end of 2006 aforementioned act of law was applied 45 times and in 17 cases court imposed penalties on collective entities. None of those cases concerned money laundering or terrorist financing. In 2007, 27 cases were opened and 10 times penalties were imposed on collective entities, but not in ML/TF cases.
Have there been changes at the FIU regarding competencies, resources, staffing etc.?
In order to prepare suitable legal basis for FIU's activity in the field of counteracting money laundering and terrorist financing, there have been some organizational steps as well as legislative initiative taken: Legislation: The Ministry of Finance has prepared a new version of the project of the *Act amending the act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism and amending the act – Penal Code.* The new project will implement the provisions of the *Directive 2005/60/EC of the European*

Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the *Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis*, to the Polish legal system.
The novel will also encompass recommendations of Financial Action Task Force.

The reason why the new project of the novel is required, is that in the previous version there were not all international standards included – some of them were covered by other regulations: the project of the *Act – Regulations introducing the act on National Fiscal Administration* and the *Act on National Fiscal Administration.* Since works on these regulations have been interrupted, it becomes necessary to incorporate some additional issues in the project of the *Act of 16 November 2000*.
The new regulation is aimed to be entirely compliant within the Polish legal framework and to fully stay in line with international standards. Requirements concerning Polish international commitments, relating to protection of the financial sector from the threat of inflow of money derived from crime, will be accomplished as well.
Any potential consequences of the amended regulations will also be taken into consideration. It is also very much intended to introduce provisions which will not be a *dead regulation*, will not cause interpretative uncertainties and will confirm the preciseness and intentionality of the Polish legislator's activities.
To meet expectations of the obligated institution, it is tended to establish the vacatio legis period so that it is sufficient for them to adjust and prepare for the new legal situation.
Resources and staff
The Financial Intelligence Unit – organizational unit to assist the GIFI, acting within the structure of the Ministry of Finance, has 53 permanent posts assured in the ministerial budget. As a result of the legislative initiative taken by GIFI (adoption of new activities and obligations), there has been an effort made to increase the number of posts within the FIU. New 8 posts are expected in 2008-2009.
Other competencies
In 2006 GIFI has become a member of Interministerial Group for Terrorist Threats, coordinating actions with regard to counteracting terrorism. The GIFI representative participates in the work of the Permanent Expert Group established at the interministerial level, in order to monitor terrorist threats, to do proposals with regard to legal regulations and development of proper procedures.
Moreover, GIFI has been invited to participate in The Krakow Initiative (Proliferation Security Initiative), which was announced by the US President. This involvement reflects the importance of GIFI as an element within the whole system built to prevent threats posed by proliferation of weapon and mass destruction.
In the year 2008 a new initiative was announced on the of governmental level – the CAT (Antiterrorist Center) was establish to allowed a proper coordination in case of terrorist's attacks. The GIFI is now one of the main link of that chain.

Please describe the work of the "Polish Financial Supervision Authority" (PFSA) in the AML/CFT area. Amongst other, please provide information concerning its

a. competencies,

According to Article 21(3) of the Act on supervision of the financial market PFSA is authorized to hold controls in the field of AML/CTF while conducting its supervision powers. Under the provision thereof there are some questions related to AML/CFT studied during general and targeted controls. The main competence to control lies at the Polish FIU.

b. staffing,

Currently the introduction into financial circulation of property values derived from illegal or undisclosed sources and on counteracting the financing of terrorism controls are carried out by 20 inspectors.

c. supervision activities (number of onsite inspections; sanctions imposed),

There had been 54 inspections conducted in 2007. A total of 61 inspections are planned for 2008. In case there is a suspicion of a crime or other irregularities are noticed PFSA will forward a notification to the FIU. All the plans for controls targeting ML/TF (addressed directly to AML/CTF) are arranged

with FIU. Since now there have been no any other sanctions applied as a result of inspections than admonitions to appointed directors of monitored entities.

d. cooperation with the Polish FIU (GIFI).

In case of detection of irregularities in the AML/CTF field within the entities controlled under monitoring powers PFSA shall notify the FIU immediately. PFSA and the FIU cooperate at evaluating of the EU Committee for Prevention and the Council of Europe Moneyval Committee documents on regular basis. Pursuant to the cooperation activities we evaluate revision of law, make comments to evaluation missions and evaluate FATF reports. The mutual cooperation means also an attempt to fix common understanding of the scope and concepts of the EU third money laundering directive (precisely: the concept of third equivalent countries).

Additional Questions since the 1st Progress Report

1. Unless this information has been provided in answer to the questions on R.1 or in the statistical data provided, please provide information on the breakdown of convictions for ML since the 1st progress report was adopted, showing the numbers of self laundering cases compared with autonomous ML cases and indicating also as far as possible the underlying predicate offences. Please also indicate the penalties imposed for ML since the first progress report in respect of both natural and legal persons.

2010 (first six months)

Type of a case	Number of convictions	Underlying predicate offences	Penalties imposed on natural persons	Penalties imposed on legal persons
Self-laundering	**10**	Fraud (art.286 p.c.); Forgery of documents or certifying untruth in the official documents (art. 270,art.271 p.c.); Tax evasion (article 54 f.p.c.); Receiving of goods subject to excise evasion (article 65 f.p.c.) Receiving of goods subject to custom duties evasion (article 91 f.p.c.)	Deprivation of liberty for a term of between 1 year and 2 years and 6 months; forfeiture of financial benefits obtained from the commission of an offence, which amounted to maximum 18 069,5 EURO	none
Autonomous ML	**3**	Fraud (art.286 p.c.), Forgery of documents or certifying untruth in the official documents (art. 270,art.271 p.c.); Tax evasion (Article 54 f.p.c.); Tax fraud (Article	Deprivation of liberty for a term of between 1 year and 3 months and 4 years; forfeiture of financial benefits obtained from the commission of an offence,	none

		56 f.p.c.)	which amounted to maximum 62 122,59 EURO	

2. *How many ML convictions since the adoption of the 1st progress report were police generated and how many were generated by the STR reporting system?*

	Total number of convictions	Cases generated by the police	Cases generated by the STR reporting system	Cases generated by other authorities
2008	**27**	**9**	**13**	**5**
2009	**18**	**1**	**11**	**6**
2010 (first six months)	**13**	**3**	**8**	**2**

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

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The Directive 2005/60/EC and Directive 2006/70/EC were both implemented into national law by Act of 25 June 2009 amending the act of 16 November 2000 on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism and amending certain other law, which entered into force on 22 of October 2010, further referred to as "the Act". However, it should be noted that there was no obligation to implement into national law all provisions of the Directives as some of the provisions were not mandatory and the Member States were given leeway in setting up relevant provisions at the national level.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[7] (please also provide the legal text with your reply)	In accordance with **Article 2 point 1a** of the Act beneficial owner means: *a) a natural person or natural persons who are owners of a legal entity or exercise control over a client or have an impact on a natural person on whose behalf a transaction or activity is being conducted,* *b) a natural person or natural persons who are stakeholders or shareholders or have the voting right at shareholders meetings at the level of above 25% within such a legal entity, therein by means of block of registered shares, with the exception of companies whose securities are traded within the organized trading, and are subject to or apply the provisions of the European Union laws on disclosure of information, and any entities providing financial services in the territory of a EU-Member State or an equivalent state in the case of legal entities,* *c) a natural person or natural persons who exercises control over at least 25% of the asset values - in the case of entities entrusted with the administration of asset values and the distribution of, with the exception of the entities carrying out activities referred to in Article 69 item 2 point 4 of the Act of 29 July 2005 on trading in financial instruments.*

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

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

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	In order to fulfil anti-money laundering standards all institutions covered by the Act are required to apply risk-based approach. In accordance with **Article 8b paragraph 1** any obligated institution applies financial security measures in relation to its clients. Their scope is determined on the basis of risk assessment as for money laundering and terrorist financing, hereinafter referred to as "risk assessment", resulting from the analysis, taking into account in particular a type of client, economic relationships, products or transactions. It should be pointed out that under statutory provisions, as far as enumerated entities or products are concerned, obligated institution may waive certain customer due diligence measures, taking into account the risk of money laundering or terrorist financing.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[8] are provided for in your domestic legislation (please also provide the legal text with your reply).	The AML/CTF Act provides for regulations regarding both politically exposed persons definition and measures that should be taken in dealing with them. In accordance with **Article 2 point 1f** politically exposed persons, it shall mean the following natural persons: *a) heads of state, heads of government, ministers, deputy ministers or assistant ministers, members of parliament, judges of supreme courts, constitutional tribunals and other judicial bodies whose decisions are not subject to further appeal with the exception of extraordinary measures, members of the court of auditors, members of central bank management boards, ambassadors, chargés d'affairs and senior officers of armed forces, members of management or supervisory bodies of state-owned enterprises – who hold or held these public functions, within a year since the day they ceased to meet the conditions specified in these provisions,* *b) spouses of persons referred to in point (a), or persons staying with them in cohabitation, parents and children of the persons referred to in point (a) and the spouses of those parents and children or other persons staying in cohabitation with them,* *c) who remain or remained in close professional or business co-operation with the persons referred to in point (a) and, or are co-owners of legal entities, and only ones entitled to assets of legal entities if they have been established for the benefit of those persons* *domicile outside the territory of the Republic of Poland;* It should also be mentioned that as provided for in **Article 9d paragraph 5**, the obligated institutions may collect written statements on whether a client is a person holding a politically exposed position.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	As provided in **article 29** of the Act in order to disclose any information in the manner and extent provided by the Act to the General Inspector, the regulations restricting the disclosure of confidential information not apply to, except the data falling under state secrecy. In order to provide data falling under state secrecy, the regulations governing their protection shall apply. The AML/CTF Act provides for that all information obtained and transmitted by financial information authorities should be protected. There are specific regulations that enable General Inspector to provide in some circumstances other authorities such as Head of Internal Security Agency, General Inspector of Fiscal Control or

[8] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	the President of the Supreme Chamber of Control with gathered information. Both authorities concerned and prerequisites of information disclosure are explicitly enumerated.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	See above.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	According to the Act of 28 November 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty (Journal of Law, No 197, item. 1661), the collective entity shall be liable for a prohibited act consisting in conduct of any natural person who: 1) acts in the name or on behalf of the collective entity under the authority or duty to represent it, make decisions in its name, or exercise internal control, or whenever such person abuses the authority or neglects the duty, 2) is allowed to act as the result of abuse of the authority or neglect of the duty by the person referred to in point 1 above, 3) acts in the name or on behalf of the collective entity on consent or at the knowledge of the person referred to in point 1. If a natural person conducting a prohibited act occupies a leading position within a legal person, he/she meets the criteria set up in point 1. Under these circumstances, corporate liability can be applied.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Pursuant to Article 5 of the Act of 28 November 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty, the collective entity shall be held liable even if found to have failed to exercise due diligence in electing the natural person who committed a prohibited act, or to have had no due supervision over the person, or whenever the organization of the entity's activities does not guarantee prevention of the prohibited act. Under these circumstances, corporate liability can be applied.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	In accordance with **Article 2 point 1t** entrepreneurs within the meaning laid down in the Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2007 No. 155 item 1095, as amended), receiving payment for commodities in cash of the value equal to or exceeding the equivalent of 15.000 EURO, also when the payment for a given product is made by more than one operation, are considered to be obligated institutions. Taking into consideration above such person therefore is bound to follow all rules as provided for in AML Law unless explicitly stipulated otherwise.

2.6 Statistics

Money laundering and financing of terrorism cases

a) Statistics provided in the last progress report:

2005												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	151	-	161	-	-	45	Not applicable	Not applicable	-	22 633 599	-	-
FT	0	0	0	0	0	0	Not applicable	Not applicable	0	0	0	0

2006												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	535	1078	54	275	58	105	Not applicable	Not applicable	41	12 163 685	10	8 721 883
FT	0	0	0	0	0	0	Not applicable	Not applicable	0	0	0	0

2007												
	Investigations		**Prosecutions**		**Convictions (final)**		**Proceeds frozen**		**Proceeds seized**		**Proceeds confiscated**	
	cases	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)	**cases**	**amount** (in EUR)
ML	645	1436	82	288	36	55	Not applicable	Not applicable	81	11 896 510	5	102 698
FT	0	0	0	0	0	0	Not applicable	Not applicable	0	0	0	0

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

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	284	254	74	324	27	53	n/a	n/a	73	16 350 000	6	76 156
FT	0	0	0	0	0	0	n/a	n/a	0	0	0	0

2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	235	192	65	360	18	41	n/a	n/a	47	7 095 875	10	1 868 467
FT	0	0	0	0	0	0	n/a	n/a	0	0	0	0

2010 –first six months												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	96	60	35	128	13	30	0	0	18	27 056 555	10	1 858 308,24
FT	0	0	0	0	0	0	0	0	0	0	0	0

c) AML/CFT sanctions imposed by supervisory authorities.

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of the supervised entity in the financial sector (eg, banks, insurance, securities etc).
If similar information is available in respect of supervised DNFBP, please provide an additional table (or tables), also with information as to the types of AML/CFT infringements for which sanctions were imposed.
Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

	2008 for comparison	**2009** for comparison	**2010**
Number of AML/CFT violations identified by the supervisor	**N/A**	**N/A**	**N/A**[9]
Type of measure/sanction*			
Written warnings	**0**	**0**	**0**
Fines[10]	**N/A**	**N/A**	**3** [11]
Withdrawal of license	**0**	**0**	**0**
Notification to Prosecutor's Office (as a result of analysis of findings of inspection)	**5**	**7**	**8**
Total amount of fines	**N/A**	**N/A**	**16 000 PLN (appr. 4000 EUR)**
Number of sanctions taken to the court (where applicable)			
Number of final court orders			
Average time for finalising a court order			

*** Please amend the types of sanction as necessary to cover sanctions available within your jurisdiction**
**** Please specify**

[9] We cannot give the exact number of violations identified by supervisors, as they (violations) are not of the same level of importance. Detection of some violations results in imposing administrative fines or even notification to the prosecutor while some of them results in post-inspection recommendations only (in 75% of inspections according to PFSA)

[10] Pecuniary sanctions (Chapter 7 a of the AML/CFT Act). There were totally 32 proceedings initiated in this regard. Three of them has been finalized and resulted in imposing fines for: lack of training for employees of obliged institution, lack of effective procedures in place to detect the absence of information on payer (contrary to provisions of Reg. 1781/2006) and lack of conducting the analysis of transactions. There have been initiated 13 proceedings that are to be at final stage very soon, 16 proceedings have been discontinued. 20 proceedings are at final stage of preparation to be initiated according to the procedure provided in AML/CFT Act.

[11] Pecuniary sanctions have been applied since April 2010, which is in line with provisions of amended AML/CFT Act.

7. STR/CTR
a) Statistics provided in the last progress report

2005																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions[12] /activity**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors[13]**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
banks, foreign bank branches	18104720	61473	2050													
investment fund, investment funds society	1713964	2116	0													
entrepreneurs conducting leasing and factoring activity	383728	1451	0													
Notaries	321079	1237	32													
Co-operative savings and credit banks	271881	206	1													
insurance companies, the main branches of foreign insurance companies	47829	43	0													
brokerage houses or other entities not being a bank engaged in brokerage activities	43102	36	0													
entrepreneurs conducting activity in the scope of commission sale	25290	1	0													
Joint Stock Company National Depositary for Securities	5021	0	0													
entities conducting activity involving games of chance, mutual betting and automatic machine games	3738	0	0	957	16	175	0	-	-	0	0	-	-	0	0	
state public utility enterprise Poczta Polska (Polish Post)	666	0	0													
Residents engaged in currency exchange	142	1	0													
auction houses	70	0	0													
antique shops	31	0	0													
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	23	0	0													
entrepreneurs giving loans on pawn (pawnshops)	21	0	0													
real estate agents	10	0	0													
Foundations	2	0	0													
legal advisers	0	0	0													
Cooperative units	NA	523	0													
TOTAL	**20921317**	**67087**	**2083**													

[12] 79,6% of them were mistakenly sent by the obliged institutions in that the wrong classification was used in the special field of electronic form; 13.656 reports (20,4%) were real STRs / SARs.

[13] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

2006																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring Entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions[14] /activity**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors[15]**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
banks, foreign bank branches	21240728	47306	412													
investment fund, investment funds society	899184	20	0													
entrepreneurs conducting leasing and factoring activity	425031	10	0													
Notaries	350665	380	0													
Co-operative savings and credit banks	34064	69	0													
insurance companies, the main branches of foreign insurance companies	48262	52	0													
brokerage houses or other entities not being a bank engaged in brokerage activities	3019795	49	0													
entrepreneurs conducting activity in the scope of commission sale	46	0	0													
Joint Stock Company National Depositary for Securities	8	0	0													
entities conducting activity involving games of chance, mutual betting and automatic machine games	2463	2	0	1131	8	198	3	19	120	0	0	8	69	0	0	
state public utility enterprise Poczta Polska (Polish Post)	11928	0	0													
Residents engaged in currency Exchange	55060	1	0													
auction houses	70	0	0													
antique shops	2838	0	0													
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	707	0	0													
entrepreneurs giving loans on pawn (pawnshops)	4	0	0													
real estate agents	1	0	0													
Foundations	119	0	0													
legal advisers	0	0	0													
Cooperative units	N/A	547	0													
TOTAL	**26090973**	**48436**	**412**													

[14] 70 % of them were mistakenly sent by the obliged institutions in that the wrong classification was used in the special field of electronic form; 14.804 reports (30 %) were real STRs / SARs.

[15] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

2007																
Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring Entities, e.g.	reports about transactions above threshold	reports about suspicious transactions[16] /activity		cases opened by FIU		notifications to law enforcement/ prosecutors[17]		indictments				convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons	
banks, foreign bank branches	23758317	23484	194													
investment fund, investment funds society	1017681	3	0													
entrepreneurs conducting leasing and factoring activity	579943	8	0													
Notaries	480253	82	4													
Co-operative savings and credit banks	49106	135	0													
insurance companies, the main branches of foreign insurance companies	48575	969	1													
brokerage houses or other entities not being a bank engaged in brokerage activities	4192276	84	0													
entrepreneurs conducting activity in the scope of commission sale	193	0	0													
Joint Stock Company National Depositary for Securities	41	0	0													
entities conducting activity involving games of chance, mutual betting and automatic machine games	10986	0	0	1351	7	190	14	35	147	0	0	13	31	0	0	
state public utility enterprise Poczta Polska (Polish Post)	19373	0	0													
Residents engaged in currency Exchange	64016	13	0													
auction houses	98	0	0													
antique shops	3239	0	0													
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	2734	0	0													
entrepreneurs giving loans on pawn (pawnshops)	8	0	0													
real estate agents	0	0	0													
foundations	484	0	0													
legal advisers	0	0	0													
Cooperative units	N/A	676	0													
TOTAL	**30227323**	**25454**	**199**													

[16] 43% of them were mistakenly sent by the obliged institutions in that the wrong classification was used in the special field of electronic form; 14.714 reports (57 %) were real STRs / SARs.

[17] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

b) Please complete, to the fullest extent possible, the following tables since the adoption of the 1st Progress Report

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2008															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions[18] /activity**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors[19]**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
banks, foreign bank branches	29356105	14307	15	1234	8	246	15	**35**	**128**	**0**	**0**	**13**	**23**	**0**	**0**
investment fund, investment funds society	1008326	2875	0												
entrepreneurs conducting leasing and factoring activity	832876	4	0												
Notaries	626936	41	2												
Co-operative savings and credit banks	83438	421	0												
insurance companies, the main branches of foreign insurance Companies	191398	591	1												
brokerage houses or other entities not being a bank engaged in brokerage activities	2502540	234	0												
entrepreneurs conducting activity in the scope of commission sale	57	0	0												
Joint Stock Company National Depositary for Securities	95	0	0												
entities conducting activity involving games of chance, mutual betting and automatic machine games	18584	0	0												

[18] 77,6% of them were classified after initial analysis as records satisfying criteria for real STR/SAR reports for FIU (other were mistakenly sent by the obliged institutions with wrong classification in the special field of electronic form)

[19] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

state public utility enterprise Poczta Polska (Polish Post)	30466	0	0												
Residents engaged in currency exchange	133927	7	0												
auction houses	71	0	0												
antique shops	15882	14	0												
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	6996	0	0												
entrepreneurs giving loans on pawn (pawnshops)	11	0	0												
real estate agents	0	0	0												
Foundations	636	0	0												
legal advisers	0	2	0												
Cooperative units	N/A	528	0												
TOTAL	**34808344**	**19024**	**18**												

2009																
Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions[20] /activity		cases opened by FIU		notifications to law enforcement/ prosecutors[21]		Indictments				Convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	Persons	
banks, foreign bank branches	25757748	10458	37													
investment fund, investment funds society	650618	1062	0													
entrepreneurs conducting leasing and factoring activity	883294	14	0													
Notaries	530525	19	0													
Co-operative savings and credit banks	94904	289	0													
insurance companies, the main branches of foreign insurance companies	198615	215	1													
brokerage houses or other entities not being a bank engaged in brokerage activities	2711625	146	0													
entrepreneurs conducting activity in the scope of commission sale	91	0	0													
Joint Stock Company National Depositary for Securities	69	0	0													
entities conducting activity involving games of chance, mutual betting and automatic machine games	14745	0	0	1262	11	180	21	**31**	**145**	**0**	**0**	**11**	**25**	**0**	**0**	
state public utility enterprise Poczta Polska (Polish Post)	40534	6	1													
Residents engaged in currency exchange	56922	1	0													
auction houses	71	1	0													
antique shops	2341	1	0													
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	8420	0	0													
entrepreneurs giving loans on pawn (pawnshops)	0	0	0													
real estate agents	37	0	0													
Foundations	1736	0	0													
legal advisers	0	3	0													
Cooperative units	N/A	500	0													
Clearing agents	371	2	0													
TOTAL	**30952666**	**12715**	**49**													

[20] 78,3% of them were classified after initial analysis as records satisfying criteria for real STR/SAR reports for FIU (other were mistakenly sent by the obliged institutions with wrong classification in the special field of electronic form)

[21] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

2010 (first six month)															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions /activity		cases opened by FIU		notifications to law enforcement/ prosecutors[22]		Indictments				Convictions			
								ML		FT		ML		FT	
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	Cases	Persons
banks, foreign bank branches	13208093	7579	21												
investment fund, investment funds society	345164	60	0												
entrepreneurs conducting leasing and factoring activity	464487	8	0												
Notaries	286770	58	1												
Co-operative savings and credit banks	72605	60	1												
insurance companies, the main branches of foreign insurance companies	128307	76	1												
brokerage houses or other entities not being a bank engaged in brokerage activities	1233752	214	0												
entrepreneurs conducting activity in the scope of commission sale	79	0	0												
Joint Stock Company National Depositary for Securities	43	0	0												
entities conducting activity involving games of chance, mutual betting and automatic machine games	7424	0	0												
state public utility enterprise Poczta Polska (Polish Post)	23018	3	0	649	5	64	13	**14**	**63**	**0**	**0**	**8**	**22**	**0**	**0**
Residents engaged in currency exchange	28829	1	0												
auction houses	64	0	0												
antique shops	1554	1	0												
entrepreneurs conducting activity in the scope of precious and semi-precious metals and stones trade	668	0	0												
entrepreneurs giving loans on pawn (pawnshops)	0	0	0												
real estate agents	438	0	0												
Foundations	270	0	0												
legal advisers	0	3	0												
Cooperative units	N/A	258	0												
Clearing agents	77	0	0												
other financial institutions	2471	0	0												
external accountants	5	2	0												
other natural or legal persons trading in goods when payments are made in cash ≥ 15 kEUR	11	0	0												
TOTAL	**15 804 129**	**8 323**	**24**												

[22] FIU analyses all reports. One notification to the prosecutor can involve more than one STR.

3. Appendices

3.1 Appendix I - Recommended Action Plan to Improve the AML / CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 and 2; R. 32)	• Clarify legislative provisions to ensure that all physical and material aspects of money laundering (conversion, acquisition, possession or use) are covered. • Conspiracy to commit money laundering should be recognised as a criminal offence, unless this is not permitted by fundamental principles of domestic law. • Financing of terrorism in all its forms, as explained in the Interpretative Note to SR.II, should be clearly covered as predicate offences to money laundering. • Clarify in the criminal law that property being proceeds covers both direct and indirect property which represent the proceeds (or benefits) of the crime. • The evaluators advise to set out in legislation or guidance that knowledge (the intentional element) can be inferred from objective factual circumstances. • More emphasis should be placed on autonomous prosecution of money laundering by third parties. • Make it clear in legislation or guidance that the underlying predicate criminality can be proved by inferences drawn from objective facts and circumstances in money laundering cases brought in respect of both domestic and foreign predicate offences. • The Polish authorities are encouraged to use the new powers providing corporate criminal liability proactively in money laundering cases. • More detailed statistics should be kept concerning the nature of money laundering investigations, prosecutions and convictions and sentences.
Criminalisation of Terrorist Financing (SR.II)	• An autonomous offence of terrorist financing should be introduced which explicitly addresses all the essential criteria in SR.II and requirements of the Interpretative Note to SR.II.
Confiscation, freezing and seizing of proceeds of crime (R.3; R. 32)	• The confiscation regime should clearly allow for confiscation of instrumentalities which have been transferred to third parties. • More statistics on provisional measures and confiscation is needed.
Freezing of funds used for terrorist financing (SR.III)	• A clear legal mechanism to act in relation to European Union internals should be introduced. • Guidance should be given to all financial intermediaries, DNFBP and the general public. • A clear and publicly known procedure for de-listing and unfreezing in appropriate cases in a timely manner should

	be developed. • A general administrative regime for the implementation of SR.III should be considered.
The Financial Intelligence Unit and its functions (R.26, 30 and 32)	• The FIU should further seek outreach to some parts of the financial sector (particularly exchange houses) and DNFBP (particularly casinos) to explain the concept of suspicion in more detail. Additionally, they should consider publishing more periodic reports with statistics, typologies and trends, as well as information about its activities. • More statistics (e.g. processing times) should be kept to demonstrate the effectiveness of the FIU internally.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 and 32)	• More emphasis should be placed on Police generated money laundering cases by proactive financial investigation in major proceeds-generating cases. • More use should be made of joint teams and co-operative investigations with the GIFI. • A specialised money laundering Unit with dedicated officers and financial investigators trained in modern financial investigative techniques should be considered to improve the performance of the Police in generating money laundering cases outside of the reporting regime. • More focused training is required of the Police and prosecutors in difficult evidential issues in money laundering cases; more officers should be trained in modern financial investigation. • More resources for financial investigation and focused money laundering training should be provided. • More detailed statistics should be kept to demonstrate the effectiveness of the law enforcement regime overall. Statistics need enhancing to ensure that those reviewing the system have a clearer picture of the types of money laundering cases that are being brought, whether they are prosecuted as autonomously or as self laundering, seize and number of confiscation orders and whether freezing occurs at early stages to prevent proceeds being dissipated.
Cross Border Declaration or Disclosure (SR.IX)	• Customs (and Border Guards) should be fully sensitized to all the issues involved in financing of terrorism.
3. Preventive Measures– Financial Institutions	
Risk of money laundering or financing of terrorism	
Customer due diligence, including enhanced or reduced measures (R.5, R.7)	• Financial institutions should be clearly required to identify customers when starting a business relationship, when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII and when the financial institution has doubts about the veracity or adequacy of previously obtained identification data. • Identification requirements concerning above threshold transactions should be applicable also to customers of electronic money institutions.

	• The Polish authorities should introduce the concept of beneficial owner as it is described in the Glossary to the FATF Recommendations. Financial institutions should be required to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source. • Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship. • Financial institutions should be required to conduct on-going due diligence on the business relationship and to ensure that documents, data or information collected under CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships. • Financial institutions should be required to perform enhanced due diligence for higher risk categories of customers, business relationship or transaction, including private banking, companies with bearer shares and non-resident customers. • Polish authorities should satisfy themselves that branches with headquarters abroad undertake the CDD process themselves as it is required by Polish Law and do not rely on their headquarters (as the Polish Law does not allow relying on third parties). • Financial institutions should not be permitted to open an account when adequate CDD has not been conducted. Where the financial institution has already started the business relationship and is unable to comply with CDD it should be required to terminate the business relationship. In both situations mentioned above financial institutions should be required to consider making a suspicious transaction report. • Financial institutions should be required to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. • It is recommended that Poland implements legislation to deal with cross-border correspondent banking relationships.
(R.6)	• Poland should implement legislation to deal with PEPs.
(R.8)	• Financial institutions should be required to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering and terrorist financing schemes.
(R.9)	As the Polish legislation does not allow for reliance on third parties and introduced business, Recommendation 9 is not applicable.
Record keeping and wire transfer rules (R.10 and SR.VII)	• The text of the law should clearly state that all necessary identification data has to be kept for at least five years after the end of the business relationship as required by Recommendation 10.

	• Financial institutions should be required to keep documents longer than five years if requested by a competent authority. • Poland should implement the whole concept of SR.VII
Monitoring of transactions and relationships (R.11 and 21)	• The examiners strongly recommend to address all the subcriteria of Recommendation 11; particularly financial institutions should be required to pay special attention to all complex, unusual large transactions or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, to examine as far as possible the background and purpose of such transactions and to set forth such findings in writing and to keep them available for competent authorities and auditors for at least five years. • A requirement to pay special attention to business relationships and transactions with persons from countries that do not or insufficiently apply the FATF Recommendations should be introduced. • Financial institutions should be also required to examine the background and purpose of transactions connected with such countries if those transactions have no apparent economic or visible lawful purpose. Written findings should be available to assist competent authorities and auditors.
Suspicious transaction reports and other reporting (R.13 and 14, 19, 25 and SR.IV)	• More guidance is needed to ensure that reporting entities place sufficient emphasis on the STR regime (as opposed to the above-threshold reporting regime). • More attention should be given to outreach to other parts of the financial and non banking financial sector to ensure that they are reporting adequately. • The AML Act should clearly provide for attempted suspicious transactions to be reported. • More guidance is required on the width of the financing of terrorism reporting obligation. • The reporting duty needs to be explicitly clarified in the law to include all funds where there are reasonable grounds to suspect or they are suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. • It would be helpful to state explicitly in the law that all financial institutions, directors, officers and employees should be protected from both criminal and civil liability for breach of any restriction on bona fide disclosures of information. • The tipping off provision should clearly cover the transmission of related information, as well as the fact of reporting.
Internal controls, compliance, audit and foreign branches (R.15 and 22)	• The AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other relevant information. • All financial institutions (not only the banking and securities sector) should be obliged to have an internal audit function, which also covers AML/CFT policies. • Financial institutions should be required to establish

	screening procedures to ensure high standards when hiring employees. • Poland should implement an explicit obligation to require financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with the Polish requirements and FATF recommendations. It should add provisions to clarify that particular attention has to be paid to branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations and that the higher standard have to be applied in the event that the AML/CFT requirements of the home and host country differ.
Shell banks (R.18)	• Poland should implement provisions with regard to a prohibition on financial institutions to enter or continue correspondent banking relationship with shell banks. • Financial institutions should be obliged to satisfy themselves that a respondent financial institution in a foreign country is not permitting its accounts to be used by shell banks.
The supervisory and oversight system – competent authorities and SROs / Roles, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)	• The evaluators advise to introduce an additional regime of complementary administrative sanctions such as fines to enhance the AML/CFT compliance, especially in the non financial sector. • The competences of the sanctioning authorities should be clarified to avoid double or no sanctioning; legal clarification is needed and working arrangements between the FIU and the supervisory authorities on sanctioning should be set out, preferably by Memoranda of Understanding and greater practical co-ordination. • Sector specific regulation should be issued by the financial supervisors (including the PSEC which should be also empowered to do so). • The engagement of the prudential supervisors in AML/CFT supervision should be enhanced. • The financial supervisors, particularly the PSEC, shall apply all necessary on-site tools (review of policies, procedures, books and records including sample testing) also in the AML/CFT area. • More AML/CFT experts are needed within the financial supervisory framework, particularly in PSEC, to be able to cover the complex issue of AML/CFT (supervision, regulation and guidance). • CFT training is needed for financial supervisors, particularly for insurance and securities sector.
Financial institutions – market entry and ownership/control (R.23)	• A licensing or registering system should be introduced for MVT services as well as an effective system for monitoring and ensuring compliance with the AML/CFT requirements. • A licensing system as it is understood by the Basel Core Principles should be introduced for Cooperative Savings and Credit Unions.
AML/CFT Guidelines (R.25)	• The financial supervisors should consider issuing sector-specific AML/CFT guidance.

Ongoing supervision and monitoring (R23, 29)	• Financial supervisors should not only check formal compliance with the AML Act but also overall effectiveness of the AML/CFT systems in the financial institutions. • Inspections of the Insurance and Pension Funds Supervision Commission should cover CFT issues. The PSEC inspections of the AML/CFT area are purely formal and should be enhanced. • The evaluators recommend that the questionnaire of the PSEC should explicitly address CFT issues.
Money or value transfer services (SR.VI)	• Poland should implement Special Recommendation VI.
4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	• The evaluators recommend working with the different sectors to improve awareness, and overcome any unwillingness to apply AML/CFT requirements. Information campaigns to this end are required. Polish authorities should continue its efforts in this direction, by offering training, publications etc. • Poland should fully implement Recommendations 5, 6, 8, 10 and 11 and make these measures applicable to DNFBP. • Real estate agents, counsels, legal advisers and foreign lawyers should be required to apply CDD measures in all relevant situations according to the FATF Recommendations and not only in the case of suspicious transactions. Accountants should also be covered by these obligations.
Monitoring of transactions and relationships, internal controls, compliance and audit (R. 16)	• Poland should fully implement Recommendations 13-15 and 21 in respect to DNFBP.
Regulation, supervision and monitoring (R.17, 24-25)	• The evaluators advise to introduce an additional regime of complementary administrative sanctions such as fines to enhance the AML/CFT compliance. • The competences of the sanctioning authorities should be clarified to avoid double or no sanctioning; legal clarification is needed and working arrangements between the FIU and the supervisory authorities on sanctioning should be set out, preferably by Memoranda of Understanding and greater practical co-ordination.
Other designated non-financial businesses and professions (R.20)	
5. Legal Persons and Arrangements and Non-profit Organisations	
Legal Persons–Access to beneficial ownership and control information (R.33)	• It is recommended that Poland reviews its commercial, corporate and other laws with a view to taking measures to provide adequate transparency with respect to beneficial ownership. • There are no real measures in place to guard against abuse

	in the context of R. 33 of bearer shares. Measures should be put in place to address this issue.
Legal Arrangements–Access to beneficial ownership and control information (R.34)	
Non-profit organisations (SR.VIII)	• It is recommended to undertake a formal analysis of threats posed by the NPO-sector as a whole and then to review the existing system of relevant laws and regulations in order to assess the adequacy of the current legal framework with respect to criterion VIII.1. • Consideration should be given to the issuing of guidance to financial institutions on the specific risks of this sector, and of whether and how further measures need to be taken in the light of the Best Practices Paper for SR.VIII. Consideration might usefully be given as to whether and how any relevant private sector watchdogs could be utilised. • It would be helpful to raise awareness for SR.VIII among existing control bodies engaged with the NPO sector so that they also could fully take account of SR VIII issues in their oversight.
6. National and International Co-operation	
National Co-operation and Co-ordination (R.31)	• It is recommended to have more coordination of the main AML/CFT players to ensure a consistent approach. The work of the intergovernmental Working Group should be continued and additionally be raised to a more senior strategic level to include other key stakeholders.
The Conventions and UN Special Resolutions (R.35 and SR.I)	• Poland should (effectively) implement all the provisions of the relevant international conventions it has ratified; *inter alia* it should introduce a full terrorist financing offence and supplement the European Union mechanisms for freezing under the UNSC Resolutions by domestic procedures for European internals.
Mutual Legal Assistance (R.32, 36-38, SR.V)	• More statistical data (e.g. nature of mutual assistance requests; the time required to handle them; type of predicate offences related to requests) is needed to show the effectiveness of the system.
Extradition (R.32, 37 and 39, and SR.V)	• Poland should maintain statistics regarding extradition requests for money laundering or financing of terrorism including the time required to handle them. • All kinds of financing of terrorism offences should be made extraditable also for non-EU-countries.
Other forms of co-operation (R.32)	• The National Prosecutor's Office and other relevant authorities should consider to maintain statistical data of the mutual legal assistance requests referring to money laundering cases, or securing / seizure of property on request of foreign countries and on request of Polish authorities.

3.2 Appendix II - Excerpts from relevant EU directives

Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

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

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

(a) in the case of corporate entities:

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

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

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

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

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

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

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

Article 2

Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

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