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

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Report on Fourth Assessment Visit

Anti-Money Laundering and Combating the Financing of Terrorism

SLOVENIA

17 March 2010

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LIST OF ACRONYMS USED

ACCMEUMS	Act on Cooperation in Criminal Matters with the EU Member States
AF	Audit Firms
AFCOS	Anti-Fraud Coordination Service within OLAF
AML/CFT	Anti-Money Laundering/Countering Financing of Terrorism
APMLTF	Act on the Prevention of Money Laundering and Terrorist Financing
APOA	Agency for the Public Oversight of Auditing
BA	Bar Association
CA	Certified Auditors
CC	Criminal Code
CDD	Customer Due Diligence
CEBS	Committee of European Banking Supervisors
CEIOPS	Committee of European Insurance and Occupational Pension Supervisors
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CO	Criminal Offence
COE	Council of Europe
CPA	Criminal Procedure Act
CTR	Cash Transaction Report
DNFBP	Designated Non-Financial Businesses and Professions
EAW	European Arrest Warrant
EC	European Commission
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
GA	Gaming Act
GREF	Gaming Regulators European Forum
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organisation
IMA	International Maritime Organisation

IN	Interpretative Note
ISA	Insurance Supervision Agency
IT	Information Technology
LEA	Law Enforcement Agency
ML	Money Laundering
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NARO	National Asset Recovery Agency
NCCT	Non-cooperative countries and territories
NIO	National Investigation Office
NPO	Non-Profit Organisation
NSC	National Security Council
OLAF	European Anti-Fraud Office
OMLP	Office for Money Laundering Prevention
PEP	Politically Exposed Person
SAI	Slovenian Auditing Institute
SAPLRRS	Slovenian Agency for Public Legal Records and Related Services
SISA	Slovenian Intelligence and Security Agency
SMA	Securities Market Agency
SOGS	State Agency for Gaming Supervision
SRO	Self-Regulatory Organisation
STR	Suspicious Transaction Report
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TARS	Tax Administration of the Republic of Slovenia
UN	United Nations

I. PREFACE

1. This is the first report in MONEYVAL's fourth round of assessment visits, following up the recommendations made in the 3rd round. This evaluation follows the current version of the 2004 AML/CFT Methodology[1], but does not necessarily cover all the 40+9 FATF Recommendations and Special Recommendations. MONEYVAL concluded that the 4th round of assessment visits should be shorter and more focused and primarily follow up the major recommendations made in the 3rd round. The evaluation team, in line with procedural decisions taken by MONEYVAL, have examined the current effectiveness of implementation of all key and core and some other important FATF recommendations (i.e. Recommendations 1, 3, 4, 5, 10, 13, 17, 23, 26, 29, 30, 31, 35, 36 and 40, and SRI, SRII, SRIII, SRIV and SRV), whatever the rating achieved in the 3rd round.

2. Additionally, the examiners have reassessed the compliance with and effectiveness of implementation of all those other FATF recommendations where the rating was NC or PC in the 3rd round. Furthermore, the report also covers in a separate annex, issues related 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 (hereinafter the "The Third EU Directive") and Directive 2006/70/EC (the "implementing Directive"). **No ratings have been assigned to the assessment of these issues**.

3. The evaluation was based on the laws, regulations and other materials supplied by Slovenia, and information obtained by the evaluation team during its on-site visit to Slovenia from 5 to 9 October 2009, and subsequently. During the on-site visit, the evaluation team met with officials and representatives of all relevant Slovenian government agencies and the private sector. A list of the bodies met is set out in Annex I to the mutual evaluation report.

4. The evaluation was conducted by an assessment team, which consisted of members of the MONEYVAL Secretariat and MONEYVAL and FATF experts in criminal law, law enforcement and regulatory issues and comprised: Ms. Alina Barbu, (Head of Department, Legislation, Studies and Documentation, Ministry of Justice Romania) who participated as a legal evaluator, Mr. Jeremy Rawlins **(**Head of Proceeds of Crime Delivery Unit, Crown Prosecution Service, United Kingdom) who participated as a legal evaluator for the FATF, Ms. Daina Vasermane (Chief Supervision Expert, Financial Integrity Division, Supervision Department, Financial and Capital Market Commission, Latvia) who participated as a financial evaluator, Mr. Pasquale Nuzzolo (Bank of Italy) who participated as a financial evaluator for the FATF, Mr. Ralph Sutter (Deputy Director, Financial Intelligence Unit, Liechtenstein) who participated as a law enforcement evaluator and members of the MONEYVAL Secretariat. The experts reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP), as well as examining the capacity, the implementation and the effectiveness of all these systems.

5. The structure of this report broadly follows the structure of MONEYVAL and FATF reports in the 3rd round, and is split into the following sections:

[1] As updated in February 2009

1. General information
2. Legal system and related institutional measures
3. Preventive measures - financial institutions
4. Preventive measures – designated non financial businesses and professions
5. Legal persons and arrangements and non-profit organisations
6. National and international cooperation
7. Statistics and resources

Part V. Compliance with the 3rd EU AML/CFT Directive.

Annexes (relevant new laws and regulations and other relevant background information)

6. This report should be read in conjunction with the 3rd round adopted mutual evaluation report (as adopted at MONEYVAL's 17th Plenary meeting – 30 May to 3 June 2005), which is published on MONEYVAL's website. FATF Recommendations that have been considered in this report have been assigned a rating. For those ratings that have not been considered the rating from the 3rd round report continues to apply.

7. Where there have been no material changes from the position as described in the 3rd round report, the text of the 3rd round report remains appropriate and information provided in that assessment has not been repeated in this report. This applies firstly to general and background information. It also applies in respect of the 'description and analysis' section discussing individual FATF Recommendations that are being reassessed in this report and the effectiveness of implementation. Again, only new developments and significant changes are covered by this report. The 'recommendations and comments' in respect of individual Recommendations that have been re-assessed in this report are entirely new and reflect the position of the evaluators on the effectiveness of implementation of the particular Recommendation currently, taking into account all relevant information in respect of the essential and additional criteria which was available to this team of examiners.

8. The ratings that have been reassessed in this report reflect the position as at the on-site visit in 2009 or shortly thereafter.

II. EXECUTIVE SUMMARY

Background information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Slovenia at the time of the 4th on-site visit (5 to 9 October 2009) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which Slovenia received non-compliant (NC) or partially compliant (PC) ratings in its 3rd round report. This report is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the Slovenia AML/CFT system.

Key findings

2. Slovenia has introduced a number of measures in recent years to strengthen its AML/CFT regime. There is, however, a very low level of prosecutions for money laundering (ML) and of orders to confiscate assets. In the view of the evaluators this significantly undermines the effectiveness of the regime.

3. In terms of risk, Slovenia is a small country and is not a major international financial centre. Furthermore, the risk of the country being used as a base for terrorism or financing of terrorism is estimated as being low.

4. The core elements of Slovenia's AML/CFT regime are established in the Slovenian Criminal Code (CC), which contains the ML and TF offences; the Act on the Prevention of Money Laundering and Financing of Terrorism (APMLTF); and the sector-specific laws. The APMLTF was most recently amended in June 2007 and came into force in January 2008, when Slovenia transposed the third EU Money Laundering Directive, and its Implementing Directive, into national law as well as introducing the financing of terrorism into preventive legislation.

5. There is now a broadly sound legal structure in place for the major preventive standards. No major deficiencies were detected in the key preventive standards. There were, however, concerns that weak supervision and lack of guidance to certain non-banking sectors could impact on the effectiveness of the AML/CFT regime.

Legal Systems and Related Institutional Measures

6. The national legislation is broadly in line with the international standards. However, important difficulties still occur mainly as a result of the perceptions as to what is required to prove the money laundering offence. Only two convictions have been obtained for money laundering since 1995 (one of which was for own proceeds laundering). It is apparent that money laundering cases are generally pursued on the basis of self laundering in circumstances where there is clear evidence of a specific offence committed on a specific date. There have been no contested trials for autonomous money laundering. Judicial practice seems to favour high levels of proof of the underlying predicate offence, which has made it difficult to prosecute an autonomous money laundering offence. There is a reluctance to draw inferences from facts and circumstances. It still appears to be a prerequisite condition in practice, although not required by the law, to prove the predicate offence. In the view of the evaluators, there is an important and urgent need to bring an

appropriate case to the Supreme Court to test current assumptions on the levels of proof required with regard to the underlying offence in an autonomous money laundering case

7. The seizure and confiscation regime under Slovene law is basically comprehensive and well-balanced. It is firmly imbedded in law and covers all forms of criminal instrumentalities. All eventualities are properly addressed, including the situation where a conviction is not possible. However, the small number of money laundering and terrorist financing related confiscations, and a lack of statistics on confiscation generally in respect of other major proceeds-generating designated categories of offence, raise concerns about the effectiveness of the system.

8. With regard to the freezing of funds related to the financing of terrorism, effectiveness remains a concern: no bank accounts or other assets have been frozen in Slovenia on the basis of the UN or EU lists. Although Slovenia has assessed the financing of terrorism risk to be low, only the banking sector showed any awareness of the lists and there is a lack of local rules or guidance as to what should be done with an account once it has been frozen and what procedures should be followed to unfreeze it.

9. The Office for Money Laundering Prevention (OMLP) is the designated FIU for Slovenia. The OMLP is well structured and professional. It appears to be operating effectively and to have a good working relationship with the police and other relevant state agencies.

10. The law enforcement results relating to money laundering are quantitatively still quite low. Furthermore, the evaluators were concerned that insufficient priority is given by law enforcement, prosecution and other competent authorities to asset recovery and detection in investigations relating to proceeds-generating crimes.

Preventive Measures – Financial Institutions

11. It was noted in the 3rd round evaluation report that the risk of terrorist financing was not always taken into account as a separate issue from risk of money laundering. With the adoption of the APMLTF, the Slovenian authorities have fully covered this deficiency from the previous evaluation round. There is a comprehensive legal definition for terrorists and terrorist financing and the obligation to conduct a risk analysis on money laundering and terrorist financing is required in the law.

12. Slovenia assesses that internet gambling and other games of chance, when offered via the internet or other telecommunications means are particularly likely to be used for money laundering or terrorist financing purposes, however, although no formal risk assessment has been undertaken in this regard on the basis of experience and data available through international organisations and forums. Furthermore, obligations have been extended to several other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes.

13. There is now a broadly sound legal structure for the major preventive standards. However, there is no clear requirement in the AML/CFT law to verify that a person acting on behalf of a client is authorised to do so. Furthermore, the existing AML Law no longer contains a requirement for financial institutions to determine whether the customer is acting on behalf of another person, and then to take reasonable steps to obtain sufficient identification data to verify the identity of that other person. Furthermore, there is still no specific requirement anywhere in the existing legislative acts requiring financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

14. The banks appear to have a good understanding of the FATF standards. However, other parts of the non-banking financial services sector, particularly the insurance sector, did not appear to have developed a comprehensive preventive regime.

15. No deficiencies were identified relating to financial institution secrecy or confidentiality and wire transfer rules. However, with regard to record keeping, there is no provision for data to be retained for longer than five years when requested by the relevant authorities and financial institutions are not specifically required to maintain records of the account files and business correspondence.

16. With regard to suspicious transaction reporting, the reporting level compared to the market size appears to be internationally above average. However, STRs are mainly received from banks. With regard to the reporting obligation, there are no explicit requirements in law or regulation to cover money laundering or terrorist financing if the suspicious transaction has been performed. Furthermore, with regard to suspicions of terrorist financing, only "property" linked with a transaction is covered by the reporting obligation.

17. Currently, the activity of the financial industry of Slovenia abroad is limited, thus the risks appear low. The only concern that arose during the evaluation was the limitation of the Recommendation 22 requirements to subsidiaries and branches in third countries (e.g. non-EU) and the fact that there is no specific distinction between third countries and countries which do not or insufficiently apply the FATF Recommendations.

18. The supervisory and regulatory structure on AML/CFT issues is broadly in place and is working, however, understanding of the risks of money laundering and terrorist financing still need further strengthening across the whole of the financial sector. Supervision by the Insurance Supervision Agency, however, appears to the assessors to be particularly weak and the insurance companies need guidelines to help them implement the provisions of the law regarding risk assessment, the CDD process and on-going monitoring.

19. With regard to sanctions, the number of administrative sanctions imposed by financial supervisory bodies in the last two years is too low and the policy to start an offence procedure against the offender only after the supervisory process is concluded makes the proceedings protracted and therefore doubts remain in relation to the issue of effectiveness of the sanctioning system.

20. Overall the system for regulating money or value service transactions appears to be operating effectively and efficiently.

Preventive Measures – Designated Non Financial Businesses and Professions (DNFBP)

21. The legal coverage of DNFBP is comprehensive and in line with international standards.

22. Casinos appear to be both aware of and applying the AML/CFT rules in practice. There was, however a general lack of awareness in other parts of the DNFBP sector. This was particularly the case with regard to the sector's awareness of the standards in relation to politically exposed persons (PEPs). There was a particularly notable lack of AML/CFT awareness among estate agents. With regard to lawyers, there is no AML/CFT supervision. Furthermore, the Bar Association does not consider itself legally competent to perform this function. Furthermore, for certain sectors (dealers in precious metals and stones; trust and company service providers; accountants and tax advisory services) there is no authority to perform inspections. Sanctioning powers of the supervisory authorities for DNFBPs seem to be present in the existing legislation, but have not yet been used in practice.

23. Discussions with the representatives of DNFBPs disclosed a lack of guidance and practical knowledge across the sector. Supervisory authorities monitoring DNFBPs for AML/CFT issues have not provided comprehensive training and it is important that this is undertaken.

24. The evaluators considered that the guidance provided to DNFBPs on suspicious transaction reporting (including indicators) had improved since the third round report. Lack of suspicious transaction reports from the sector do, however, raise concerns about the effectiveness of implementation by DNFBPs.

Non-Profit Organisations

25. Although there has been clear progress since the third round report there is still a lack of awareness of the TF risks within the NPO sector. No specific risk assessment has been conducted of those NPOs which are most vulnerable to TF and there is a general lack of supervision for CFT purposes.

National and International Co-operation

26. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination including Inter-Departmental working groups involving the FIU, police, prosecutors etc.. Overall cooperation and co-ordination appears to be an important part of the system and is performed on state level, inter ministerial level, expert level and operational level.

27. Although Slovenia has ratified all of the relevant conventions, measures still need to be taken in order to properly implement UNSCR 1267 and 1373 and to ensure full implementation of relevant provisions on confiscation and preventive measures in the Palermo and Terrorist financing Convention.

28. Although the legal provisions are in place, which allow Slovenia to provide mutual legal assistance and other forms of assistance, the lack of detailed statistics on co-operation in money laundering, the financing of terrorism and predicate offences makes it difficult for the Slovenian authorities to demonstrate effectiveness.

Other Issues

29. With regard to resources, the OMLP and the banking sectors supervisors appear to have adequate resources devoted to AML/CFT activities. Furthermore police and prosecutors appear to have adequate resources although there are concerns about the level of resources devoted to the investigation and prosecution of money laundering and terrorist financing offences and the level of priority given to such cases. There are also concerns about the level of overall resources devoted to the non-banking sectors and this is reflected in part in the relatively low level of STRs received from these sectors.

30. With regard to statistics the OMLP and the financial sector supervisors were able to provide comprehensive statistics and appeared to be making practical use of these. There was, however, a lack of comprehensive statistics concerning overall investigations and prosecutions of proceeds-generating crimes as well as provisional measures applied and confiscations.

III. MUTUAL EVALUATION REPORT

1. GENERAL

1.1 General Information on Slovenia

1. As noted in the 3rd round report, Slovenia acceded to the European Union in 2004.

2. In March 2004, Slovenia became the first 2004 European Union entrant to graduate from borrower status to donor partner at the World Bank. On 1 January 2007 Slovenia became the first 2004 European Union entrant to adopt the euro. In December 2007, Slovenia was invited to begin the accession process for joining the OECD.

3. Slovenia's economy continues to show moderate growth, as reflected in the tables beneath.

Table 1: Economic indicators

	2006	2007	2008
GDP €bn.	35.9	38.3	36.4
GDP year growth in %	5.9	6.8	(4.9)
GDP per capita €'ooo's	17.9	19.1	19.7
Inflation rate		3.6%	5.7%

Table 2: Overview of the Slovenian financial sector in terms of total assets[2]

	Assets (€ million)		Structure (%)		% of GDP		No. of Institutions		
	2007	2008	2007	2008	2007	2008	2006	2007	2008
Monetary financial institutions[1]	42,589	47,820	72.2	76.9	123.6	128.8	25	27	21
Non-monetary financial institutions	16,388	14,354	27.8	23.1	47.5	38.7			
Insurers[2]	5,035	5,189	8.5	8.3	14.6	14.0	15	16	17
Pension companies/funds[3]	1,001	1,039	1.7	1.7	2.9	2.8	11	10	10
Investment funds	4,138	1,912	7.0	3.1	12.0	5.1	106	116	131
Leasing Companies[4,5]	5,348	5,348	9.1	8.6	15.5	14.4	20	20	22
Brokerage companies, management companies, others[5]	867	867	1.5	1.4	2.5	2.3	-	-	-
Total	58,986	62,174	100	100	171.1	167.5			

Notes:
Figures for financial institutions that are not banks, insurers, pension companies or pension and investment funds are obtained from the AJPES database of annual accounts
based on the SKD 2008 classification.

[2] Sources: Bank of Slovenia – Financial Stability Review, May 2009 (http://www.bsi.si/en/publications.asp?MapaId=784)

1 Monetary financial institutions do not include the central bank. **2** Figures for total assets of reinsurance companies are for the end of the third quarter of 2008. **3** Includes the First Pension Fund. **4** The figures for the number of leasing companies comprise the number of active members of the SLA in 2007, and the number of leasing companies being monitored by the BAS's leasing committee in 2008. **5** Total assets according to figures for the end of 2007.

1.2 General Situation of Money Laundering and Financing of Terrorism

Recorded criminal offences

4. In Slovenia the current money laundering situation is more or less the same as at the time of the 3rd round evaluation, in 2005. The numbers of recorded criminal offences increased at a regular annual rate of about 10% until 2004. According to police data for 2005, 2006, 2007, 2008 and the first half of the 2009, the total number of criminal offences decreased; for example, the number of recorded criminal offences fell from 88,197 in 2007 to 81,917 in 2008 (a fall of 7.6%). In the same period, increases in numbers of certain criminal offences, such as tax evasion (a 76% increase from 2007 to 2008), usury (82% increase from 2007 to 2008), production and trafficking with arms (24% increase from 2007 to 2008) and business fraud (66% increase from 2007 to 2008) were recorded. Moreover, there was a significant increase in criminal offences of production and trafficking with drugs and corruption in the first half of 2009. It can be seen from table 3 below that the number of criminal offences of production and trafficking in arms in the first half of 2009 is almost the same as recorded in the whole of 2008. The number of criminal offences related to corruption recorded in the first half of 2009 is twice as high as that recorded in 2008. Since 2006 the number of criminal offences against property (robbery, theft) and the number of illegal immigration offences have declined while the number of economic offences, which had grown in 2006, remained generally at the same levels in 2007 and 2008.

Table 3: Recorded Criminal Offences[3]

	2005	**2006**	**2007**	**2008**	**2009**	**2005/08**
CRIMINAL OFFENCES AGAINST PROPERTY						
Theft	28,331	31,639	29,005	27,652	12,789	-2.40%
Burglary	20,252	18,107	17,891	14,909	7,939	-26.38%
Fraud	3,136	3,081	3,541	2,982	1,729	-4.91%
Robbery	429	521	445	383	261	-10.72%
Theft of vehicles	873	852	839	582	330	-33.33%
Concealment	1,583	1,631	1,615	1,472	821	-7.01%
Other CO against property	9,028	9,447	9,243	7,939	4,133	-12.06%
	63,632	**65,278**	**62,579**	**55,919**	**28,002**	-12.12%
CRIMINAL OFFENCES of ECONOMIC NATURE						
Business fraud	982	1,412	993	1,595	1,031	62.42%
Fraud	777	1,452	958	666	334	-14.29%
Issuing of an uncovered cheque, misuse of a credit card	2,158	2,625	211	1,496	521	-30.68%
Tax evasion	111	194	213	375	261	237.84%

[3] Annual police reports for 2005, 2006, 2007, 2008 and first half of 2009

Forgery	445	529	976	816	277	83.37%
Abuse of authority or rights	145	175	231	169	241	16.55%
Embezzlement	512	1	1,022	1,027	1,745	100.59%
Usury	14	17	39	71	0	407.14%
Abuse of Insider Information	0	0	0	0	0	
Abuse of Financial Instruments Market				0	0	
Unauthorised Use of Another's Mark or Model	0	2	1	3	4	
Other CO of economic nature	971	1,065	1,443	1,241	776	28.12%
	6,115	**7,472**	**6,087**	**7,459**	**5,190**	21.98%
Approximate economic loss or damage from c.o. of economic nature	**€70 m**	**€87 m**	**€107m**	**€113 m**	**€202 m**	60%
OTHER CRIMINAL OFFENCES						
Production and trafficking with drugs	1,026	159	1429	1,434	1,448	39.77%
Illegal migration	463	348	195	171	58	-63.07%
Production and trafficking with arms	148	216	129	160	107	8.11%
Falsification of money	1,439	1,823	211	2,103	1,161	46.14%
Corruption	18	44	19	18	36	0.00%
Extortion	383	403	375	344	186	-10.18%
Smuggling	31	28	31	25	1	-19.35%
Murder, Grievous bodily harm	80	97	66	51	29	-36,25%
Prohibited Crossing of State Border or Territory, Trafficking in Human Beings	464	351	197	180	64	-61,21%
Violation of Material Copyright	17	6	7	10	4	-41,18%
Kidnapping, False Imprisonment	68	77	90	83	34	22,06%
Burdening and Destruction of Environment	12	12	9	14	60	16,67%
Unlawful Acquisition or Use of Radioactive or Other Dangerous Substances	10	14	9	29	5	190,00%
Pollution of Drinking Water	3	0	4	4	3	33,33%
Tainting of Foodstuffs or Fodder	0	0	0	0	1	
TOTAL	**4,162**	**3,578**	**2,771**	**4,626**	**3,197**	11,15%
OTHER CRIMINAL OFFENCES (NOT INCLUDED ABOVE) against life and limb, human rights, honour, sexual integrity, public health, etc.	**10,470**	**14,026**	**16,760**	**13,913**	**9,150**	120.19%
NUMBER OF ALL CRIMINAL OFFENCES	**84,379**	**90,354**	**88,197**	**81,917**	**45,539**	-2.92%

Approximate economic loss or damage of all criminal offences	**€174 m**	**€168 m**	**€265m**	**€174 m**	**€240 m**	0.5%

5. The following criminal offences are the major sources of criminal proceeds.

   - Abuse of position and trust in business activity - Article 240
   - Tax evasion - Article 249
   - Business fraud – Article 228
   - Fraud – Article 211
   - Embezzlement and unauthorised use of another property – Article 209
   - Unlawful manufacture and trade on narcotic drugs, illicit substances in sport and precursors to manufacture narcotic drugs - Article 186
   - Prohibited crossing of state border or territory - Article 308.

Suspicious transaction reports (STRs) from reporting entities

6. With respect to the reporting of money laundering cases, the situation has changed since the last evaluation. In the period from 1 January 2005 to 31 July 2009, the Office for Money Laundering Prevention (hereinafter: OMLP) received 821 STRs from reporting entities. The number of STRs has risen significantly: from 116 in 2005 to 165 in 2006; from 192 in 2007 to 248 in 2008; and 100 STRs were reported in the seven months to 31 July 2009. Banks have been reporting the highest number of STRs and cash transaction reports (CTRs). Out of the total of 821 STRs, banks reported 607 STRs (74% of the total number of STRs between 1 January 2005 to 31 July 2009).

Cases disseminated to the competent authorities

7. In the period from 1 January 2005 to 31 July 2009, the OMLP forwarded to the Criminal Police Directorate and/or State Prosecution Office 225 case reports on suspicious transactions. The numbers of notifications on money laundering and written information notes in respect to other serious offences sent to the Criminal Police Directorate/State Prosecution have been on the rise, as indicated below:

   - 32 notifications on money laundering and 14 information notes in 2005,
   - 37 notifications on money laundering and 17 information notes in 2006,
   - 70 notifications on money laundering and 56 information notes in 2007,
   - 63 notifications on money laundering and 67 information notes in 2008,
   - 21 notifications on money laundering and 29 information notes in the seven months to 31 July 2009.

8. The number of notifications on money laundering doubled from 2006 to 2007 and stayed almost the same in 2007 and 2008. The proportion of closed cases among these notifications was almost the same each year (the average proportion was 31%). The most frequently assumed predicate offences among the notifications were abuse of position and trust in business activity and or tax evasion (130), fraud (14), unlawful manufacture of and trade in narcotic drugs, illicit

substances in sport and precursors to the manufacture of narcotic drugs (4), theft (4) and prohibited crossing of state border or territory (1).

The most common methods of money laundering identified in notifications sent to the Criminal Police Directorate and/or State Prosecution Office

9. In the 225 cases analysed by the OMLP and sent to the Criminal Police Directorate/State Prosecution Office in the period from 1 January 2005 to 31 July 2009, the most common methods through which money is laundered were more or less the same as noted in the previous report.

10. As is evident from cases analysed by the OMLP, banks are used more frequently for money laundering than other financial and credit institutions. In some cases, brokerage houses and leasing companies were also used. Regarding the types of groups involved in money laundering operations, groups from the neighbouring counties (Croatia and Italy) are thought by the Slovenian authorities to be involved in predicate criminal offences of abuse of position or trust in business activity and tax fraud, and groups from Hungary, Romania, Bulgaria and Russia are thought to be involved in predicate criminal offences of abuse of position and trust in business activity, fraud and theft.

Procedures, referring to crime reports submitted by the OMLP to the Criminal Police Directorate and/or State Prosecution Office

11. As noted, in the period from 1 January 2005 to 31 July 2009, the OMLP forwarded 225 case reports on suspicious transactions to the Criminal Police Directorate and/or State Prosecution Office. From the Criminal Police Directorate data it can be seen that competent police directorates sent a total of 24 crime reports (1 in 2005, 4 in 2006, 2 in 2007, 6 in 2008 and 11 in the period from 1 January 2005 to 31 July 2009) against 57 natural and legal persons to the competent State Prosecution Offices. These reports were based on well-grounded suspicions of the committing of the criminal offence of money laundering according to the Article 254 of the Criminal Code. In the period from 1 January 2005 to 31 July 2009, 18 out of 24 (or 75%) of these reports were based on information from the notifications on suspicious cases made by the OMLP. Criminal offences of money laundering were based on the following predicate offences:

    - Abuse of position and trust in business activity (11)
    - Tax evasion (6)
    - Fraud and business fraud (3)
    - Theft (2)
    - Manufacture and trade in harmful remedies (1)
    - Unlawful manufacture and trade of narcotic drugs, illicit substances in sport and precursors to manufacture narcotic drugs (1)

12. It can be seen from the above that "dirty money" has originated mainly from economic crime with the exception of one drug trafficking case. There has been a significant increase in the number of tax-crime related money laundering cases while the proceeds from corruption and illegal migration have not appeared as predicate offences in the police criminal reports, as was the case in the last evaluation report.

13. On the basis of the OMLP's notifications and written information, the police have also submitted to the State Prosecution Office reports on the suspicion of other criminal offences which are not money laundering. For example, in the period from 2005 until 31 July 2009, police filed criminal reports on other criminal offences on the basis of 36 OMLP notifications and 17 pieces of written information from the OMLP; most of these covered the criminal offences of tax evasion, abuse of position and trust in business activities and fraud.

ML investigations, prosecutions, convictions

14. At the time of the adoption of the 3rd evaluation report, there still had been no final conviction for money laundering in Slovenia.

15. In the period from 1 January 2005 until 31 July 2009, the competent Slovenian authorities have progressed 38 new money laundering cases through different procedural stages. 2 cases (against 4 persons) ended convictions (1 in 2006 and 1 in 2008), based on the predicate offence of fraud and theft. (See under 2.1.1 below for further information)[4]

16. Since 1995 there have been a total of 85 money laundering related criminal cases, which are ongoing (at various stages of proceedings or have been concluded). Most of the filed criminal charges are currently in the prosecution phase (24 cases) or at a final indictment stage (10 cases), while in 14 cases prosecutors have not yet decided on whether to prosecute. At the time of the on-site visit, prosecutors had decided to reject charges in 14 cases. The courts of the first and second instance had by the end of July 2009 decided 23 cases in the following manner:

    - in 8 cases proceedings were completed with acquittals,
    - 1 case concluded with a first instance conviction followed by the defendant's death; subsequently appellate proceedings were ceased,
    - 2 of the money laundering cases have so far concluded with a final conviction judgment,
    - 4 cases were forwarded to foreign judicial authorities,
    - in 8 cases trials were either dismissed by the courts or the indictment was withdrawn by the prosecutors.

Property frozen, seized and confiscated

17. The total amount of temporarily frozen or seized money and other assets increased from approximately €3,200,000 in 2005 to approximately €4,000,000 in the seven months to 31 July 2009. In addition, proceeds amounting to €4,760,058 have been frozen on the basis of international legal assistance. For the time being prosecutors apply Article 498a of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 8/2006) by which it is possible to confiscate money or property even when the case does not end in a conviction. This is possible only for the criminal offence of money laundering and criminal offences connected with bribery and corruption. In one such case, the prosecutor was successful and property in the amount of more than €1,000,000 was confiscated. Currently there is still one case where money has been confiscated (or the authorities are trying to confiscate it) in relation to money

[4] In October 2009 there was a further conviction for money laundering generated by the Police following a further investigation into a theft. On the base of this criminal complaint the prosecutor filed an indictment for third party autonomous money laundering. The case resulted in a conviction against one natural person for money laundering from negligence.

laundering and the aforementioned article has been used by the panel in special rulings. However, according to special rulings and other rulings of the higher courts, it is evident that in the judicial process for money laundering, at least a predicate offence must be proven and a clear connection must exist between the assets that derive from a predicate offence and assets that are "laundered".

Financing of terrorism

18. Turning to terrorist financing, the situation has not changed over the last few years. Slovenia still estimates its general vulnerability to international terrorism to be low in comparison to that of other countries in the European Union. As is shown below, the major improvement with regard to the fight against financing of terrorism represents a new AML/CFT law, which imposed additional tasks related to countering terrorist financing.

1.3 Overview of the Financial Sector and Designated Non-Financial Businesses and Professions (DNFBP)

Financial Sector

19. At 31 July 2009, 19 commercial banks were operating in Slovenia, of which 8 worked with majority foreign capital (i.e., more than 50%). There was one almost fully state owned bank (98.7%).

20. The banks are considered to be the driving force in the whole financial sector. The authorities provided table 2 under section 1.1 above showing an overview of the Slovenian financial sector in terms of the total assets in relation to the GDP of Slovenia.

21. Full details of the supervisory structure in Slovenia are set out in the 3rd round evaluation report. There have been no major changes in the supervisory structure for financial institutions in Slovenia since the 3rd round report was prepared.

Designated Non-Financial Businesses and Professions (DNFBP)

22. As stated above, full details of the supervisory structure in Slovenia are set out in the 3rd round evaluation report. There have been no major changes in the supervisory structure for DNFBPs in Slovenia since the 3rd round report was prepared.

1.4 Overview of Commercial Laws and Mechanisms Governing Legal Persons and Arrangements

23. There have been no major changes in the Commercial Laws and Mechanisms Governing Legal Persons and Arrangements since the 3rd round mutual evaluation report.

1.5 Overview of Strategy to Prevent Money Laundering and Terrorist Financing

24. The detailed assessment report on the third evaluation of the anti-money laundering and combating the financing of terrorism regime of Slovenia described and analysed the AML/CFT measures in place in Slovenia at the beginning of 2005, and provided recommendations on how certain aspects of the system could be strengthened. After its adoption at the 17th MONEYVAL plenary meeting, the report on Slovenia was presented to the Government of the Republic of Slovenia, which at its governmental session of 3 November 2005 adopted a comprehensive Action Plan for Implementation of Recommendations Made by the Select Committee of

Experts on the Evaluation of Anti-Money Laundering Measures (Action Plan). Further details of the action plan are set out below.

25. Apart from the consideration of the 3rd round mutual evaluation report and a review of the vulnerabilities of the NPO sector (see section 5.1), the evaluators were not aware of any formal risk assessment undertaken to assess the areas of vulnerability to money laundering and terrorist financing in Slovenia. Further information is set out in Section 3.1 below.

a. AML/CFT Strategies and Priorities

26. The Action Plan covered the main content of recommendations and defined (i) measures/tasks/actions planned to give effect to the recommendations; (ii) task performers; and (iii) indicative deadlines for implementation.

27. The AML/CFT activities of the Government of the Republic of Slovenia, have been mainly focused in the following areas since 2005:

- In 2007 the Parliament adopted the Resolution on the National Programme of the Prevention and Fight against Criminality for the Period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007) on which basis the National Programme on Prevention and Suppression of Criminality for the Period from 2007 until 2011 was prepared. This national programme defines activities which have to be performed by separate state authorities, independently or in co-operation with other bodies. Some significant activities of this programme are:

  - drawing up of a standardised methodology for recording criminality and establishment of a network among the police, prosecutors and courts registers;
  - extension of responsibilities for investigation of economic criminality to other supervisory authorities;
  - setting up of a joint investigation unit, members of which will be representatives of various institutions combating economic criminality; and
  - establishment of an interdepartmental working group empowered to co-ordinate measures aimed at detection, temporary securing of proceeds and confiscation of illegally acquired property benefits.

  For the direct supervision of the implementation of this national plan, a special interdepartmental working group has been established; this has to report on its work to the Government of the Republic of Slovenia once a year.

- Amendments to the Criminal Procedure Act were in the process of adoption at the time of the on-site visit. Among other measures, its proposals allow for the State Prosecutor, in serious cases of economic crime, organised crime and corruption, to establish a special investigative group with other state authorities and competent institutions from the field of customs, taxes, financial activities, securities, protection of competition, prevention of money laundering, prevention of corruption and illegal drug trafficking. The purpose of such co-operation would be to discover the criminal offence and perpetrator or to collect data needed for the decisions taken by the state prosecutor.

- In 2009, the Government began to plan for the creation of a national Asset Recovery Office (ARO), which had been recommended by MONEYVAL in the 2nd evaluation. By

decree, it nominated a special interdepartmental working group to study current practice and to make proposals for the establishment of an ARO, including its competencies, organisation staff and financial structures.

- By the end of 2009, another new body was expected to be established within the Ministry of Interior. This was intended to be the National Investigation Bureau (NIB), and it was anticipated to start work on 1 January 2010[5]. It will detect and investigate, *inter alia*, the most serious criminal offences in the field of economic crime (including money laundering), corruption, cyber crime, terrorism, and special forms of minor crime. A special interdepartmental working group had been established at the time of the on-site visit to plan for implementation of the NIB.

- The Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) was signed by Slovenia on 28 March 2007. In early 2009 the OMLP prepared the proposal for an Act on the ratification of Convention CETS 198 which was expected to be submitted to the Parliament and ratified in the first quarter of 2010. [6]According to the proposal for ratification, the following bodies have been determined as authorities competent for its implementation: the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance or the OMLP as its constitutive part.

- At EU level, in 2007 new rules concerning payment services were agreed with the adoption of "Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market. The aim of the directive is to ensure that payments within the EU – in particular credit transfer, direct debit and card payments – become as straightforward and secure as domestic payments within an EU Member State by creating the Single Euro Payments Area (SEPA). In order to fully transpose this directive into Slovenian legislation amendments to the present AML/CFT law, *inter alia*, were also planned to be adopted in early 2010.

b. The institutional framework for combating money laundering and terrorist financing

28. There have been no major changes in the institutional framework for combating money laundering and terrorist financing since the time of the 3rd round mutual evaluation report. The reader is referred to the 3rd round mutual evaluation report for these details.

c. The approach concerning risk

29. Details of the current Slovenian approach concerning risk are set out in section 3.1 below.

d. Progress since the last mutual evaluation

30. The main AML/CFT legislative enhancement has been the preparation, adoption and implementation of a new Act on the Prevention of Money Laundering and Financing of Terrorism (Official Gazette of the Republic of Slovenia, No. 60/2007; hereinafter: APMLTF

[5] The Slovenian authorities confirmed that the NIB commenced operations on 1 January 2010. 85 posts have been established of which 27 have been filled.

[6] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

(See Annex III)). The law was passed by Parliament on 22 June 2007 and came into force on 21 July 2007. The new preventive law introduced some major changes concerning requirements on obliged entities, and introduced financing of terrorism into the preventive legislation. The previous AML law did not refer to financing of terrorism at all. The APMLTF was applied in full on 21 January 2008, 6 months after its enforcement.

31. The APMLTF has replaced the previous Law on the Prevention of Money Laundering (Official Gazette of the RS, Nos. 79/2001 and 59/2002; hereinafter: LPML) and was intended to harmonise national law with the provisions of revised anti-money laundering legal instruments, as well as bringing Slovenian legislation in line with the current standards on the countering of terrorist financing.

32. In addition to the obligatory transposition of "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" (hereinafter: Third EU Directive), and the "Commission Directive 2006/70/EC of 1 August 2006 which provides implementing measures for Directive 2005/60/EC of the European Parliament and of the Council particularly in respect of the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedure and for exemptions on the grounds of financial activity conducted on an occasional or very limited basis" (hereinafter: Implementation Directive). The preparation of the APMLTF was based fully on the following international documents:

- 40 FATF Recommendations on money laundering from June, 2003
- 9 Special FATF Recommendations on Financing of Terrorism from October, 2001 and October, 2004 (Special FATF Recommendations)
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Criminal Offences, including Financing of Terrorism (K 198) from May, 2005
- Regulation (EC) No. 1781/2006 of the European Parliament and Council from 15 November, 2006 on Data on Payer accompanying Transfers of Funds
- Regulation of European Parliament and Council No. 1889/2005 from 26 October, 2005 on cash control by entering or leaving EU

33. The new APMLTF provides legal authority for the issuing of 12 bylaws, 8 of which are obligatory and 4 optional. According to Article 100 of the APMLTF, the Minister of Finance is required to issue all 8 obligatory bylaws not later than 6 months after the enforcement of the law. On that basis the Minister of Finance issued the following 8 bylaws in January 2008 (Official Gazette of the Republic of Slovenia, No. 10/2008):

- Rules on Performing Internal Control, Authorised Person, Safekeeping and Protection of Data and Keeping of Records of Organisations, Lawyers, Law Firms and Notaries
- Rules on the Method of Forwarding Information to the Office for Money Laundering Prevention of the Republic of Slovenia;
- Rules laying down conditions to be met by a person to act in the role of a third party
- Rules laying down how to determine and verify a customer's identity using the customer's qualified digital certificate

- Rules laying down the list of equivalent third countries
- Rules laying down conditions under which a person may be considered to be a customer representing a low risk of money laundering and terrorist financing
- Rules laying down conditions under which there is no obligation to report cash transaction data for certain customers
- Rules on the Method of Communicating the Information on Lawyers, Law Firms or Notaries to the Office for Money Laundering Prevention of the Republic of Slovenia.

34. In early 2008, Slovenia also passed a new Foreign Exchange Act (Official Gazette of the Republic of Slovenia, No. 16/2008), inter alia, to implement Regulation No. 1889/2005 of the European Parliament and of the Council (EC) of 26 October 2005 on control of cash entering or leaving the Community (hereinafter: Regulation 1889/2005/EC). The new law determines the competent authorities and sanctions for violations of Regulation 1889/2005/EC and regulates currency exchange operations. To improve existing arrangements in respect of the control of cash entering or leaving the EU and to modify the currency exchange operation regime, several further amendments to the Foreign Exchange Act were adopted on 19 October 2009.

35. As already noted, Slovenia signed the Warsaw Convention (CETS 198) on 28 March 2007.[7]

36. Following the recommended action plan from the 3rd report, under SR III, the Ministry of Foreign Affairs drew up a new law on restrictive measures. The Act Relating to Restrictive Measures Introduced or Implemented in Compliance with Legal Instruments and Decisions Adopted within International Organisations (Official Gazette of the Republic of Slovenia, No. 127/2006) came into force at the end of 2006.

37. Several changes have taken place in the supervisory and sanctioning system. First, the sanctioning system was amended in 2005 by the new Minor Offences Act. The OMLP and other competent supervisors became directly responsible for rulings on administrative offences under an expedited procedure. Since the entry into force of additional amendments to the new Minor Offences Act in May 2006, the OMLP no longer simply launches proposals for the initiation of administrative proceedings, but conducts the proceedings itself. Secondly, with the adoption of the new APMLTF in 2007, supervisory responsibilities and related powers in respect of designated non-financial businesses and professions (DNFBP) have been partially moved from the OMLP to the Market Inspectorate and to the Chamber of Notaries and the Bar Association.

38. The two other legislative developments are noted. As described beneath in the sections on Recommendation 1 and Special Recommendation II, a new Criminal Code (Official Gazette of the Republic of Slovenia, No. 55/2008) was passed by Parliament on 20 May 2008 and came into force on 1 November 2008. In addition, the Criminal Liability of Legal Entities Act (Official Gazette of the Republic of Slovenia No. 65/08) was amended in 2008 to clarify certain matters and to harmonise it with the Criminal Code.

39. In the chapter on criminal economic offences (which includes the criminal offence of money laundering) several changes, amendments and new criminal offences have been introduced. The text of the criminal offence of money laundering referred to in Article 245 of the Criminal Code

[7] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

remains the same, except for Paragraph 1, where the criminal offence of money laundering now directly refers to the provisions of the AML/CFT act.

40. In the chapter on criminal offences against humanity, terrorism has been defined as a single offence without any distinction between domestic and international terrorism, as was the case in the previous Criminal Code.

41. Furthermore other steps, mostly in relation to the roles and responsibilities of law enforcement authorities, are planned.

42. Suggestions for the radical reform of criminal procedure were made some time ago, as legal experts considered that the administration of Slovenian justice is too slow. At the end of 2005, the Minister of Justice established a group for the preparation of a new Criminal Procedure Act (ZKP-1). By December 2007 the group drafted the first part of the new Criminal Procedure Act, namely (i) the general part; (ii) the procedure before filing an indictment (investigating procedure); and (iii) the part that relates to the regulation of restrictive measures. According to the suggested framework, the main new element of the draft act on criminal procedure is the abolition of "judicial investigation" and investigative judges. The main role in police investigations into criminal offences will be filled by a state prosecutor who will direct and supervise the work of the police in the investigative procedure. The draft Act on Criminal Procedure foresees only one stage of the initial procedure (investigative procedure), which will replace the preliminary criminal procedure and judicial investigation. The investigative procedure will be led by a state prosecutor, who alone or through the police, will perform investigative acts.

43. Plans were also under discussion at the time of the on-site visit to give the Customs and Tax Authorities new investigative powers in respect, inter alia, of money laundering. The commitment to accomplish such reforms to criminal procedure confirmed in 2007 when the Slovenian Parliament adopted the Resolution on the National Program of the Prevention and Fight against Criminality for the Period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007).

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1 Criminalisation of Money Laundering (R.1)

2.1.1 Description and analysis

Recommendation 1 (rated LC in the 3rd round report)

44. The offence of money laundering has been criminalised in the national Slovenian legislation since 1995. Since that time several legislative modifications have been introduced resulting in the present legislation, which is now largely in compliance with international standards. However, modifying the content of the offence over the years has had some impact on judicial proceedings, as will be explained later in this section.

45. In essence, the offence of money laundering was substantially modified in 1999 when the legislator substantially changed the approach from a list of predicate offences to an "all crimes" approach. Moreover, the precondition that the offence should be committed through "the performance of banking, financial or other economic operations" which existed in the 1995 language, which was an unnecessary complication has now been deleted. These two problematic issues had to be taken into account by the judiciary while deciding several cases on money laundering which were pending before the courts since 1995 and these problems led to some acquittals or dismissals.

46. Currently, the ML offence is defined in Article 245 of the Criminal Code as:

Money Laundering

Article 245

(1) Whoever accepts, exchanges, stores, disposes, uses in an economic activity or in any other manner determined by the act governing the prevention of money laundering, conceals or attempts to conceal by laundering the origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be punished by imprisonment of up to five years.

(2) Whoever commits the offence under the preceding paragraph, and is simultaneously the perpetrator of or participate in the criminal offence with which the money or property under the preceding paragraph were acquired, shall be punished to the same extent.

(3) If the money or property under paragraphs 1 or 2 of this Article is of high value, the perpetrator shall be punished by imprisonment of up to eight years and by a fine.

(4) If an offence referred to in the above paragraphs was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be punished by imprisonment of one up to ten years and by a fine.

(5) Whoever should and could have known that the money or property had been acquired through a criminal offence, and who commits the offences from paragraphs 1 or 3 of this Article, shall be punished by imprisonment of up to two years.

(6) The money and property referred to in the preceding paragraphs shall be confiscated.

47. As it was explained by a representative of the Ministry of Justice during the on-site visit, the wording in any other manner determined by the act governing the prevention of money laundering means, all the circumstances from Article 2 paragraph 1 from the Act on prevention of money laundering which states as follows:

1. conversion or any transfer of money or other property derived from criminal activity;

2. concealment or disguise of the true nature, origin, location, movement, disposition, ownership or rights with respect to money or other property derived from criminal activity.

48. As a general remark, it can be said that the offence of money laundering was maintained in this new Code as it was regulated before, with the only modification being that the wording used before referring to "any other manner determined by the statute" was replaced by "any other manner determined by the act governing the prevention of money laundering". The declared aim of the national legislator was to clarify the wording.

49. Thus, analysing the content of the ML offence in its entirety the conclusions of the 3rd round Report on meeting the essential criteria can be reiterated:

- the offence covers the elements contained in article 3(1)(b)&(c) of the Vienna Convention and Article 6(1) of the Palermo Convention, with the moral element not only the *intention* but also the *negligence* (paragraph 5 of the Article 245)*;*

- the offence extends to *any type of property*, regardless of its value, that directly or indirectly represents the proceeds of crime, due to the general language used. The language "money or property" is sufficiently broad to cover all types of properties, regardless of its value, that directly or indirectly represents the proceeds of crime. When the Criminal Code wants to present a specific type of property, it has made it expressis verbis (e.g. using terms like cultural property- Article 102 or movable property- Article 204). But for the ML offence it uses the broadest terminology to cover all hypotheses. This conclusion is also found in the 2005 Report (p.42), being supported already at that time by case-law;

- it is not necessary *that a person be convicted* of a predicate offence, when proving that property is the proceeds of crime, but there was considerable uncertainty among police and prosecutors regarding the level of evidence required to achieve an autonomous money laundering prosecution. Indeed, the general prosecution view during the period under evaluation appeared to be that a concrete link was necessary between the criminal offence and the proceeds;

- the predicate offences for money laundering cover *all serious offences***,** which are designated categories of predicate offence, though financing of terrorism in all its forms remains incomplete. ANNEX II demonstrates how all the *designated categories of offences based on the FATF Methodology are covered by the national legislation***;**

- the offence of money laundering is *applied to persons* who commit the predicate offence, paragraph 2 of the Article 245 is relevant in this regard;

- there are appropriate *ancillary* offences to the offence of money laundering, since all the provisions from the general part of the Criminal Code are applicable to Article 245: Article 34 - Attempt, Article 37 - Criminal Solicitation, Article 38 - Criminal Support, Article 39 - incrimination of those of Soliciting or Supporting a Criminal Attempt, Article 40 - Limits of incrimination of Accomplices, Article 294 – Criminal Association, Article 295 – Criminal Conspiracy;

- predicate offences for money laundering are extended to conduct that occurred *in another country*.

Additional elements

50. The dual criminality principle applies (Article 14 Paragraph 3 of the Criminal Code). There is still a possibility to avoid having this principle applied, but only when the conditions mentioned in Articles 11 or 14 (5) of the Criminal Code have been fulfilled. Basically, it is possible to apply the Criminal Code of Slovenia to any person who, in a foreign country, commits a criminal offence under Article 245 of this Criminal Code or any other criminal offence, which according to the international agreement has to be prosecuted in all signatory states, irrespective of the location where it was committed.

51. There is a special condition for prosecuting these kinds of cases; the permission of the Minister of Justice must first be obtained and the offence in question should, according to the general principles of law be recognised by the international community as constituting a criminal act at the time it was committed.

52. Under these conditions, theoretically, where the proceeds of crime are derived from conduct that occurred in another country, which is not an offence in that particular country but which would have constituted a predicate offence had it occurred domestically, that would constitute a money laundering offence in Slovenia.

Recommendation 32 (money laundering investigation/prosecution data)

53. Article 75 of the APMLTF obliges different state authorities to regularly provide statistics to the OMLP.

54. For the period 2005 to 31 July 2009 there were 38 new money laundering cases initiated and they were at various stages in the pre-trial process (including requests for a court investigation, opened court investigations or indictments).

- In 2005-2006, there were 0 new indictments for money laundering;
- In 2006-2007, there was 1 new request for a court investigation for money laundering;
- In 2007-2008, there were 3 new money laundering cases (1 request for a court investigation and 2 indictments);
- In 2008-2009, there were 6 new requests for a court investigation.
- In the 7 months to 31 July 2009 there were 6 new money laundering cases (4 opened court investigations and 2 indictments).

The remaining cases are in different stages of criminal procedures as set out in Table 20 below.

55. In the period from 1 January 2005 until 31 July 2009, the competent Slovenian authorities have progressed 38 new money laundering cases through different procedural stages. 2 cases (against 4 persons) ended convictions (1 in 2006 and 1 in 2008), based on the predicate offence of fraud and theft.

- The first case was generated by the Police who were investigating several criminal offences of fraud and additionally to that sent an initiative to the OMLP for investigation of criminal offence of money laundering. The investigation resulted in a final conviction for several frauds, and conviction for self-laundering against 2 natural persons and one legal person. One natural person received a sentence of 3 years imprisonment and a fine of €8,300. The second natural person received a sentence of 2 years of imprisonment and a fine of €4,100. The legal person received a punishment of cancellation. The final punishments of imprisonment were higher since they also received punishment for the predicate offences. Predicate offences were several frauds committed in the period 2000-2001 and generated proceeds in the amount of approximately €210,000. In 2006, the higher court confirmed the conviction of the court of a first degree.

- The second case which ended with a conviction was also generated by the Police as a result of an investigation into an allegation of theft. It was a third party autonomous conviction for money laundering done by negligence while the perpetrators of predicate offence were unknown. The predicate offence of theft generated proceeds in the amount of €7,580. The punishment was a suspended sentence for 10 months. No appeal was made against the sentence.[8]

Effectiveness and efficiency

56. The national legislation is broadly in line with the international standards. However, important difficulties still occur mainly as a result of the perceptions as to what is required to prove the money laundering offence. Following the third evaluation report and the letter sent by Moneyval to Slovenia, actions were taken, especially at the level of Office of the State Prosecutors General in order to bring more cases before the courts.

57. Since 2005 there have been 275,410 recorded offences against property, 35,221 recorded economic crimes and 19,500 other funds-generating crimes in aggregate generating €1,021 million. (see Table 3 under section 1.2 above) However, the fact remains that only two convictions have been obtained for money laundering since 2005 (one of which was for own proceeds laundering). It is apparent that money laundering cases are generally pursued by the Slovenian authorities on the basis of self laundering in circumstances where there is clear evidence of a specific offence committed on a specific date. There have been no contested trials for autonomous money laundering.

58. Judicial practice seems to favour high levels of proof to establish the underlying predicate offence, which has made it difficult, if not impossible, to prosecute an autonomous money laundering offence. There is a reluctance to draw inferences from facts and circumstances. It still appears to be a prerequisite condition in practice, although not required by the law, to prove

[8] In October 2009 there was a further conviction for money laundering generated by the Police following a further investigation into a theft. On the base of this criminal complaint the prosecutor filed an indictment for third party autonomous money laundering. The case resulted in a conviction against one natural person for money laundering from negligence.

the specific predicate offence (e.g. on a particular day and place). Discussions held with practitioners during the visit revealed different aspects of the problem:

- although legal remedies to challenge assumptions on levels of evidence are available no dismissals had been appealed on this particular aspect by the prosecutor;
- police officers are reluctant to present to the prosecutors cases where, in their view, the predicate offence was not firmly established because they consider that prosecutors are reluctant to put forward these types of cases to judges; and
- Supreme and Higher Court Judges, with whom the team discussed these issues, by contrast stated that it is possible to establish that property has been derived from a criminal offence by drawing inferences from the facts of the case. They indicated naturally that they could not rule on money laundering, without being presented with an appropriate case.

59. While efforts have been initiated to address the problem at the level of the national authorities (including discussions among the main law enforcement authorities) a sufficient level of understanding has yet to be reached. Thus, important legal facilities, which already exist, such as joint training seminars, the use of extraordinary appeals or seeking guidelines on points of law from the Supreme Court (using Articles 109-111 of the Courts Act of Slovenia) or the request for the protection of legality (using Articles 420 - 428 from the Criminal Procedure Code) appear not to be utilised. It is noted that Article 8 of the Slovenian Constitution stipulates that a ratified treaty can be applied directly. Therefore, following the ratification of the Council of Europe Convention 198, the provisions on evidential issues in Article 9(6) could be invoked.

2.1.2 Recommendations and comments

60. There is an important and urgent need to ask the Supreme Court to provide a general legal opinion in the framework of unified jurisprudence for testing the current assumptions on the levels of proof required with regard to the underlying offence in an autonomous money laundering case. Furthermore, consideration must also be given to utilising the existing facilities to effectively implement the legislation on money laundering by practitioners. These include joint training seminars of all relevant parties (including the judiciary at all levels), setting up an experts group to exchange experience on money laundering investigation, prosecution and proceedings, using extraordinary appeals for receiving guidelines on the points of law from the Supreme Court.

61. Furthermore, it is recommended that the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)[9] be ratified and applied quickly as its provisions should assist in the establishment of the predicate offence in an autonomous money laundering case.

2.1.3 Compliance with Recommendations 1

	Rating	Summary of factors underlying rating
R.1	**PC**	• Not all designated categories of offences are fully covered as predicates as incrimination of the financing of an individual terrorist or terrorist

[9] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

		organisation is not covered. • Given the level of proceeds generating offences in Slovenia and the low level of convictions for money laundering, the overall effectiveness of money laundering criminalisation still needs to be proved. • Autonomous investigation and prosecution of the money laundering offence still constitute a challenge for the judiciary.

2.2 Criminalisation of Terrorist Financing (SR.II)

2.2.1 Description and analysis

Special Recommendation II (rated LC in the 3rd round report)

62. The new Criminal Code includes major progress in this area. New offences substantially reflect the requirements of the international conventions in this area. The new CC now covers:

Article 108 – Terrorism

Article 109 – Financing of Terrorist Activities

Article 110 – Incitement and Public Glorification of Terrorist Activities

Article 111- Conscripting and Training for Terrorist Activities

Article 134 – Kidnapping

Article 329 – Hijacking a Plane or a Ship

Article 330 – Putting Air Traffic in Jeopardy

Article 352 – Assassination of the President of the State

Article 353 – Violence against the Highest Representatives of the State

Article 354- Violence against the Representatives of Foreign Countries or International Organisations

Article 356 - Diversion<

Article 359 - Incitement to Violent Change of the Constitutional Order

Article 371- Endangering Persons under International Protection

Article 373- Taking of Hostages

Article 306 - Manufacture and Acquisition of Weapons and Instruments Intended for the Commission of Criminal Offence

Article 307 - Illegal Manufacture of and Trade in Weapons or Explosive Materials

Article 314 - Causing Public Danger

Article 318 - Damaging or Destroying Public Installations

Article 319 - Transporting or Carrying Explosive and Dangerous Materials against Regulation

Article 334 - Import and Export of Radioactive Substances

Article 335 - Unlawful Acquisition or Use of Radioactive or Other Dangerous Substances

Article 336 - Pollution of Drinking Water

63. Article 108 Criminal Code regulates the offence of terrorism (See Annex IV).

64. Comparing the offence as set out in Article 108 of Criminal code with international requirements, it can be observed that some aspects still need to be addressed in the legislation. Namely, offences as set out in the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf need to be fully incriminated; the only relevant offence in the Criminal Code is that coming from Article 108 of Criminal Code making reference to whoever performs or threatens to perform a considerable destruction to secured platforms in the continental shelf. However, there are also some other type of activities which must be incriminated such as seizing or exercising control over a fixed platform by force or threat thereof or any other form of intimidation, performing an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; causing damage to it which is likely to endanger its safety.

65. Article 109 Criminal Code regulates the offence of financing of terrorism (See Annex IV).

66. Analysing the offence of financing of terrorism, the following can be stated:

- due to the broad language used, the offence covers the activity of any person who wilfully provides or collects *funds by any means, directly or indirectly*, equally, it covers *any funds* whether from a legitimate or illegitimate source. As previously stated, the 2005 Report(p.44), concluded that the term "money or property" is sufficiently broad to cover any kind of funding as determined by UN Convention;

- the offence does not require that funds were *actually used to carry out or attempt* a terrorist act;

- since the general provisions of the Criminal Code are applicable, *the attempt* to commit a terrorist financing is also punishable, as well as participating as an accomplice, organising or directing ordering to commit one of the offence related to terrorism;

- terrorist financing offences are *predicate offences for money laundering*, since the approach of Article 245 on money laundering is a general one;

- the penalty *is sufficiently high* (up to 10 years imprisonment, or 15 years depending on the circumstances of the case) and the *confiscation* of proceeds is mandatory;

- *criminal responsibility of legal persons* is covered by the 1999 Liability of Legal Entities Act, in which Article 25 make a reference to FT offence from Criminal Code. There is also a misdemeanour responsibility for legal persons as well as the civil one; and

- predicate offences for terrorism financing is extended to conduct that occurred *in another country*, subject to accomplishing the dual criminality criteria in some cases – as it was described while analysing the ML offence.

67. The law does not expressly state that the intention can be inferred from objective factual circumstances. As noted earlier, the discussions showed that there is no special framework to

provide for this requirement in the national legislation, as the judicial authorities are free to apply it during the implementation of general legislation regarding the criminal procedure. The practice, however, is that this aspect is not reflected in the approach of the law enforcement authorities in their inquiries in money laundering offences. The conclusion can be drawn that the same approach could also be applied in cases of financing of terrorism offences.

68. There are, however, shortcomings which still need to be properly addressed in the legislation. In particular, the financing of an individual terrorist or an terrorist organisation is not separately incriminated in the Criminal Code, despite the recommendations set out in the 3rd round report. The explanation from the national authorities was that a specific offence in this regard it is not necessary since aiding and abiding rules are also applicable and that the general incrimination of criminal association and criminal support is available to cover those two situations. It is the opinion of the evaluators that these two aspects must be regulated separately so as to allow national authorities to investigate these offences as autonomous offences and to properly react to a request for mutual legal assistance. The comments from the previous legal evaluator on Criterion II.1. (a) ii) and iii) remain apt. The offence of terrorism defined in Article 108 of the Slovenian Criminal Code has an overarching condition while under UN Conventions, the funding of the acts that constitute an offence is to be prohibited regardless of such condition (see also the requirements of Article 2.1.a of the Terrorist Financing Convention). Therefore the criminalisation of the terrorist financng act is not as broad as required by the convention.

Recommendation 32 (terrorist financing investigation/prosecution data)

69. There were two cases of terrorist financing investigations by the police in the period 2005-July 2009. No crime reports have currently been submitted to the prosecutors although one police investigation is still in progress.

Additional elements

70. The existing legislative framework has not yet been tested before the judiciary (not even at the level of prosecutors), but if the situation would occur, there are sufficient grounds for believing that an efficient system of statistics would be available.

Effectiveness and efficiency

71. Due to the absence of cases before the prosecutors or the courts, it is not possible to assess the effectiveness of the procedures. However, apart from the points made below, the legislative base is largely in place.

2.2.1 Recommendations and comments

72. The Criminal Code should contain a financing of terrorism offence in line with Article 2.1.a of the Terrorist Financing Convention as well as separate incrimination of the *financing of an individual terrorist or an terrorist organisation*.

73. The legislation should be improved through the proper incrimination of the acts arising from the *second Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf* for the following activities: seizing or exercising control over a fixed platform by force or threat thereof or any other form of intimidation, performing an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; causing damage to it which is likely to endanger its safety.

2.2.2 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**LC**	• Criminalisation of TF not yet fully in line with SR.II as it is not as broad as required by the UN Convention and a separate incrimination of the financing of an individual terrorist or terrorist organisation is not covered • Several aspects coming from the second Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf must be incriminated.

2.3 Confiscation, Freezing and Seizing of Proceeds of Crime (R.3)

2.3.1 Description and analysis

Recommendation 3 (rated LC in the 3rd round report)

74. Slovenia was given a largely compliant rating for Recommendation 3 in the 3rd round on the basis that an absence of money laundering and terrorist financing related confiscation was negatively affecting the system. Three matters were raised for comment, namely the absence of a definition for "property benefits"; the concern that Article 96(3) and (4)10 of the Criminal Code might be considered redundant, or could be construed as exempting from confiscation objects for which full value had been given even if the buyer knew their criminal origin; and a recommendation that consideration be given to amending the law to provide a reverse burden for some serious proceeds-generating offences.

75. The law relating to seizure and confiscation has not been amended and the law remains as set out in the 3rd round MER. However, since the last MER, a confiscation order has been made in respect of a money laundering conviction of a natural person, who was sentenced to 10 months in prison, which was suspended for a period of two years and a confiscation order was imposed in the sum of €430.

76. The Slovenian authorities rely upon Article 74(1)11 of the Criminal Code as providing the definition of proceeds of crime, which states that nobody shall retain the property gained through or owing to the committing of a criminal offence. It does not appear that the lack of a definition of "property benefits" has been an issue in practice.

77. The 3rd round MER noted that Article 96(3) and (4) of the Criminal Code had not presented a problem in practice and this remains the case.

Additional elements

78. Property of criminal organisations may be subject to confiscation as criminal proceeds, however, no examples of this have been provided.

[10] Following a revision of the Criminal Code Article 96 is now Article 75

[11] Formerly Article 95 (1)

79. In 2008, a non-conviction based forfeiture order was made to the value of €1,142,166 under Article 498a of the Criminal Procedure Code.

80. Although there is no reverse burden of proof for serious proceeds-generating offences, Article 75 (4) of the Criminal Code provides a reverse burden of proof for close relatives when proceeds have been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 224 of this Criminal Code), or when other property has been transferred to such persons to avoid confiscation. In these circumstances, the property shall be confiscated from them unless they can demonstrate that they paid its actual value.

Recommendation 32 (provisional measures and confiscations)

81. The following statistics were provided to the evaluators:

Table 4: Provisional measures and confiscations

Year	Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	**amount** €	**cases**	**amount** €	**cases**	**amount** €
2005	1	565,594	0	0	0	0
2006	1	102,000	1	2 real estates	0	0
2007	2 1	58,000 4,760,058	0	0	0	0
2008	1	115,828	1	1,700,000 2 real estates 41 cars	2	1,143,000
2009*	1	8,000	2	817,000	0	0

Effectiveness and efficiency

82. The Recommended Action Plan for Recommendation 3 following the 3rd round evaluation called for an increase in the results of criminal asset recovery (by bringing as many money laundering prosecutions as possible to create a clear jurisprudential framework). It recommended that law enforcement should give more priority to asset detection and asset recovery.

83. The inspector, who deals with the predicate offence, also deals with any money laundering and confiscation issues. Training has been provided and the examiners were told that a seminar was being organised. Every regional directorate has at least one police investigator responsible for this work and in complicated cases, assistance from a central unit is provided. Although there are no available statistics on restraint and confiscation orders made by the courts in respect of predicate offences, the Slovenian Police confirmed that they undertake financial investigations and that they regularly ask prosecutors to apply for freezing measures. Unfortunately, it is not possible to confirm how many of their requests are taken forward by prosecutors. In 2005, the Police made 22 requests for freezing measures; 11 in 2006; 31 in 2007; 35 in 2008; and by the end of July 2009, it is estimated that the number of requests had equalled the number for 2008.

84. The examiners were told that a National Bureau of Investigation would be set up in January 2010 that would include seven financial investigator posts. The examiners were also

encouraged to learn that consideration was being given to the creation of a dedicated asset recovery unit, however, in the absence of statistics on general confiscation and with only one confiscation order made in respect of a money laundering offence and one non-conviction based forfeiture order, insufficient evidence was provided to demonstrate that asset recovery was being given a high priority.

2.3.2 Recommendations and comments

85. The 3rd round MER for Slovenia commented that *"the seizure and confiscation regime under Slovene law is basically comprehensive and well-balanced. It is firmly imbedded in law and covers all forms of criminal instrumentalities. All eventualities are properly addressed, including the situation where a conviction is not possible."* This comment remains true. There is, however, a clear need to improve the keeping of statistics on general asset recovery performance; to give priority to asset detection and asset recovery; and to continue to increase the volume and value of criminal asset recovery orders made.

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	**PC**	• The small number of money laundering and terrorist financing related confiscations and a lack of statistics on confiscation generally negatively affect the system.

2.4 Freezing of Funds Used for Terrorist Financing (SR.III)

2.4.1 Description and analysis

Special Recommendation III (rated LC in the 3rd round report)

86. As a member of the European Union, Slovenia is bound by the EU freezing mechanism, which provides a basic framework for the freezing of terrorist assets. Slovenia directly implements the relevant UNSC Resolutions 1267 (1999) and 1373 (2001) and EU regulations on the freezing of terrorist related assets by issuing regulations pursuant to Article 3(1) of the Act Relating to Restricting Measures Introduced or Implemented in Compliance with Legal Instruments and Decisions adopted within International Organisations (OJ RS, No. 127/2006) (the ZOUPAMO)12. The local regulations specify the type, implementation method and the duration of restrictive measures, their supervision and sanctions for violation. The restrictive measures automatically terminate or cease to apply when the corresponding EU and UN legal acts cease to apply. The local regulations are published in the Official Gazette and links are provided to them and to the UN and EU websites on the Ministry of Foreign Affairs website, but no further local guidance is given to the regulated sector or other persons as to their obligations.

[12] The *ZOUPAMO* replaced the *Restrictive Measures Act (OJ RS, Nos. 35/2001* and 59/2002) on the 22 December 2006, however, by virtue of Article 12 of the *ZOUPAMO*, regulations issued on the basis of the previous Act remain in force.

87. As UNSC Resolution 1373(2001) does not create a list of persons or entities to be frozen, a list is drawn up by the European Council and is annexed to Common Position 2001/931/CFSP. The list is divided into two parts, namely those entities with an external link, which are designated and have to be frozen; and European internals without an external link, which are subject to intensified police and judicial cooperation, but not to freezing. The accounts of European internals designated on UNSCRs are not required to be frozen in Slovenia.

88. The definition of funds (deriving from the EU Regulations) does not cover funds controlled by a designated person or persons acting on their behalf or at their direction (as it is required by UNSCR 1267 and UNSCR 1373)[13]

89. A Permanent Coordination Group (the Group) is established under Article 7 of the ZOUPAMO headed by a representative of the Ministry of Foreign Affairs and includes representatives from other ministries and institutions It coordinates and monitors the effective implementation of restrictive measures and other tasks under the ZOUPAMO. In cases where there is no international obligation to introduce restrictive measures, the Group must provide its view on the proposed measures. In this way, the Government may introduce restrictive measures in respect of domestic terrorists or react to requests from other States, however, all measures that are currently implemented in Slovenia are based on the UNSC and EU legal instruments and there are no domestic sanctions in place.

90. Articles 57 and 68 of the APMLTF gives the OMLP authority to temporarily suspend a transaction on its own initiative or at the request of a foreign jurisdiction for a maximum of 72 hours when the conditions specified by APMLTF are met and the OMLP considers that there is a reasonable suspicion of an offence of terrorist financing contrary to Article 109 of the Criminal Code. The OMLP informs the competent authorities (the Police, the State Prosecutor's Office) of the suspicion and the implemented measures. In cases of reasonable suspicion of an offence of financing of terrorism in Slovenia, the police and the State Prosecutor take the lead on all further procedures before the court in accordance with the Criminal Procedure Act and this may include temporary seizure and confiscation. The foreign jurisdiction's competent authority, which requested the freezing of funds or other assets of the suspected person or entity in Slovenia, may within the 72 hour period also institute proceedings for seizure of funds and assets of suspected persons by requesting Mutual Legal Assistance (MLA).14

91. Article 8 of the ZOUPAMO enables persons and entities to make application to the relevant ministry in respect of matters arising from the regulations made under the Act. The evaluators were told that this would include third party applications and applications made in respect of the exceptions allowed by the UN and EU in respect of access to funds for humanitarian needs. Applications are dealt with according to the general administrative procedure. During the on-site visit the evaluators were told that this procedure could not be used for delisting requests, or if a person or entity is wrongly identified as a person or entity on the relevant UN or EU lists. The Slovenian authorities have subsequently indicated that it is now their view that Article 8 is

[13] The EU Council document entitled "Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy", a non-binding document, gives an interpretation of these provisions which cover all of the cases required by international instruments. This interpretation is furthermore explicitly included in the Council Regulation (EU) 1286/2009 of 22 December 2009, adopted after the review period.

[14] Please refer to sections 2.2.1 and 2.2.3 above and to the potential difficulty for MLA that could be raised as a result of the shortcomings of the criminalisation of terrorist financing.

in fact wide enough to include such applications, however, no local guidance is provided to assist in this process.

92. Article 10 of the ZOUPAMO provides that the supervision of the implementation of the Act and regulations shall be carried out by public administration bodies, other entities under public law and the relevant responsible public authority, unless otherwise specified by the directly applicable EU legal act. Bodies carry out the supervision in accordance with sector-specific legislation, however, their powers may also be set out in the regulations in which they are designated.

93. In addition to the obligatory freezing of funds and assets of persons designated by UNSC or the EU Council because of their involvement in terrorist activities and its financing, the Criminal Procedure Act regulates the seizure and confiscation of funds and other assets which are derived from, are used in or could be used to commit the activities described in Article 108 of the Criminal Code.

Recommendation 32 (terrorist financing freezing data)

94. As there had been no instances of freezing of terrorist funds there were no supporting statistics.

Effectiveness and efficiency

95. Effectiveness remains a concern: no bank accounts or other assets have been frozen in Slovenia on the basis of the UN or EU lists. Although Slovenia has assessed the risk to be low, only the banking sector showed any awareness of the lists and there is a lack of local rules or guidance as to what should be done with account once it has been frozen and what procedures should be followed to unfreeze it.

2.4.2 Recommendations and comments

96. The Recommended Action Plan from the 3rd round ME called for the administrative procedure of freezing suspected terrorism related accounts as a result of the relevant UN Resolutions to be fully elaborated, including rules regarding unfreezing and the rights and obligations of the financial institutions and account holders. Whilst the ZOUPAMO has introduced a mechanism for applications to be made to relevant ministries in respect of matters arising from the implementation of the UNSC Resolutions and the EU regulations, this recommendation has yet to be fully addressed.

97. The Ministry of Foreign Affairs has conducted training sessions attended by the banking sector and some investment brokers, however, there is a clear need for further training and guidance for the regulated sector as a whole.

2.4.3 Compliance with Special Recommendation SR.III

	Rating	Summary of factors underlying rating
SR.III	**PC**	• The freezing of terrorism related accounts and funds, and related procedures, have not been fully elaborated locally and are not publicly known. There is a lack of local guidance and training. • Slovenia does not have a fully elaborated publicly known national procedure for the purpose of delisting and unfreezing requests upon

		verification that the person or entity is not a designated person. • The accounts of EU internals designated on UNSCRs are not required to be frozen. • Lack of awareness in the non-banking sector of UN and EU lists.

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26)

2.5.1 Description and analysis

Recommendation 26 (rated LC in the 3rd round report)

98. The Office for Money Laundering Prevention (OMLP)is the designated FIU for Slovenia.

99. Article 53 paragraph 2 of APMLTF states "*The Office*[15] *shall receive, collect, analyse and forward data, information and documentation obtained in accordance with the provisions of this Act*." After reorganisation of the Public Administration and enforcement of the Public Administration Act (Official Gazette of the Republic of Slovenia, No. 52/2002 and 26/2007) and the Decree on Administrative Authorities within Ministries (Official Gazette of the Republic of Slovenia, No. 58/2003), the OMLP remains a body within Ministry of Finance.

100. Apart from transposing the relevant clauses into the APMLTF, there are no changes in the functions and responsibilities from those set out in the 3rd round report with regard to R.26.

101. Article 70 paragraph 3 of the APMLTF requires the OMLP draw up and issue recommendations or guidelines for uniform implementation of the provisions of the APMLTF.

102. According to Article 100 of the APMLTF, the Minister of Finance must issue all 8 obligatory bylaws not later than 6 months after the enforcement of the law. On that basis the Minister of Finance issued the following bylaws in January 2008 (Official Gazette of the Republic of Slovenia, No. 10/2008). The relevant ones for reporting purposes are highlighted in **bold**:

- Rules on Performing Internal Control, Authorised Person, Safekeeping and Protection of Data and Keeping of Records of Organisations, Lawyers, Law Firms and Notaries;
- **Rules on the Method of Forwarding Information to the Office for Money Laundering Prevention of the Republic of Slovenia;**
- Rules laying down conditions to be met by a person to act in the role of a third party;
- Rules laying down how to determine and verify a customer's identity using the customer's qualified digital certificate;
- Rules laying down the list of equivalent third countries;
- Rules laying down conditions under which a person may be considered to be a customer representing a low risk of money laundering and terrorist financing;

[15] The OMLP is referred to as "the Office" in the APMLTF.

- **Rules laying down conditions under which there is no obligation to report cash transaction data for certain customers; and**
- **Rules on the Method of Communicating the Information on Lawyers, Law Firms or Notaries to the Office for Money Laundering Prevention of the Republic of Slovenia.**

103. These eight Bylaws give overall guidance to all obliged entities. Guidelines for the gambling sector were issued in November 2009 and for credit lenders and leasers in December 2009.

104. OMLP has not yet provided sufficient guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting, to Insurance companies, TCSP, Lawyers and Notaries. Such additional guidance for the Insurance sector, Lawyers/Notaries and trust and company service providers could increase the effectiveness of the reporting system.

105. The OMLP does provide training to obligors and details are summarised in Table 5

Table 5: Training provided by the OPML

PARTICIPANTS/YEAR	2005	2006	2007	2008	31/07/2009
Banks	9	5	4	12	1
Auditors, accountants	2				1
Exchange offices	7	5	3	3	2
Insurance Companies				2	
Companies managing Investment Funds	8	7	5		
Law Enforcement	3	4	3	2	2
Brokerage Companies			1	3	
Casinos	1			1	
Traders in precious metals					1
Judges	1	1			
TOTAL	31	22	16	23	7

106. Article 56 paragraph 1 of the APMLTF sets out powers of the OMLP's to request data.

107. On the basis of above stated provision, The OMLP has signed agreements with certain state authorities in order to provide the OMLP with direct access to relevant databases, maintained by these authorities. The OMLP has direct access to the following databases:

- Police database (databases of criminal records);
- Database of the Ministry of Interior (population register, vehicle register, register of issued identification documents, passports, etc.);
- Database of the Central Bank of Slovenia (register of transactions accounts, register of banks and savings banks);
- Database of Health Insurance Institute of Slovenia (Register on compulsory health insurance);
- Database of Surveying and Mapping Authority (register of real estate purchases and selling);
- Land register;
- Database of Ministry of Justice (register of companies);

- Companies/Directors database;
- Companies annual financial reports; and
- Dun & Bradstreet.

108. Cases as set out below were forwarded to the Office for Money Laundering Prevention provided that the police found elements of an offence of money laundering and terrorist financing while conducting a pre-trial investigation of another criminal offence.

Table 6: Number of initiatives forwarded to the OPML (FIU) by police from 2005 to 31 July 2009

Year	Number of initiatives forwarded to OMLP
2005	8
2006	14
2007	8
2008	9
7 Months to 31 July 2009	10

109. On their own initiative, the police lodged 6 crime reports relating to money laundering in the abovementioned period (one each in 2005, 2006 and 20087 and three in 2009). Other cases involving suspicion of money laundering were closed through crime reports relating to other criminal offences, reports pursuant to Art. 148, para 10 of the Criminal Procedure Act, or they are still under investigation.

110. Under a written request, the OMLP has indirect access to all databases, information and documentation kept by the following states authorities or holders of public authority: Ministries, Tax Administration, Customs, Supervision Agencies, Slovenian Intelligence and Security Agency, etc. (See also below).

111. It is the view of the evaluators that there are no changes in the conclusions regarding access to databases from those set out in the 3rd round report.

112. Article 54 paragraphs 1 and 2 of the APMLTF sets out the powers of the OMLP to request information. In the cases referred to in paragraphs 1 and 2 of this Article, the relevant organisation shall additionally be obliged to forward to the Office upon its request all other necessary documentation (paragraph 3 of Article 54 of the APMLTF).

113. The organisation is required to forward the data, information and documentation referred to in the preceding paragraphs to the OMLP without delay and at the latest within 15 days of receiving the request. Exceptionally, the OMLP may set a shorter time limit for the request if this is necessary to determine circumstances relevant for issuing an order temporarily suspending a transaction, or to forward the data to foreign authorities and international organisations, and in other urgent cases when it is necessary to prevent the occurrence of property damage (paragraph 4 of Article 54 of the APMLTF).

114. In cases of extensive documentation or due to other justified reasons, the OMLP may, by written notification, extend to the organisation, upon its written and reasoned initiative, the time limit determined and it may, in such cases, inspect the documentation in the organisation (paragraph 5 of Article 54 of the APMLTF).

115. With regards to requests to a lawyer, law firm or notary for the submission of data on suspicious transactions or persons the requirements are set out in Article 55 of the APMLTF.

116. Apart from transposing the relevant clauses into the APMLTF, there are no changes in the reporting requirements from those set out in the 3rd round report.

117. Under Articles 61 and 62 of the APMLTF, the OMLP is authorised to disseminate financial information to domestic authorities for investigation or action when there are grounds to suspect money laundering or financing of terrorism. With respect to the nature of the suspicion the OMLP may send to the competent authority notification of suspicions transactions related to money laundering or information related to some other criminal offences.

118. The majority of criminal offences listed in Articles 61 and 62 will be, by adopting the amendments to the APMLTF, replaced with new articles in accordance with the new Criminal Code that came in force on November 2008.

119. Submission of data to the court, prosecutor's office or customs authorities is dealt with under Article 71 of the APMLTF. Apart from transposing the relevant clauses into the APMLTF, the provisions on dissemination appear to be unchanged from the 3rd round report and are effectively put into practice.

120. The OMLP is a constituent body of the Ministry of Finance. It has its own decisive authority stipulated by the APMLTF and it is, according to its self-assessment, not under undue influence from the Ministry of Finance or other authorities. The evaluators have satisfied themselves that:

- there is no interference (e.g. a requirement of consultations, review mechanisms prior to taking actions) in operational activities and correspondence of OMLP;
- The OMLP carries out its analytical functions only based on its own professional resources;
- the notifications (disseminations of STR disclosures) to law enforcement are not subject to review/approval of any other structural unit/official within the Ministry; and
- No other structural unit/official of the Ministry is authorised to give instructions to the OMLP relating to its operational activities.

121. Information held by the OMLP is securely protected and all information provided to the OMLP database is immediately classified as a "secret". Information may only be disseminated in cases prescribed by the APMLTF.

122. Article 78 of the APMLTF sets out the approved use of acquired data.

123. Paragraph 2 of Article 61 of the APMLTF, states the OMLP must not state information about the employee and his/her respective organisation which first forwarded the information unless there are suspicions that the employee or organisation has been involved in criminality. Furthermore, Article 76 of the APMLTF sets out an overall prohibition on disclosure.

124. Apart from transposing the relevant clauses into the APMLTF, the provisions ensuring that information held by the FIU should be securely protected and disseminated only in accordance with the law appear to be unchanged from the 3rd round report and are effectively put into practice.

125. Article 72 of the APMLTF requires that "*the Office shall submit to the Government a comprehensive report on its work at least once annually*". Each year, after the adoption of the OMLP's Annual Report by the Government, the OMLP publishes on its website a summary report that contains relevant statistics, typologies and information regarding its activities. The OMLP also gives information on statistics, typologies and case studies in the framework of seminars and professional training.

126. The OMLP is also statutorily obliged to provide feedback to reporting entities, under Article 63 of the APMLTF. Apart from transposing the relevant clauses into the APMLTF, the provisions ensuring that OMLP should publicly release periodic reports appear to be unchanged from the 3rd round report and are effectively put into practice.

127. The OMLP has been a member of the Egmont Group since 1996, participates in its activities and cooperates with the other Egmont Member FIUs. When exchanging information with its foreign counterparts (foreign FIUs) the OMLP follows the Egmont Principles for Information Exchange between Financial Intelligence Units for ML and FT Cases.

Recommendation 30

128. The number of employees and the budget of OMLP have increased since the year 2004. 18 working places have been planned for the OMLP on the basis of the Act on Systematisation of Places in the Ministry of Finance and its statutory bodies. Since 1 December 2008, the number of OMLP staff has actually reached the number 18. The educational structure of the employees (see Table 7 below) and suitable organisational structure of the OMLP (2 departments and 3 services) assure fulfilment of all its legal duties. The OMLP is independent in its work as it has also been an autonomous budgetary user. The amount of resources provided to the OMLP has so far been sufficient for carrying out its duties.

Table 7: The educational structure of the employees of OPML

DATE	Number of employees	DEGREE OF EDUCATION			
		Master`s Degree	University	High	Secondary School
31.12.2004	17	1	13	1	2
31.12.2005	17	2	13		2
31.12.2006	16	1	13		2
31.12.2007	17	1	14		2
31.12.2008	18	1	15		2
31.7.2009	18	2	14		2

129. During the on-site visit, the evaluators were able to confirm the situation described.

130. There is a general codification of requirements for public servants on integrity standards, which are applicable also to the OMLP's employees. This is the basic regulation. In addition to this, the OMLP has adopted an internal policy that any new employees must have a background check performed by police, before they are employed and their integrity has to be assessed. Moreover, according to the Law on Secret Data, all OMLP employees undergo a special procedure and are then allowed to access or work with different confidential documents, based on a license given to them by the Ministry of Interior. The procedure for gaining permission to

access secret data can start after completed specialised training for handling confidential information.

131. The requirements regarding the professional background and professional skills of the employees of the OMLP are prescribed in an internal act of the Ministry of Finance (Regulation on the Internal Organisation and Employment System) which contains a description of the basic knowledge, education and skills requirements.

132. The relevant and regular training for combating money laundering and financing of terrorism of the staff is part of the normal working process of the OMLP. The employees of the OMLP regularly participate in trainings held in Slovenia and abroad. This training involves all fields important for the work of the OMLP. The most frequent issues at this training are: international cooperation, new investigative methods, trends in the field of money laundering and terrorist financing, seizure of the illegally derived assets and novelties in the field of the information technology. The employees of the OMLP also exchange the experiences at working visits to foreign counterparts and gain new knowledge by reading up-to date literature. Since 2005 OMLP's employees have attended 97 different seminars and training sessions (see Annex X).

133. The employees of the OMLP also take an active role (as lecturers) at different training seminars attended by the obliged entities (according to APMLTF), state authorities and organisations, which working field has been linked with the detection and prevention of money laundering and terrorist financing. Training seminars were most frequently arranged for the employees of the banks, exchange offices, insurance companies, casinos, brokerage companies, supervisory institutions, State Prosecutor's Office and Police. In the year 2005, 65 hours of training were provided for different participants, in the year 2006 42 hours, in the year 2007 23 hours, in the year 2008 62 hours and up to 31 July 2009 around 11 hours of training were provided by the employees of the OMLP.

Additional elements

134. In 2005, Training for prosecutors, judges and the Police was provided by the FIU. In the following years, this Training was continuously offered to prosecutors and the Police.

Recommendation 32 (FIU, police, prosecutors, courts)

135. After the adoption of the 3rd round evaluation report at the 17th MONEYVAL plenary meeting, the report on Slovenia was presented to the Government of the Republic of Slovenia, which at its governmental session of 3 November 2005 adopted a comprehensive Action Plan for Implementation of Recommendations Made by the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (hereinafter: the Action Plan). The Action Plan covered the main content of recommendations and defined (i) measures/tasks/actions planned to give effect to the recommendations; (ii) task performers; and (iii) indicative deadlines for implementation.

136. In execution of the action plan mentioned above, the AML/CFT activities of the Government of the Republic of Slovenia, in particular ministries and other state bodies, have been mainly focused in the following areas since 2005:

1. In 2007 the Parliament adopted the Resolution on the National Programme of the Prevention and Fight against Criminality for the Period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007) on which basis the National Programme on Prevention and Suppression of Criminality for the Period from 2007 until 2011 was prepared. This

national programme defines activities which have to be performed by separate state authorities, independently or in co-operation with other bodies. Some significant activities of this programme are:

- drawing up of a standardised methodology for recording criminality and establishment of a network among the police, prosecutors and courts registers;
- extension of responsibilities for investigation of economic criminality to other supervisory authorities;
- setting up of a joint investigation unit, members of which will be representatives of various institutions combating economic criminality;
- establishment of an interdepartmental working group empowered to co-ordinate measures aimed at detection, temporary securing of proceeds and confiscation of illegally acquired property benefits.

For the direct supervision of the implementation of this national plan, a special interdepartmental working group has been established; this has to report on its work to the Government of the Republic of Slovenia once a year.

2. As already noted, a new Criminal Procedure Act is in the process of adoption. Among other measures, it allows for the State Prosecutor, in serious cases of economic crime, organised crime and corruption, to establish a special investigative group with other state authorities and competent institutions from the field of customs, taxes, financial activities, securities, protection of competition, prevention of money laundering, prevention of corruption and illegal drug trafficking. The purpose of this co-operation is to identify the criminal offence and perpetrator or to collect data needed for the decisions taken by the state prosecutor.

3. In 2009, the Government started the procedure for establishing a national Asset Recovery Office (ARO). By decree, it nominated the special interdepartmental working group to study the current situation in this field and to make suggestions on the establishment of the ARO from the point of view of its competences, organisation, staff and financial activities.

4. By the end of 2009, a new body will be established within the Ministry of Interior. This will be the National Investigation Bureau (NIB), and it will start its activities on 1 January 2010. It will detect and investigate the most serious criminal offences in the field of economic crime (including money laundering), corruption, cyber crime, terrorism, special forms of minor crime and serious tortuous acts. A special interdepartmental working group has been established to prepare all necessities for the NIB to start work.[16]

5. The Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) was signed by Slovenia on 28 March 2007[17]. In the beginning of 2009 the OMLP prepared the proposal of the Act on the ratification of Convention No. 198 which is expected to be submitted to the Parliament and ratified in the first quarter of 2010. According to the proposal for ratification, the following bodies have been determined as authorities competent for its implementation: the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance or the OMLP as its constitutive part.

[16] The Slovenian authorities have confirmed that the MIB commenced operations on 1 January 2010.

[17] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

6. On the EU level in 2007 new rules concerning payment services were agreed with the adoption of "Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC". The aim of the directive is to ensure that payments within the EU – in particular credit transfer, direct debit and card payments – become as easy, efficient, and secure as domestic payments within an EU Member State, by providing the legal foundation for the Single Euro Payments Area (SEPA). In order to fully transpose this directive into Slovenian legislation amendments to the present AML/CFT law, inter alia, are planned to be adopted by the end of 2009.

137. Essential Criteria 32.2 requires that competent authorities should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for combating money laundering and terrorist financing.

138. In order to maintain statistics and to enable the centralisation and analysis of all data relating to money laundering and financing of terrorism, the courts, prosecution offices and other state authorities are obliged under Article 75 of the APMLTF to forward to the OMLP data on criminal offences of money laundering and financing of terrorism. On the basis of received statistical data the OMLP maintains comprehensive annual statistics on matters relevant to the effectiveness and efficiency of AML/CFT system.

139. State authorities are obliged to forward regularly to the OMLP the following data: date of filing the criminal charge, personal name, date of birth and address, or the name of the company and registered office of the denounced person, statutory definition of the criminal offence and the place, time and manner of committing the action which has signs of a criminal offence, statutory definition of the predicate offence and the place, time and manner of committing the action which has signs of a predicate offence.

140. Another tool for measuring the effectiveness of the AML/CFT system is feedback from law enforcement. Under paragraph 4 of Article 75 of the APMLTF the competent state authorities (Criminal Police, Tax Administration, Customs, Slovenia Intelligence and Security Agency and other state bodies) are obliged to report to the OMLP, once per year and at the latest by the end of January of the current year for the previous year, on its findings made on the basis of the received notifications of suspicious transactions, or information on other criminal offences.

141. Among OMLP's duties related to the prevention of money laundering and terrorist financing (Article 70 of the APMLTF) is also the obligation to publish, at least once per year, statistical data on money laundering and terrorist financing, in particular the number of suspicious transactions submitted to the OMLP in accordance with the APMLTF, the number of cases handled annually, the number of persons subject to criminal prosecution, the number of persons convicted of money laundering or terrorist financing, and the scope of frozen, seized and confiscated property.

142. The statistics kept by the OMLP are comprehensive, including:

- STRs received (differentiated according to the type of reporting entity);
- STRs analysed and disseminated;
- STRs resulting in investigation, prosecution, or convictions for money laundering, financing of terrorism or an underlying predicate offence;

- CTRs received;
- money laundering and financing of terrorism investigations, prosecutions and convictions, statistics on the predicate offences;
- property frozen, seized and confiscated, and
- mutual legal assistance requests and requests for international cooperation made or received by the FIU.

Table 8: Number of money laundering cases opened in the OMLP on the basis of STRs received from reporting entities or professions and on the basis of initiatives received, foreign FIU requests and cash transactions database from 2005 to 31 July 2009

Reporting entity	**2005**	**2006**	**2007**	**2008**	**To 31.7.09**
1. ORGANISATIONS Article 38 of the APMLTF	81	127	164	193	83
	70%	77%	85,5%	78%	83%
Commercial banks	75	123	157	175	77*
Saving banks	1	2	5	13	1
Post office		2	2	2	2
Brokerage companies	2			1	
Leasing	2				
Casinos					
Insurance	1				
Organisers offering sport wagers					3
Auditing-Accounting companies				2	
2. PROFESSIONS Article 49 of the APMLTF			1	2	1
	0%	0%	0,5%	1%	1%
Lawyers			1		
Notaries				2	1
3. INITIATORS, SUPERVISORS Articles 60, 74, 89 of the APMLTF	14	18	10	16	9
	12%	11%	5%	6%	9%
Police	**6**	**10**	**5**	**8**	**7**
Prosecutor	**3**	**4**		**1**	
Courts					
Customs	**1**	**2**		**4**	**1**
Commission for Corruption			**2**		**1**
Securities Market Agency				**1**	
Tax authorities	**1**	**2**	**3**	**2**	
Central bank	**3**				
4. EXCLUDED BY THE OMLP FROM: - CTRs DATABASE - CROSS BORDER CASH TRANS.	10	8	6	27	3
	8,6%	5%	3%	11%	3%

5. FOREIGN FIU	11	12	11	10	4
	9,5%	7%	6%	4%	4%
All	116	165	192	248	100

* Among STRs reported by banks in 2009 there have been two reports which referred not only to ML but also to FT

143. According to the internal guidelines for proceedings with STRs all 821 received STRs were considered as "*Cases opened*". All STRs received from reporting entities were therefore analysed and not simply registered as reports in OMLP's database.

144. Organisations, among them banks, have been reporting the highest number of STR reports. Out of 821 STRs banks have reported 607 STRs so that the average share of banks in the total amount of STRs in the period 2005-31 July 2009 is 74%. For example, the share of banks in the total amount of STRs was 65% in 2005, 74% in 2006, 82% in 2007, 70% in 2008 and in the first seven months of 2009 this share is 77%.

145. In the period from 2005 to 31 July 2009, 49 initiatives were forwarded to the OPML (FIU) by the police (see Table 6 above). Cases were forwarded to the OPML provided that the police found elements of an offence of money laundering and terrorist financing while conducting a pre-trial investigation of another criminal offence. In the same period the OMLP, on the basis of 49 police initiatives, opened 36 cases; the other 13 initiatives have been rejected by the OMLP.

146. On their own initiative, the police lodged 6 crime reports relating to money laundering in the abovementioned period (one each in 2005, 2006 and 2008 and three in 2009). Other cases involving suspicion of money laundering were closed through crime reports relating to other criminal offences, reports pursuant to Article 148, paragraph 10 of the Criminal Procedure Act, or they are still under investigation.

Break-down of STRs analysed and disseminated

147. In the period 2005 to 31 July 2009, 715 cases were analysed and concluded in the OMLP. The structure of all concluded cases in the years 2005, 2006, 2007, 2008 and 2009 can be seen in Table 9 below.

Table 9: Concluded cases 2005 to 31 July 2009

Year	**Notification on STRs to the CPD***	**%**	**Information to the CPD/Tax Authority/Customs****	**%**	**Concluded within OMLP*****	**All**
2005	32	31%	14	13%	58	104
2006	37	35%	17	16%	51	105
2007	70	38%	56	30%	59	185
2008	63	33%	67	35%	61	191
2009	23	18%	29	22%	78	123
All	**225**	**31%**	**183**	**26%**	**307**	**715**

*reports on suspicious transactions from OMLP to the Criminal Police Directorate (CPD); Article 61 of the APMLTF; Reports contain all data and documentation on ML suspicion;
**written information contains only data and no documentation and deals with serious criminal offences except ML; (see Article 62 of the APMLTF);
***cases concluded within the OMLP because no suspicion of ML or serious criminal offences was found;

148. It can be seen from Table 9 that in the last five years, the OMLP forwarded 225 reports on suspicious transactions on money laundering to the competent authorities (Criminal Police Directorate/State Prosecution Office), in accordance with Article 61 of the APMLTF as well as 183 written information on suspicion of other criminal offences, in accordance with Article 62 of the APMLTF. 307 cases, for which the initial suspicion on the criminal offence of money laundering or other serious criminal offences could not be confirmed were concluded within the Office as *ad acta (closed case)*.

149. The number of notifications on money laundering increased from 37 in 2006 to 70 in 2007 (89%) and stayed almost the same in 2007 and 2008. The shares of these notifications of all closed cases per year stayed almost the same (average share is 35%).

Table 10: Statistics on CTRs

Number of cash transactions*

Reporting entity	2005	2006	2007	2008	31 July 2009
Banks	38,621	46,019	40,937	21,727	8,924
Post	1,282	1,734	2,028	1,195	542
Exchange Offices	849	782	5	1	-
Casinos	1,107	935	932	994	501
Gaming Houses	85	90	146	160	110
Savings Houses	216	388	547	290	155
Savings and credit Houses	9	6	8	4	-
Brokerage Houses	-	-	5	0	-
Precious metals and precious stones dealers	-	9	2	0	-
Insurance Companies	-	3	4	0	-
Real estate Agencies	1	-	-	0	-
Bank of Slovenia	-	-	3	0	-
TOTAL	**42,170**	**49,966**	**44,617**	**24,371**	**10,232**

*Transactions in cash over app. €20,500 reported to the OMLP in years 2005 to 2007 and over €30,000 reported in years 2008 to 31 July 2009

Number of reports on cash sent by Customs Authority to the OMLP*

Year	2005	2006	2007	2008	31 July 2009
Number of reported transactions	863	1,368	1,327	754	214
Number of non-reported transactions	5	5	16	33	15
TOTAL	**868**	**1,373**	**1,343**	**787**	**229**

* Transactions in cash or bearer negotiable instruments over app. €12,500 from 2005 to 31 July 2007 and over €10,000 from August 2007 to 31 July 2009.

Information exchange

150. The OMLP has certain competences on the basis of Council of Europe Convention No. 198.[18] Namely, the OMLP shall be the central authority responsible for sending and answering

[18] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

requests, referring to the money laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism, the execution of such requests or their transmission to the authorities competent for their execution.

151. On this basis, in the year 2004, the OMLP sent 6 requests to the foreign competent authorities of 4 countries in 5 cases and received no foreign requests. In the year 2005, it sent 3 requests to 3 countries in 3 cases and received 3 foreign requests from 3 countries in 3 cases. In the year 2006, the OMLP sent 3 requests to 2 countries in 3 cases and received no foreign requests. In the year 2007, the OMLP sent 1 urgent letter referring to the request sent to the foreign authority already in the year 2006. In the year 2008, the OMLP sent 1 request to the competent foreign authority referring to the seized funds on the bank accounts regarding the mutual legal assistance request of the competent Slovenian authority sent to this country already in the year 2000. In the year 2009 (until 31 July 2009) the OMLP sent/received no mutual legal assistance requests.

152. The OMLP also has certain competences on the basis of Paragraph 2 of Article 515 of the Criminal Procedure Act, which stipulates, that "*in emergency cases and on condition of reciprocity, requests for legal assistance may be sent through the ministry responsible for internal affairs, or in instances of criminal offences of money laundering or criminal offences connected to the criminal offence of money laundering, also to the body responsible for the prevention of money laundering.*"

153. On this basis, the OMLP received 1 request in the seven months to 31 July 2009 from the competent authority of United Kingdom for obtaining information and documents in relation to a criminal investigation being conducted by British law enforcement authorities.

154. The OMLP has made no spontaneous referrals to its foreign counterparts[19] and received 9 such reports in the seven months to 31 July 2009 (2 in the year 2007 – from the Slovakian and Norwegian FIUs; 3 in the year 2008 – from the FIUs of Brazil, Hungary and Panama and 4 in the year 2009 (until 31 July 2009) – from the FIUs of Cyprus, Slovakia, Thailand and Belgium).

155. With regard to international co-operation on the basis of Articles 65 and 66 of the APMLTF, in 2005, the OMLP sent 190 requests in 47 cases to counterparts in 34 countries and received 89 requests in 70 cases from 23 countries. In 2006, the OMLP sent 72 requests in 40 cases to counterparts in 40 countries and received 74 requests in 55 cases from 24 countries. In 2007, the OMLP sent 118 requests in 51 cases to counterparts in 31 countries and received 85 requests in 68 cases from 23 countries. With regard to the international cooperation on the basis of the Articles 65 and 66 of APMLTF, the OMLP sent in the year 2008 163 requests in 54 cases to counterparts in 36 countries and received 80 requests in 71 cases from 30 countries. In the year 2009 (until 31 July 2009), the OMLP sent 105 requests in 67 cases to counterparts in 28 countries and received 108 requests in 86 cases from 31 countries.

Suspended Transactions

156. In the period 2005-2009 (until July 31, 2009) the OMLP used its authority under Article 57 of the APMLTF to suspend (to postpone) transactions 7 times; twice in 2005, twice in 2007, twice in 2008 and once in 2009. In all instances the written suspension orders of the OMLP were

[19] 2 such referrals were sent to the FIUs of Ukraine and Germany in August 2009

substituted with a court order for the amount of 308.442 USD and 123.128 EUR. Altogether, in the period from 1995 to 2009 the OMLP issued 34 suspension orders.

Police/Prosecutor's Offices/Courts

157. Prosecutors' offices and courts are obliged, under Article 75 of the APMLTF to forward twice annually (mid and end of the year) to the OMLP the following information:

- personal name, date of birth and address, or the company, address and registered office of the denounced person or the person who lodged a request for judicial protection within the offence proceedings;
- stage of proceedings and the final verdict in each individual stage;
- statutory designation of the criminal offence or other offence;
- personal name, date of birth and address, or the company and registered office of the person in respect of whom an order for temporary protection of a request for forfeiture of proceeds or temporary seizure has been issued;
- date of issue and duration of the order on temporary protection of the request for forfeiture of proceeds or temporary seizure;
- amount of assets or value of the property which is the subject of the order on temporary protection of the request for forfeiture of proceeds or temporary seizure;
- date of issuing the order on forfeiture of assets or proceeds; and
- amount of assets or value of the proceeds forfeited.

158. With regard to OMLP, in the period 2005 – 2009 (until July 31), the OMLP forwarded to the Criminal Police Directorate and/or State Prosecution Office reports on suspicious transactions in 225 cases. From the data of the Criminal Police Directorate can be seen, that competent Police directorates sent to the competent State Prosecution Offices altogether 24 crime reports against 57 natural and legal persons, due to the well-grounded suspicion of committing criminal offence of money laundering according to the Article 254 of the Criminal Code. In the period 2005 – 31 July 2009, 18 out of 24 or 75% were based on the information from the notifications on suspicious cases of the OMLP. On the basis of OMLP's notifications and written information criminal police submitted to the State Prosecution Office as well criminal reports due to the suspicion on other criminal offences which are not money laundering. For example, in the period 2005 – 2008 police filled criminal reports on other criminal offences on the basis of 36 OMLP's notifications and 17 OMLP's written information, mostly for the criminal offences of tax evasion, abuse of position and trust in business activities and fraud.

159. In the period 1995 – 31 July 2009, out of 85 criminal reports (money laundering cases) 56 or 63% of them were based on the information from the reports on suspicious cases of the OMLP.

160. With regard to statistics in general, the Office of the Republic of Slovenia of Money Laundering Prevention seems to report suspicious transactions to the law enforcement authorities and other state bodies in different ways.

161. A basis for such reporting is Articles 61 and 62 of the APMLTF. Article 61 requires notification of suspicious transactions where OMLP believes there exist reasons for suspicion of money laundering or terrorism financing in connection with a certain transaction or a person.

Article requires information on other criminal offences where OMLP believes that there exist reasons for suspicion of criminal offences in connection with a certain transaction or a person.

162. Between 2005 and 31 July 2009, the following numbers of notifications or information letters were received by the police from FIU in respect of the APMLTF provisions stated above:

Table 11: Notifications Under Article 61 of the APMLTF

Year	Number of notifications received by police
2005	32
2006	36
2007	70
2008	64
2009*	23

*until 31 July 2009 (exclusive amendments to notifications already received)

Table 12: Information Under Article 62 of the APMLTF

Year	Number of information letters received by police
2005	7
2006	11
2007	53
2008	54
2009*	25

* until 31 July 2009

163. Notifications of suspicious transactions and information on other criminal offences forwarded to the police by OMLP do not constitute a crime report (opinion of the Office of the State Prosecutor General no. Ktr 356/05 HJ-mm (Tu 9/05) of 28 June 2005).

164. Since Slovenia's accession to the EU (1 May 2004), the number of Missing Trader Intra-Community VAT Frauds has risen dramatically in the country. It should be noted that a lot of the abovementioned notifications and information letters sent by the OMLP between 2005 and 2009 concerned cash withdrawals from transaction accounts of missing traders. In conformity with guidelines from the prosecution service, and on the basis of investigations carried out based on OMLP information, the police have mostly established the elements of criminal offences committed as acts of-Tax Evasion, Abuse of Position or Trust in Business Activity, or as Embezzlement and Unauthorised Use of Another's Property. Accordingly, the tables below show a dramatic increase in crime reports lodged for those criminal offences between 2005 and 31 July 2009 in comparison with the period before 2004.

Table 13: Crime reports lodged for the year 2002

Offence	number of crimes
	2002
Embezzlement and Unauthorised Use of Another's Property	520
Abuse of Position or Trust in Business Activity	185
Tax Evasion	99

Table 14: Crime reports lodged for the year 2003 - 2004

Offence	number of crimes		increase/ decrease (%)	Damage 2004 (SIT m)
	2003	2004		
Abuse of Position or Trust in Business Activity	201	207	3.0	9,457.4
Embezzlement and Unauthorised Use of Another's Property	477	581	21.8	483.5
Tax Evasion	83	87	4.8	2,225.7

Table 15: Crime reports lodged for the year 2005 - 2006

Offence	number of crimes		increase/ decrease	damage (SIT m)		increase/ decrease
	2005	2006	(%)	2005	2006	(%)
Abuse of Position or Trust in Business Activity	145	175	20.7	3,318.5	4,216.1	27.0
Embezzlement and Unauthorised Use of Another's Property	512	1,000	95.3	1,100.3	1,408.7	28.0
Tax Evasion	111	194	74.8	1,611.5	3,392.7	110.5

Table 16: Crime reports lodged for the year 2007 - 2008

Offence	number of crimes		increase/decrease (%)	damage (€'000s)		increase/ decrease (%)
	2007	2008		2007	2008	
Abuse of Position or Trust in Business Activity	231	169	-26.8	47,817.1	54,719.4	14.4
Embezzlement and Unauthorised Use of Another's Property	1,022	1,027	0.5	6,648.1	2,971.1	-55.3
Tax Evasion	213	375	76.1	9,897.9	26,452.4	167.3

Table 17: Crime reports lodged for the 7 months to 31 July 2009

Offence	number of crimes	damage (€'000s)
Abuse of Position or Trust in Business Activity	241	36,057,8
Embezzlement and Unauthorised Use of Another's Property	1,749	2,535.3
Tax Evasion	261	133,274.4

Table 18: pre-trial procedures for suspicions of money laundering (on its own initiative or based on FIU referrals) initiated by the Police between 2005 and 2009

Year	Number of money laundering investigations opened by police	Number of crime reports* on money laundering lodged by police on their own initiative	Number of crime reports on money laundering lodged by police based on OMLP notifications	Number of crime reports on money laundering lodged by police	Money laundering offences included in crime reports*
2005	14	1	/	1	4

2006	18	1	3	4	5
2007	36	/	2	2	2
2008	20	1	5	6	8
2009 (until 31 July 2009)	23	3	8	11[13]	39
ALL	111	6	18	24	58

***** A crime report lodged may include more than one money laundering offence.

165. Table 6 above sets out the number of initiatives forwarded to the OMLP by the police from 2005 to 31 July 2009.

166. Cases were forwarded to the OMLP provided that the police found elements of an offence of money laundering and terrorist financing while conducting a pre-trial investigation of another criminal offence.

167. In the period 2005 to 31 July 2009, the police lodged 24 crime reports relating to money laundering (See Table 18). In addition, between 31 July 2009 and 31 December 2009.

168. There were two cases of terrorist financing investigations by the police in the period 2005 to 31 July 2009. No crime reports have currently been submitted to the prosecutors although one police investigation is still in progress, but there were also 10 indicators of a suspicion of a terrorist financing, some of them were forwarded to FIU with a view to identifying elements of financing terrorism:

Table 19: Cases involving suspicion of FT

Year	Terrorist financing indicators	Terrorist financing police investigations	cases forwarded to FIU – financing terrorism
2005	4	1	/
2006	/	/	/
2007	1	/	1**
2008	3	/	3
2009*	2	1	0

* until 31 July 2009

** Before amendment of Prevention of Money laundering and Terrorist Financing Act in July 2007, FIU had no legal basis for exercising powers on grounds of the criminal offence Terrorist Financing.

169. In response to every case forwarded by police before 2009 the OMLP replied there were no grounds for the suspicion of financing terrorism. Therefore cases were dropped. In one case (2005) a report was submitted by the police to a competent Office of District State Prosecutor. Currently there are three investigations concerning suspicion of financing of terrorism underway in the OMLP.[20]

170. In the period 2005 to 31 July 2009, 38 money laundering cases were initiated and are now in the different stages of procedures:

Table 20: Status of money laundering cases from 2004 to 31 July 2009

[20] In addition the OMLP received three initiatives with regard to FT from the Slovene Intelligence and Security Agency (in November and December 2009).

Stage \ Period	2004	2005	2006	2007	2008	2009*	Increase 2004-2009*
State Prosecutor Office: criminal report rejected	12	13	13	14	14	14	2
State Prosecutor Office: decision has not been made yet	2	2	4	3	7	14	12
State Prosecutor Office: request for court investigation	2	4	6	5	11	11	9
Investigative Judge: opened court investigation	9	7	6	8	9	13	4
State Prosecutor Office/Court: indictment	7	7	7	9	8	10	3
Court: final verdicts of not guilty	6	6	7	7	8	9	3
Court: final judgment of conviction	0	0	1	1	2	2	2
State Prosecutor Office/Court: withdrawal from the prosecution, limitation, suspension[21]	5	5	7	7	8	8	3
Court: transmission of criminal files abroad	4	4	4	4	4	4	0
TOTAL	**47**	**48**	**55**	**58**	**71**	**85**	**38**

*7 months to 31 July 2009

171. The breakdown of the 38 cases is as follows:-

- Self-laundering – 17
- Third party laundering – 11
- Self-laundering and third party laundering – 7
- Third party laundering and autonomous laundering - 3

172. Data received in the seven months to 31 July 2009 under Article 75 of the APMLTF from the State Prosecution Offices and Courts shows, that 85 money laundering cases* were in the following stages of procedures on July 31, 2009:

Table 21: Statistical data on procedures, referring to crime reports submitted to the Criminal Police Directorate and/or State Prosecution Office for the period 1995 – 31 July 2009

[21] cases have been withdrawn from prosecution due to operation of limitation periods or have been suspended.

Stage of Procedure	Number of cases	Number of persons
State Prosecutor Office: criminal report rejected	14	33
State Prosecutor Office: decision has not been made yet	14	34
State Prosecutor Office: request for court investigation	11	24
Investigative Judge: opened court investigation	13	32
State Prosecutor Office/Court: indictment	10	17
Court: final verdicts of not guilty	9	19
Court: final judgment of conviction	2	4
State Prosecutor Office/Court: withdrawal from the persecution, limitation, suspension	8	4
Court: transmission of criminal files abroad	4	6
Total:	**85**	**211**

173. Out of 85 cases submitted by the Police to the prosecutor, procedures were concluded in 37 cases, while in 48 cases the procedures are not final yet. (Further information on the outcome of these cases is provided in Section 1.2 above.). Matters of effectiveness arising out of the statistics as set out in tables 19 and 20 are discussed in detail under section 2.1 above.

Freezing/Seizing/Confiscations

174. In the period 2005-2009 (until July 31, 2009) competent courts ordered freezing, seizure or temporary insurance of the claim for the seizure of proceeds or confiscation in 13 cases, which referred to the suspicion of committing the criminal offence of money laundering. The amounts in Euros for this period are seen from table 4 under section 2.3.1 above:

175. Several changes occurred in the amount of insured funds, since in some cases later the courts did not extend orders on the insurance of the seizure of proceeds and in some cases the funds were returned to the rightful claimants on the basis of the final decision of acquittal.

176. According to data per July 31, 2009 in Slovenia altogether €2,451,883.30, US$ 295,469.94, CHF 60,854.90 (together approximately €2,700,000) and real estate and vehicles in the amount of €2,417,553 owned by 20 natural and 2 legal persons were temporarily seized in 12 cases, due to the grounded suspicions of committing the criminal offence of money laundering. In one of the cases the funds in the amount of €87,500 were seized abroad on the basis of requests from Slovene Courts in the year 2000 under CE Convention No. 141. Moreover, in the Republic of Slovenia €4,760,085 were seized, which belonged to the person against whom the criminal proceedings have taken place due to the criminal offence of money laundering in another country.

177. According to Article 498a of the Criminal Procedure Act, it is possible to confiscate money or property even when the case does not end with conviction. That is possible only for the criminal offence of money laundering and criminal offences connected with bribe and corruption. In one such case, the prosecutor has been successful and assets in the amount of more than €1,000,000 were confiscated.

178. It can be seen from data above that on July 31, 2009 approximately €11,000,000 was frozen, seized or confiscated in Slovenia.

179. The effectiveness of the system to combat money laundering and terrorist financing is enhanced by regular feedback reports.

180. In Slovenia so far no assets have been frozen pursuant to or under U.N. Resolutions and EU Lists relating to terrorist financing.

181. No statistics were available on STRs on international wire transfers.

182. There was no breakdown of the number of cases and the amounts of property frozen, seized, and confiscated relating to criminal proceeds.

183. From 1 January 2005 to 31 July 2009, the OMLP received 11 such incomplete requests (3 in the year 2005, 1 in the year 2006, 4 in the year 2007, 1 in the year 2008, 2 in the year 2009 (until 31 July)) for which a partial answer was provided. In all of these cases, the answers of OMLP were "negative" (no match was found in OMLP`s databases), which was most probably the cause that the additional data asked by OMLP was not provided by the requesting FIUs. The the number of such incomplete requests has been relatively low mostly as a consequence of considering the EGMONT Group Best Practices for the Exchange of Information by FIU.

184. When the OMLP receives a foreign request, a reply is always provided. The OMLP has never refused to answer a foreign request, but in cases when a request does not contain all necessary information on the case according to the EGMONT Best Practices for the Exchange of Information between FIUs (involved natural and/or legal persons, short description of the case, reasons for suspicion on ML/TF etc.), the OMLP only checks its own databases (STRs, CTRs and transfers of cash cross EU borders) and commercial databases (such as the Register of Companies) and gives the requesting FIU the partial answer. At the same time, the OMLP requests from the foreign FIU all missing data on which basis a suspicious transaction case will be opened within the OMLP and therefore the latter will be able to request the additional information (such as financial information, possible involvement in criminal activities etc.) from its obligors to finally give a foreign counterpart a complete answer.

Additional elements

185. The State Prosecutors Offices keep the relevant statistics. Statistics on convictions for each type of criminal offence, including the ML and FT offence, are held by the Statistical Office.

186. In the first judgment (mentioned above under R.32.2) where two natural and one legal person were accused of committing money laundering, the following sentences were imposed:

- 3 years of prison and fine of approximately €8,330 to the first natural person; and
- 2 years of prison and fine of approximately €4,160 to the second natural person.

187. In the second judgment, the natural person was sentenced to 10 months in prison, which will not be imposed if the defendant will not commit any other criminal offence in the probation period of 2 years. At the same time, the amount of €430 was confiscated.

188. The OMLP can, among others, also provide statistics on the numbers of STRs resulting in investigation, prosecution and convictions. These statistics refer to all cases referring to criminal offence of money laundering (based on OMLP's reports or without them) and do cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police. The statistics are kept by the OMLP on the basis of data received twice a

year from the police, prosecutor offices and courts under Article 75 of the APMLTF. In the period 2005 to 2009 (until July 31, 2009) 648 STRs were reported to the OMLP by the organisations, 18 STRs out of 648 resulting in the following manner:

- 9 cases pending at the State Prosecutor Offices
- 8 cases are in the stage of court investigation
- 1 case indicted

189. In the period 1995 to 31 July 2009, 38 cases were opened and investigated on the basis of OMLP's notifications, Police criminal reports or initiated by prosecutor. In the same period 19 cases were opened and investigated on the basis of reported STR from organisations. Out of these 19 cases, 9 are pending in the Prosecutor's Office, 1 is in the stage of indictment, in 5 cases prosecutor requested court investigations, in 3 cases court investigation has been opened and 1 case is in the phase of indictment.

190. No statistics on other formal requests for assistance made or received by law enforcement authorities relating to ML or FT, including whether the request was granted or refused. No separate statistics on the number of cases and the amounts of property frozen, seized, and confiscated relating to underlying predicate offences where applicable.

Effectiveness and efficiency

2.2.3 Recommendations and comments

Recommendation 26

191. The OMLP is well structured and professional. It appears to be operating effectively and to have a good working relationship with the police and other relevant state agencies.

Recommendation 30

192. As stated above, the OMLP is well structured and professional. Slovenian authorities could consider giving specific training on ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism to judges and courts.

Recommendation 32

193. Slovenian authorities should consider introducing statistics on international wire transfers, breaking down the number of cases and the amounts of property frozen, seized, and confiscated relating to criminal proceeds.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors underlying rating
R.26	**C**	

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27)

2.6.1 Description and analysis

Recommendation 27(rated PC in the 3rd round report)

194. The Slovenian criminal procedure developed from the so-called mixed (inquisitorial-accusatorial) criminal procedure systems. The recent Criminal Procedure Act (CPA) was adopted by the National Assembly in September 1994 and has already been amended nine times since then, mostly in the adversarial direction. Currently new amendments have been prepared, briefly described below.

195. Besides the Criminal Procedure Act, the most important legal act containing criminal procedure provisions is the Constitution, enshrining human rights and liberties of the individual. The Republic of Slovenia is also legally bound by international conventions, which are implemented as internal law. If State laws do not comply with international treaties, which are binding on Slovenia, such treaties are directly applied.

196. The substantive criminal law is contained in the Criminal Code (CC-1). Misdemeanours are considered a part of penal legislation in broader terms and therefore the Minor Offences Act (official consolidated text - ZP-UPB4) (Official Gazette of the Republic of Slovenia, No. 3/07) is one of the statutes containing provisions of penal nature including the procedural provisions. There are also criminal procedure provisions in the Criminal Liability of Legal Entities Act.

197. The Police are an independent body, located within the Ministry of Interior. The Ministry of the Interior establishes the developmental, organisational, personnel policies and other basic parameters of Police work, and is responsible for Police financing and investment. The Ministry also co-ordinates and harmonises police information and telecommunication systems with the systems of other state bodies. The Ministry of Interior also directs and monitors the performance of police tasks.

198. The Police perform their tasks at three levels: the state, regional and local levels. Organisationally, the Police comprise the General Police Directorate, Police Directorates and police stations. The Police headquarters are in Ljubljana. The Police Service is headed by the Director General of the Police, who also supervises the work of the General Police Directorate.

199. Pursuant to the Law on the Police (official consolidated text - ZPol-UPB6) (Official Gazette of the Republic of Slovenia, Nos. 107/06 and 42/09), the Police Service tasks are carried out by uniformed and criminal police officers and by specialist police units organised within the General Police Directorate, police directorates and police stations.

200. Based on the Law on Police (effective from July 1998), and the Rules on Organisation and Systematisation of the Police (which were adopted at the end of 1999 and became effective on 1 April 2000), there was created the Economic Crime Section under the General Police Directorate, within the Criminal Investigation Police. This section includes the Financial Crime and Money Laundering Division, which is primarily responsible for conducting preliminary investigations in money laundering cases as well as in other economic crimes. This division centrally has four officers. The same organisational structure exists at the regional level.

201. Within the General Police Directorate an appointed officer co-ordinates the investigations of money laundering cases by various Police units on both the national and regional levels and co-operates directly with the FIU. This coordinator works in the Division for Financial Crime and Money Laundering. Further officers are appointed at regional levels, two in each of the eleven Police Directorates, who are responsible for financial investigations (including money laundering offences). All these officers underwent various specialised educational programmes, seminars and courses focused on the area of financial investigation.

202. The coordinator at the General Police Directorate receives all the notifications of suspicions of money laundering from the FIU. According to the circumstances, the investigation is initiated in the central Financial Crime and Money Laundering Division, or sent for investigation to the regional Financial Crime Unit.

203. On January 1, 2009 a new investigation section within the Police Criminal Directorate was launched with the operational part - Serious Economic Crime Section. There are 16 posts in the section, one post for the head of department, one for administrator and 14 for investigating officers - higher criminal inspectors. The section was set up to investigate serious crimes in the field of economic crime, corruption and money laundering, in the whole area of Slovenia.

204. As regards financing of terrorism, there is the Counter Terrorism and Extreme Violence Division in the Organised Crime Section, which is responsible for the prevention, detection and investigation of terrorist criminal offences (including financing of terrorism). There are five officers designated to deal with combating Counter terrorism and Financing of terrorism. In addition to conducting two FT investigations (see paragraph 70), the Division is also responsible for organising 2-3 days of training every year: In recent years, the officers from the FIU were also part of the above-mentioned training of criminal police officers. The role of the CT Unit in the General Criminal Police Directorate is among others:

- Conducting the CT & FT operative measures in the whole country
- co-operation with foreign and international security agencies/organizations (PWGT, Interpol, Europol, SECI Center)
- co-operation with other relevant agencies or organizations within Slovenia
- prevention (threat assessment every year and even more frequently, exchanging information with other state agencies and bodies dealing with administrative control, some projects regarding public awareness, inquires regarding entering visas and issuing of permits for residence for foreigners, check controls regarding some work permits within ports and airports etc)
- proposals of new law amendments to relevant state and parliament bodies for a further procedure
- CT analysis for the state and region/Terrorist threat assessment.

205. There is also a specialised drugs unit within the General Police Directorate Ministry of Interior, Organised Crime Section, which deals directly with drug trafficking cases. On April 1, 2000, specialised anti-corruption units had been established within the Police Criminal Directorate as well as on a regional level.

206. As regards access of the police to information kept by financial institutions (such as transaction records, identification data obtained through the CDD process, account files and business correspondence) it may be obtained on an application of the state prosecutor to the

investigating judge. The Criminal Procedure Code (Article 156) stipulates that the investigating judge may, upon a properly reasoned proposal of the state prosecutor, order a bank, savings bank or savings-credit service to disclose to him information and send relevant documentation. Disclosed documentation includes the deposits, statement of account and account transactions or other transactions by the suspect, the defendant and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the defendant, if such data might represent evidence in criminal proceedings or is necessary for the seizure of objects, or the securing of a request for the seizure of property benefits, or the seizure of property whose value is equivalent to the value of property benefits. The relevant institution is obliged to send the required data to the investigating judge immediately and it must not disclose this fact to their clients or third persons. Such applications can be made at any stage in the investigative process.

207. The powers to search persons and premises or seize and obtain records, documents or information are also realised via the investigating judge and evidence obtained is admissible in an investigation of both money laundering and financing of terrorism cases.

208. Furthermore the Police are, of course, authorised to take witnesses' statements for use in investigations and prosecutions of money laundering, financing of terrorism, and other underlying predicate offences, or in related actions.

209. The financial investigation is undertaken by the investigator dealing with the proceeds-generating crime and may be supported by a network of financial experts.

210. In the area of combating money laundering the police co-operate very closely with the FIU. There has been concluded the Agreement on Co-operation between these authorities. Co-operation involves both regular meetings and daily case-by-case co-operation.

211. Operational co-ordination is arranged especially between the FIU, Police and Public Prosecution when more significant cases of money laundering are dealt with. In many situations other State bodies are also involved (e.g. Tax Authority, etc.).

212. In respect of terrorist financing investigation there are five officers working in the Counter Terrorist Unit in the Organised Crime Section designated to deal with this issue and a further 25 in the regions devoted to combating terrorism, including financing of terrorism and other most violent crimes.

State Prosecutors/investigating judges

213. The State Prosecutors are competent for the prosecution of perpetrators and also have the authority to file a motion for conducting the investigation to the investigating judge.

214. The state prosecutor also directs and supervises the police investigation, by giving proposals, expert opinions and directions to the police. These directions are binding and have to be executed by the police, This role of the state prosecutor is crucial especially in the most difficult and complicated cases (e.g. ML and FT), when he can significantly affect the legality and success of the police work.

215. The investigating judge of the court of jurisdiction conducts the investigation. The investigating judge may entrust the execution of certain acts of investigation to the police. In performing acts of investigation the police proceed according to provisions on investigative acts determined by The Criminal Procedure Act.

216. Based on Article 19 of the Criminal Procedure Act, the state prosecutor is the authorised prosecutor in cases involving offences liable to prosecution ex officio. He is bound to institute criminal prosecution if there is reasonable suspicion that a criminal offence liable to prosecution ex officio has been committed, unless provided otherwise by the present Code.

217. ML and FT criminal offences incriminated in the Slovenian Criminal Code (CC-1) are prosecuted ex officio (see explanations under R 1.1 and SR II.1, where the relevant articles of the Criminal Code, which incriminate ML and FT, are cited).

218. Overall, the evaluators were of the view that there was an improvement in the framework for the investigation of ML, FT and other major economic crimes since the 3rd round MER, however, it was unclear whether additional resources have been made available to enable the new powers to be used. Concerns remain that the system is not being operated effectively and that insufficient cases result in a final prosecution. The fact that the prosecution process can take eight to ten years may be a contributory factor.

219. It is clear from statistics provided by law enforcement that the number of financial investigations has increased since 2005 and that each financial investigation usually includes more than one subject:-

- 47 in 2005
- 35 in 2006
- 70 in 2007
- 83 in 2008
- 70 (estimated) to 31 July 2009

220. A further factor was highlighted in the 3rd round MER, namely that the police had an essentially reactive stance on money laundering investigation, taking forward cases on the basis of notification from the FIU and do not proactively pursue money laundering on their own initiative in major proceeds generating cases. Figures provided to the evaluators suggest that this is still a live issue: only six money laundering cases were generated by the police for money laundering that had not resulted from a referral by the OMLP following the making of a STR in the period 1 January 2005 to 31 July 2009. This must be seen in the context that the recorded criminal offences figures for the period 2005 to 31 July 2009 reveal that over 278,000 offences were committed against property and over 35,000 economic crimes with an approximate total economic loss or damage of nearly 578 million Euros. In addition, 19,500 drug trafficking, illegal migration, the trafficking of arms, counterfeit money, corruption, extortion and smuggling offences were committed during the same period and when combined with other criminal offences had a value of over €1 billion.

221. Capacity issues may also be inferred from the fact that of the 225 referrals made by the OMLP on the basis of money laundering, only 24 were pursued as money laundering (6 by the prosecutor and 18 by the Police), whilst 37 resulted in other criminal offences being taken forward. Out of their own initiative or in response to OMLP notifications, the police lodged 24 criminal reports reporting 58 criminal offences of money laundering against 57 natural and legal persons in the period between 1 January 2005 through 31 July 2009. Between 31 July 2009 and 31 December 2009 the police lodged another 9 criminal reports for money laundering against 18 natural and legal persons.

222. The police accepted that there was a reluctance to take forward money laundering investigations when there was insufficient evidence to prove a specific predicate offence, as they were of the view that such cases would not be taken forward by the prosecutors and the prosecutors in turn claimed that the courts required proof of a specific predicate offence. This is a cycle that can only be broken by sufficient police resources being targeted towards money laundering investigations together with prosecutors taking cases forward that test the legal boundaries of the money laundering offence and allow the judiciary to make decisions that can be appealed, if necessary. Prosecutors should also seek guidance from the Supreme Court under Article 109 of the Courts Act. The evaluators were encouraged by comments made to them by the judiciary that proof of a specific predicate offence was not required and that the judges would welcome the opportunity to give a ruling on this.

223. The Slovenian act on criminal procedure already enables the competent authorities (the police and the state prosecutor) to postpone the police activities, in order to discover a major criminal activity.

224. According to Article 159 of the Criminal Procedure Act, the Police are authorised to postpone the arrest of a suspect and the execution of other measures provided by the Criminal Procedure Act when investigating a criminal offence (including money laundering and financing of terrorism) with a view to discovering a major criminal activity but only if, and as long as, the lives and health of third persons are not thereby endangered. Permission to postpone these measures shall, upon a properly reasoned proposal by the Internal Affairs Agency, be granted by the State Prosecutor with appropriate jurisdiction.

Additional elements

225. When investigating criminal offences and prosecuting the perpetrators of criminal offences, as well as for tracing, seizing and confiscating the property acquired through or owing to the commission of criminal offences, a wide range of special investigative methods and means may be used, such as secret surveillance, monitoring of electronic and other kinds of communications and undercover operations. The Criminal Procedure Act (CPA) regulates these special techniques. The relevant provisions were changed in 2004 with amendments of to the CPA on special investigative methods and means previously defined in the Law on Police. The Police keep statistics on the use of special investigative techniques for internal purpose and for Parliamentary scrutiny.

226. The regulation in the Criminal Procedure Act is set out in Article 149a (See Annex V) which determines that if there are reasonable grounds for suspecting that a certain person has committed, is committing, is preparing to commit or is organising the commission of any of the criminal offences specified in the article (see below) and if it is reasonable to conclude that police officers would be unable to uncover, prevent or prove this offence using other measures, or if these other measures would give rise to disproportionate difficulties, secret surveillance of that person may be ordered.

227. The criminal offences for which secret surveillance may be ordered are set out in Article 149 a (4). According to Article 149 a (6) Secret surveillance is permitted by the state prosecutor on the basis of a written order and at the written request of the police, except in subsequent cases, when an order must be obtained from the investigating judge.

228. Article 150 allows the monitoring electronic communications control of letters and other parcels, control of the computer systems of banks and taping and recording of conversations with the permission of at least one person participating in the conversation. These measures can

be applied to crimes specified in the Article. The second paragraph of Article 150 stipulates the criminal offences in connection with which these measures may be ordered. The Slovenian authorities confirmed that these powers have been utilised in money laundering investigations.

229. Article 151 further extends thee measures for certain categories of offences, including money laundering.

230. The measures from Articles 150 and 151 of The Criminal Procedure Act are ordered by means of a written injunction by the investigating judge following the state prosecutor's written proposal. By way of exception, if a written order cannot be obtained in due time and when there is a danger of deferment, the investigating judge may, following an oral proposal by the state prosecutor, order the execution of the measures stipulated in Article 150 by means of an oral injunction. The investigating judge writes an official note on the state prosecutor's oral proposal. A written order must be issued no later than twelve hours after the issuing of the verbal order.

231. Article 155 defines that if it is possible to justifiably conclude that a particular person is involved in criminal activities relating to criminal offences from the second paragraph of Article 150 of this Act, the state prosecutor may, pursuant to a reasoned proposal from the police, by written order permit measures of **feigned purchase, feigned acceptance or giving of gifts or feigned acceptance or giving of bribes. The order from the state prosecutor may only refer to one-off measures.** Proposals for each further measure against the same person must contain the reasons, which justify their use. In the implementation of these measures, the police and their staff may not incite criminal activities. In determining whether the criminal activity was incited, primary consideration must be given to whether the measure as implemented led to the committing of a criminal offence by a person who would otherwise not have been prepared to commit this type of criminal offence. If the criminal activity was incited, this is a circumstance, which excludes the initiation of criminal proceedings for criminal offences committed in connection with the measures.

232. Article 156 (3) refers to prospective transactions and states that the investigating judge may also order a bank, savings bank or savings-credit service to **keep track of financial transactions of the afore mentioned persons and to disclose to him the confidential information about the transactions or deals these persons are carrying out or intend to carry out at these institutions or services.** This measure may be applied for a limited period of three months (the term may for weighty reasons, upon request of the state prosecutor, be extended to six months at most). The bank, savings bank or savings-credit service may not disclose to their clients or third persons that they have sent, or will send, the information and documents to the investigating judge. The Slovenian authorities confirmed that these powers have been utilised in money laundering investigations.

233. Some special investigative measures (controlled delivery and undercover operation) regarding the cooperation with EU member states in the investigation of international criminal activities are also included in the Act on International Co-operation in Criminal Matters between the Member States of the European Union (Official Gazette of the Republic of Slovenia, No. 102/2007) (See Annex VI).

234. Overall, the evaluators were of the opinion that the procedures for special investigative techniques had been effectively put into practice. However, due to a small number of criminal reports for ML and FT crimes, such measures are rarely used. There are reports of cases, when these measures were applied in the investigation of extensive and organised criminal activities, when the ML or FT crimes were suspected to be one (final) part of criminal activity.

235. The establishment of a temporary working group is the usual procedure when investigating large and complex cases including investigating the proceeds of crime attached to money laundering cases. Following the amendments of the State Prosecutor Act (ZDT) in 1999, a "Group of state prosecutors for special affairs" was founded at the Supreme State Prosecutor's Office for the prosecution of criminal offences in the sphere of organised crime. This group was renamed with the amendment of 2006 "Group of state prosecutors for the prosecution of organised crime". This group prosecutes organised criminal offences, terrorism, corruption and other criminal offences that require special organisation and qualification - on the entire territory of the Republic of Slovenia.

236. The Slovenian Criminal Procedure Act also regulates the gathering of evidence and the inquiring into material circumstances regarding the proceeds of crime (Article 449). These proceeds are determined in criminal proceedings by the court and other agencies conducting the proceedings.

237. In cases where criminal activities extend to several countries, and therefore pre-trial procedure, investigation or court proceedings take place in one or more countries, the Act on International Co-operation in Criminal Matters between the Member States of the European Union and the Criminal Procedure Act provides the possibility to establish a joint investigation team, which enables the police to cooperate with the police staff of other countries. This team is established with an agreement concluded on a case by case basis by the State Prosecutor General with the State Prosecution Office, court, police or other competent authorities of other states[22]. Before signing such an agreement the State Prosecutor General must obtain the opinion of the Director General of the Police.

238. In such cases the Slovenian police shall be directed by the state prosecutor, who may cooperate with the state prosecutors of other countries.

239. The agreement on the establishment and operation of the joint investigation team may also include the participation of the representatives of competent authorities of the European Union (such as EUROPOL, EUROJUST and OLAF) in the joint investigation team.

240. Articles 55 and 56 of the Act on International Co-operation in Criminal Matters between the Member States of the European Union (See Annex VI) (the Criminal Procedure Act has identical provisions for non-member states in the Article 160b (See Annex V)) set out the provisions for establishing joint investigating teams.

242. The Police as such, do not review the money laundering and financing of terrorism methods, techniques and trends. Nevertheless, they are provided with such information in the scope of their contacts with the FIU, in particular in the framework of training activities organised in collaboration with the FIU.

243. The Supreme State Prosecutor's Office regularly reviews trends regarding criminal offences and reports about it annually to the National Assembly (*Report on the work of State Prosecutor's Offices*). A special section of this report deals with ML criminal offences. FT criminal offences are not separately treated, because they are very rare and were incriminated only recently (2004).

[22] In accordance with the Council Framework Decision of 13 June 2002 on joint investigation teams or with the existing international treaty if the other country is not a member of the European Union.

244. Overall the arrangements are unchanged since the 3rd round report and appear to be effectively put into practice.

Effectiveness and efficiency

245. The law enforcement results are quantitatively still quite low. The recommendation in the last report that Slovenia should create case law "by confronting the courts with as many money laundering prosecutions as possible and challenging the present jurisprudence on the evidential requirements" does not seem to be implemented, since no cases have been taken to appeal by the Prosecutor despite several reasoned acquittals.

Recommendation 30 (law enforcement and prosecution)

Police

246. Based on the Law on Police (effective from July 1998), and the Rules on Organisation and Systematisation of the Police (which were adopted at the end of 1999 and became effective on 1 April 2000), an Economic Crime Section was created under the General Police Directorate, within the Criminal Investigation Police. This section includes the Financial Crime and Money Laundering Division, which is primarily responsible for conducting preliminary investigation in money laundering cases as well as in other economic crimes. This division centrally has four officers. The same organisational structure exists at the regional level.

247. Within the General Police Directorate an appointed officer co-ordinates the investigations of money laundering cases by various Police units on both the national and regional levels and co-operates directly with the FIU. This coordinator works in the Division for Financial Crime and Money Laundering. Further officers are appointed at regional levels, two in each of the eleven Police Directorates, who are responsible for financial investigations (including money laundering offences). All these officers underwent various specialised educational programmes, seminars and courses focused on the area of financial investigation.

248. The coordinator at the General Police Directorate receives all the notifications of suspicions of money laundering from the FIU. According to the circumstances, the investigation is initiated in the central Financial Crime and Money Laundering Division, or sent for investigation to the regional Financial Crime Unit.

249. On January 1, 2009 a new investigation section within the Police Criminal Directorate was launched with the operational part - Serious Economic Crime Section. There are 16 posts in the section, one post for the head of department, one for administrator and 14 for investigating officers - higher criminal inspectors. The section was set up to investigate serious crimes in the field of economic crime, corruption and money laundering, on the whole area of Slovenia.

250. As regards financing of terrorism, there is the Counter Terrorism and Extreme Violence Division in the Organised Crime Section, which is responsible for the prevention, detection and investigation of terrorist criminal offences (including financing of terrorism). There are five officers designated to deal with combating financing of terrorism.

251. There is also a specialised drugs unit within the General Police Directorate Ministry of Interior, Organised Crime Section, which deals directly with drug trafficking cases. On April 1, 2000, specialised anti-corruption units had been established within the Police Criminal Directorate as well as on a regional level.

252. Additionally, and as noted, there are preparations underway for establishment of the National Investigation Bureau (NPU or NIB, in early 2010) within the General Police Directorate. The impact of this should be organisational and personnel improvements in the investigation of economic crime and also combating ML and FT.

253. The officers of the Financial Crime Division have mostly economics or legal qualifications and many of them came to the police from the banking, insurance or securities sectors. They underwent the common police training and, in addition, all investigators participate in an annual seminar, organised by the Criminal Police Directorate, which among other topics focuses on the issue of money laundering and financial investigation.

254. The Police, as a body within the Ministry of Home Affairs, is the budget consumer and as such has the resources earmarked for its functioning. There is no special funding, which would be provided exclusively to the field of money laundering and terrorist financing, except for the organisational, functional and educational purposes.

State Prosecutors

255. The status of the state prosecutors in Slovenia is determined by the Constitution of the Republic of Slovenia and by the State Prosecutor's Office Act. The State Prosecutor's Office is an independent and autonomous state body (sui generis). According to the State Prosecutor's Act (Article 2) state prosecutors perform their tasks pursuant to the Constitution and the law. The provisions of the Constitution and the State Prosecutor's Act ensure that the state prosecutor, as a state official, performs his functions independently and autonomously. According to Article 3 of the State Prosecutor's Act, a state prosecutor, when appointed, acquires the right to life tenure. A state prosecutor cannot be given instructions or orders for his work in a specific criminal case. General instructions on the conduct of state prosecutors relating to uniform application of the law at state prosecutor's offices and to ensuring uniformity of prosecution policy are permitted; such instructions are issued by the State Prosecutor General or by the head of a district state prosecutor's office. The independence of a state prosecutor is safeguarded by the institute of evocation (Article 65 and 66 of the State Prosecutor's Act). If a state prosecutor does not agree with the general instructions, he can refuse to work on a specific case. The case can then be assigned to another prosecutor or taken over by a superior or higher state prosecutor.

256. Every prosecutor's office is an autonomous budget user; the joint budget proposal is then composed by the Office of the State Prosecutor General. The budget of a state prosecutor's office consists of the funds for the salaries of the employees, the funds for small investments and the funds for current expenses. In 2008, all the individual state prosecutor's offices were provided with sufficient funds, which ensured they were able to effectively perform their functions. The joint budget of all state prosecutor's offices in 2008 was €18,404,318, while the total expenses amounted to €18,375,168. In the 2008 budget additional funds were guaranteed for the relocation of several state prosecutors' offices and also the Office of the State Prosecutor General.

257. The number of state prosecutors and their assistants in state prosecutor's offices is determined by the Minister of Justice at the proposal of the State Prosecutor General and with the consent of the Government of the Republic of Slovenia (Article 14 of the State Prosecutor Act). Statistics of the year 2008 shows that 200 state prosecutor's posts were planned, out of which 174 posts were occupied. There were 40 planned posts for assistant state prosecutors although only 20 were occupied. In spite of smaller number of state prosecutors the state prosecutor's offices were able to carry out their functions adequately and without delays.

258. In accordance with the State Prosecutor Act, there are a sufficient number of trainee posts in state prosecutor's offices for graduated lawyers. In the year 2008 this number was increased by the Minister of Justice to 51, therefore the state prosecutor's offices began the procedures for the occupation of these posts (public tenders).

259. One of the departments organised within the Office of the State Prosecutor General is the Expert centre. The Expert centre provides state prosecutors with expert assistance in other areas of expertise (e.g. expert aid in the tax, financial and accounting fields), prepares and carries out education and training activities for state prosecutors and prepares expert groundwork for international cooperation between state prosecutors.

260. The legal information centre is responsible for the development, uniformity and operation of IT support for state prosecutors' offices.

261. In the opinion of the evaluators the level of resources is adequate.

Professional standards, skills and integrity

Police

262. The officers of the Financial Crime Division have mostly economics or legal qualifications and many of them came to the police from the banking, insurance or securities sectors. They underwent the common police training and, in addition, all investigators participate in an annual seminar, organised by the Criminal Police Directorate, which among other topics focuses on the issue of money laundering and financial investigation.

263. High professional and integrity standards are enforced by Articles 67 and 68 of the Police Act (See Annex VII).

264. High standards concerning confidentiality are enforced by the "Rules on the police data protection" based on Article 57 of the Police Act (See Annex VII).

State prosecutors

265. The professional standards and the confidentiality of state prosecutors are regulated by Article 24 of the State Prosecutors Act, which states, that a state prosecutor must always act in such a manner to safeguard reputation and dignity of his service, while exercising his rights and freedoms. He may not obstruct the operation of a state prosecutor's office in order to exercise his rights. A state prosecutor is also obliged to preserve for himself everything that he learns within the framework of performing his service about parties and legal and actual relationships of theirs' and to protect the secrecy of all data not accessible to the public.

266. If the state prosecutor does not act according to these provisions, the State Prosecutors Act provides the appropriate disciplinary measures, which are:

1. Dismissal from the function of state prosecutor
2. The suspension of promotion [rights];
3. The reduction in salary.

267. Based on the Article 67 of State Prosecutor Act, the expert supervision of the work of district state prosecutor's offices and of the Group is executed by the Supreme State Prosecutor's

Office. It is done by inspecting the files, registers and other documentation, as well as through other appropriate methods.

268. The Supreme State Prosecutor's Office also performs a general supervisory review of the operation of the district state prosecutor's offices and of the Group, which is done at least once every three years by the direct inspection of files, registers and other documentation kept at the district state prosecutor's office.

269. The state prosecutors, assistant state prosecutors and prosecutorial personnel at the district state prosecutor's office and the Group whose operation has been inspected are notified about the findings of the inspection and have the right to submit explanations to the Supreme State Prosecutor's Office within fifteen days of receiving the report.

270. The final report on the general supervisory inspection is prepared after considering the findings of the inspection and any eventual explanations, at a joint meeting of the prosecutors who conducted the inspection, together with the prosecutors of the state prosecutor's office or the Group where the inspection was performed.

271. Additionally, a state prosecutor's work in thoroughly inspected every three years, within the promotion procedure. If two consecutive inspections come to conclusion, that a state prosecutor is not appropriate for this function then he looses his function.

272. The OMLP has organised several training events for prosecutors since 2005.

273. In the view of the evaluators, high professional standards, including standards concerning confidentiality continue to be maintained, and staff continue to be of high integrity and appropriately skilled.

Police

274. Relevant Criminal Police officers attended several specific seminars on the issue of money laundering organised by Phare, Europol and INTERPOL. They also participated in specific money laundering training. Some seminars on the issue of combating money laundering have been organised in co-operation with the FIU. (For further details see Annex XI)

State prosecutors

275. In 2008 the Office of the State Prosecutor General organised several types of continuing education of prosecutors. Among these were seminars regarding the new Criminal Code (CC-1), which changed the relevant Articles incriminating ML and FT.

276. The traditional educational day of Slovenian prosecutors (ITD), held in November 2008 included topics, which stressed the importance of cooperation with other bodies (e.g. customs and tax authorities, Office for the Prevention of Money Laundering) in the cases of ML and FT. The prosecutors also participated in lectures about financial aspects of criminal offences.

277. All State prosecutors were enabled to individually participate in different seminars, according to their professional interests, needs and within their professional specialisation in the prosecutorial institution. These seminars were also organised by other institutions (e.g. Judicial Training Centre at the Ministry of Justice, Faculty of Law in Ljubljana and Maribor).

278. In the year 2008, 30 state prosecutors participated in 67 forms of international professional cooperation and education (EU, European Council, OECD, OVSE, UNICEF, etc.). With such cooperation and education state prosecutors can effectively fight international and organised crime, namely corruption, human and drugs trafficking, illegal migrations, money laundering, terrorism, etc. The same goal is achieved with cooperation in EUROJUST, GRECO, OLAF, HELP, CARIN, SECI, SEEPAG and other similar organisations.

279. In the money laundering and financing terrorism field, state prosecutors participated:

- in activities connected with seizure and confiscation of the proceeds of crime (ARO);
- on strategic EUROJUST meetings connected with the fight against terrorism;
- in activities connected with cross-border crimes (UN office on drugs and crime);
- in activities connected with money laundering (MONEYVAL); and
- at the meetings of experts for joint investigative teams (JIT).

280. In the view of the evaluators the provisions for training were adequate.

Additional elements

281. The additional elements to Recommendation 30 require that special training or educational programmes are provided for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism. In 2005, training for prosecutors, judges and the Police was provided by the FIU. In the following years, this training was continuously offered to prosecutors and the Police.

2.6.2 Recommendations and comments

Recommendation 27

282. The same uncertainties as described in the last report as to the evidential requirements in ML cases remain and still may inhibit the commencement of prosecutions. Police and Prosecutors need to select and prosecute an appropriate case where there is no direct evidence of a particular criminal offence or type of criminal offence but where there is good circumstantial evidence from which a court could infer that the property was derived from a criminal offence. If necessary the case should be taken to the higher courts for a definitive ruling.

Recommendation 30

283. Slovenian authorities could consider giving specific training on ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism to judges and courts.

2.6.3 Compliance with FATF Recommendations

	Rating	Summary of factors underlying rating
R.27	**PC**	• The law enforcement results on money laundering investigations are increasing but are quantitatively still quite low.

		• Insufficient priority is given by law enforcement agencies, prosecution and other competent authorities to asset recovery and detection in investigations relating to funds-generating crimes.

3. PREVENTIVE MEASURES - FINANCIAL INSTITUTIONS

284. Full details of the supervisory structure in Slovenia are set out in the 3rd round evaluation report. There have been no major changes in the supervisory structure for financial institutions in Slovenia since the 3rd round report was prepared.

285. The basic APMLTF applies to the whole financial sector as defined in Methodology including as persons under obligations banks, payment services providers, investment fund management companies, pension funds, brokerage companies, insurance companies, currency exchange offices and electronic money undertakings (Article 4 "Persons under obligations").

286. The basic obligations under the APMLTF cover:

a. Customer due diligence;
b. Monitoring business activities;
c. Correspondent banking;
d. Politically exposed persons;
e. Record keeping;
f. Monitoring transactions;
g. Reporting obligation.

Customer Due Diligence and Record Keeping

3.1 Risk of money laundering / financing of terrorism

287. It was noted in the 3rd round evaluation report that the risk of terrorist financing was not always taken into account as a separate issue from risk of money laundering. The 3rd round report also contains information that the absence of a separate consideration and evaluation of the risks of terrorist financing was a consequence of a decision taken by Slovenian authorities to postpone the adoption of measures aimed at the implementation of international standards specifically dealing with the fight against terrorism financing, until the enactment of the Third EU Directive on AML/CFT.

288. With the adoption of the APMLTF, the Slovenian authorities have fully covered this deficiency from the 3rd round. There is a comprehensive definition for terrorists and terrorist financing as well as the obligation to conduct a risk analysis on money laundering and terrorist financing present in the law.

289. Slovenia has not conducted a formal risk assessment of the risk of the financial sector being used for money laundering and terrorist financing..

3.2 Customer due diligence, including enhanced or reduced measures (R.5, R.6 and R.8)

3.2.1 Description and analysis

Recommendation 5 (rated LC in the 3rd round report)

290. As described in the 3rd round evaluation report Slovenia had received a Largely Compliant rating for Recommendation 5. The deficiencies mentioned included lack of obligation to perform customer due diligence when carrying out occasional transactions (wire transfers) in line with a threshold foreseen in SR VII as well as lack of obligations to conduct CDD in case of suspicion of financing of terrorism. The evaluators also noted that there was no requirement for financial institutions to conduct ongoing due diligence in law or secondary legislation and that there was no coordinated guidance for the whole financial sector in terms of application of the same standards. Nevertheless in this assessment round Recommendation 5 was reviewed again according to all the criteria of the Methodology..

Anonymous accounts and accounts in fictitious names

291. Article 35 of the APMLTF provides for the prohibition of using anonymous accounts in Slovenia. In addition Article 102 of the APMLTF requires that the owners of the existing anonymous accounts (and similar products) are to be identified upon the claiming of such funds. Due diligence is required to be fulfilled in respect to such person. Otherwise funds on anonymous accounts held in a financial institution in respect to similar products are blocked until the first transaction.

292. As to the existing anonymous accounts, the authorities provided that at the time of the on-site visit there were 2,966 such accounts held in seven banks with overall balance of €1,708,905 (in general not more than €28,200 on accounts although, one account was reported as holding €309,820).[23]

Customer due diligence

When CDD is required

293. The obligation to apply customer due diligence is set out in the Article 8 of the APMLTF and it is required in situations when establishing a business relationship with a customer as well as when carrying out a transaction amounting to €15,000 or more, whether the transaction is carried out in a single operation or in several operations which are evidently linked. This obligation also applies in cases when there are doubts about the veracity and adequacy of previously obtained customer or beneficial owner information and whenever there is a suspicion of money laundering or terrorist financing in respect of a transaction or customer.

294. Though the obligation applies for all transactions equal to or above €15,000 the existing legislative acts do not provide specific obligations for occasional transactions in the meaning of SR.VII (see Section 3.4 below). The Slovenian authorities took the view that for these cases "Regulation (EC) No. 1781/2006 of the European Parliament and Council of 15 November 2006 on Data on Payer Accompanying Transfers of Funds" applies.

Required CDD measures

[23] The Slovenian authorities have subsequently agreed to take steps to close all anonymous accounts.

295. Regarding the requirements for identification and verification of the customers set in criterion 5.3, Slovenian legislation provides for customer due diligence elements in Article 7, identification and verification of natural persons in Article 13 and identification and verification of legal persons in Articles 14 and 17 of the APMLTF.

296. The elements for customer due diligence provided in the Article 7 include identification of the customer and verification of their identity relying on an examination of the customer's personal identification document. For the purposes of such verification only official document containing data prescribed by the Article 83 can be used.

297. Apart from the identification and verification obligations Article 7 obliges the persons obliged by the law to identify the beneficial owner of the customer, obtain data on the purpose and intended nature of the business relationship or transaction (as well as other data pursuant to the Law) and provides for regular diligent monitoring of the business activities undertaken by the customer through the subject of the law.

298. The APMLTF does not contain a direct requirement for financial institutions to verify that any person purporting to act on behalf of the customer is so authorised. This requirement is fulfilled indirectly through Article 16 requiring that the identity of such persons is verified by obtaining a certified written authorisation (all such certified authorisations must be authenticated by a notary) issued by the statutory representative. Though it does not include specific provisions requiring the verification of their authority to act it could be considered as sufficient for fulfilling the criterion 5.4 (a)*. The Slovenian authorities assured the evaluators that under Article 76 of the Code of Obligations (See Annex VII) it is not possible to establish a business relationship unless the person acting on behalf of the underlying customer is authorised to do so.

299. The APMLTF does contain the required provisions for the purposes of verification of the legal status of the legal person or legal arrangement. Article 14 of the APMLTF prescribes the obtaining of the relevant data from the documents of a public register proving the incorporation or establishment or existence of the legal person.

300. The identification of the beneficial owner of a customer and verification of their identity is included in the APMLTF as one of the elements of customer due diligence (Article 7). Articles 19 and 20 (1) of the APMLTF cover the necessity for financial institutions to obtain data and documentation from the customer in order to satisfy themselves on knowing who the beneficial owner is.

301. Understanding the ownership or control structure of the legal entity is required by the Article 20 according to which the subject of the Law has to *verify the data to such an extent that it understands the ownership and control structure of its customer and is satisfied that it knows who the beneficial owner is*. In order to get know the natural persons who ultimately own or control the customer the APMLTF provides the definition of the beneficial owner which leads to obligation to *identify the beneficial owner of a legal entity or similar foreign law entity by obtaining the data referred to in point 15 of paragraph 1 of Article 83 hereof* (Article 20).

302. The APMLTF obliges financial institutions to obtain information on the purpose and intended nature of the business relationship (Article 7) including the details of the data to be obtained (Article 21).

303. The Law also prescribes the conduct of ongoing due diligence on all the customers as prescribed in Article 7. Ongoing monitoring is supposed to be one of the four elements of

customer due diligence. That includes monitoring and verifying transaction compliance with the regular scope of business (Article 22) and obligation for annual review of foreign legal entities (Article 23).

304. There are guidelines issued by the Bank of Slovenia for the purposes of monitoring customer activities aimed at ensuring the uniform implementation of the Articles in the APMLTF obliging all the subjects of the law to monitor business activities. Although it was reported in the 2nd progress report that the newly adopted APMLTF would contain an obligation for sector-specific guidelines and the law actually contains such a requirement (Article 90) for all supervisory authorities referred to in Article 85. However, at the time of the on-site visit, not all the authorities were able to provide the evaluators with such guidelines in English.

Risk

305. As an addition to the obligations set forth in the Article 7 of the APMLTF there are several Articles providing requirements for enhanced customer due diligence applicable for relevant customer categories. This applies to correspondent relationship with the banks from third countries, to customers that are politically exposed persons and to the situations when customer is not present for the identification and verification processes (non face to face situations).

306. Articles 30, 31 and 32 of the APMLTF provide detailed procedures on enhanced CDD. The sectoral guidelines issued in this respect should provide more detailed information to financial market participants the applicability of higher risk situations. However, only the Bank of Slovenia's guidelines for this purpose were presented to the evaluators. It should be noted that during the interviews on the on-site visit, the Insurance Supervision Agency representatives did not show much knowledge of the applicability on higher risk situations; the evaluators were advised that the guidelines were still under preparation at that time.

307. As regards simplified customer due diligence, the APMLTF provides for that in Article 33, setting out the situations when it may be applied (Articles 33, 34). In addition to this the Minister of Finance has issued "Rules laying down conditions under which a person may be considered as a customer representing a low risk of money laundering and terrorist financing" (January 2008).

308. The APMLTF also provides for an exemption from the obligation to carry out customer due diligence for certain products (Article 12). Simplified customer due diligence for certain non-resident customers mentioned in Art 33 of APMLTF may only be applied in cases where customer's country of origin is a Member state or a third country which Slovenia has recognised to be in compliance with FATF Recommendations (an equivalent third country). Such list has been provided in the "Rules laying down the list of equivalent third countries" (January 16, 2008) issued by the Minister of Finance. Customer categories mentioned in the Art 33 equate to those listed under essential criteria 5.9.

309. Article 33 (1) of the APMLTF allows the application of simplified customer due diligence in specified circumstances. This does not, however, apply when there are reasons for suspicion of money laundering or terrorist financing.

310. The APMLTF prescribes that all the subjects of the law prepare a risk analysis and consequently a risk assessment for their customers (Article 6). The interviews during the on-site visit showed that not all the organisations have prepared such analysis. The sectoral guidelines issued in this respect should provide more detailed information on the applicability of higher risk situations. Only Bank of Slovenia guidelines for this purpose were presented to the

evaluators and it should be noted that during the interviews on-site the Insurance Supervision Agency representatives did not show much knowledge concerning this subject. Hence it could be concluded that the obligation of the law was not fulfilled.

Timing of verification

311. Article 9 (1) of the APMLTF provides for the obligation for identification and verification of the customer and the beneficial owner before establishing business relationship. Article 9 (2) does, however provide that an organisation may exceptionally apply these measures during the establishment of relationship if this is necessary in order not to interrupt the normal conduct of business. Furthermore, Article 9 (3) allows for the verification of the beneficiary of the customer after the business relationship has been established in relation to life insurance business although no payments or payouts under the policy may be made until such verification has been conducted.

Failure to satisfactorily complete CDD

312. The APMLTF prescribes that in cases when customer due diligence obligations are not completed subjects of the law are not allowed to establish a business relationship or effect a transaction. The business relationship is required to be terminated in such cases with the existing customers and subjects of the law are obliged to consider filing suspicious transaction reports to OMLP (Article 11).

Existing customers

313. Concerning the requirement to perform full customer due diligence on existing customers this is included set out in Article 101 of the APMLTF. This article states that "*Organisations shall, within one year following the entry into force of this Act, perform due diligence towards all existing customers in respect of whom, based on Article 6 of this Act, they establish that there exist or may exist significant risks of money laundering or terrorist financing."* Furthermore, as set out above, Articles 22 and 23 of the APMLTF require ongoing monitoring of transactions and updating of information. The Slovenian authorities also confirmed that if an organisation does not possess data on the beneficial owner of the customer, it has to obtain that data no later than when the existing customer performs transaction amounting to €15,000 or more.

Recommendation 6 (rated NC in the 3rd round report)

314. Recommendation 6 was rated as "Non-compliant" during the 3rd round mutual evaluation and it was commented that Slovenian authorities intended to implement measures on enhanced customer due diligence in relation to PEPs following the enactment of the 3rd EU Directive.

315. The definition of "Politically Exposed Person" (PEP) is now provided in the APMLTF. The definition recognises foreign PEPs and includes the following categories:

1. heads of state, prime ministers, ministers and their deputies or assistants;

2. elected representatives in legislative bodies;

3. members of supreme and constitutional courts and other high-level judicial authorities against whose decisions there is no ordinary or extraordinary legal remedy, save in exceptional cases;

4. members of courts of audit and boards of governors of central banks;

5. ambassadors, chargés d'affaire and high-ranking officers of armed forces;

6. members of the management or supervisory bodies of undertakings in majority state ownership.

and follows the definition of the Third Directive and the Implementation Directive (Article 31, Paragraph 2). The definition provided in the Slovenian AML Law is therefore not fully in line with the PEP definition provided in the FATF Methodology, as it does not fully cover senior politicians, senior government officials (for example non-political heads of ministries, etc.) and important political party officials. Such persons might have been covered if the list from the implementing directive had said "including" rather than "shall be".

316. The APMLTF contains the requirement that for customers who are identified as foreign PEPs the enhanced customer due diligence procedure is to be applied when entering into business relationship or executing a transaction equalling to or being more that €15,000. However, it was not clear what are the obligations of the entities concerning customers that become PEPs during the business relationship. During interviews with the financial market participants it was obvious that in practice the existing customer base is not checked for these purposes and there was not much knowledge shown in respect to possible checking against any of existing data basis.

317. Nevertheless it should be noted that banking sector showed more knowledge in this regard, and they are in a better position by having guidelines of Bank of Slovenia for implementation the measures for AML/CFT where the procedure is clearly defined. This document also contains procedures relating to representatives of legal persons and beneficial owners of a customer being PEPs and includes procedure for assessing the customers for these purposes at the beginning of business relationship as well as in the course of relationship. The enhanced customer due diligence procedure is required to take place in these situations.

318. The APMLTF provides for the obligation to obtain senior management approval prior to beginning business relationship with PEPs (Article 31, paragraph 6). The same paragraph of Article 31 obliges the subjects of the law to obtain data on the source of wealth of the customer. Information is to be obtained from a written source provided by the customer.

Additional elements

319. The APMLTF includes domestic persons as PEPs only in cases when they hold or have held prominent public functions abroad.

320. The Republic of Slovenia has implemented the 2003 United Nations Convention against Corruption with the Act Ratifying the United Nations Convention Against Corruption , which was published in the Official Gazette No 5/08 (amendments in OG No 13/09).

Recommendation 8 (rated PC in the 3rd round report)

321. Recommendation 8 was rated as "Partially compliant" in the 3rd round evaluation. The only deficiency noted in the report concerned the unclear implementation of preventive measures for other businesses performing operations with debit and credit cards. Additional information in this regard was disclosed in both Progress Reports adopted by Moneyval Plenary in 2006 and 2008. As reported in the progress reports after the 3rd round evaluation "the risk associated with debit and credit cards remains to be considered low, no further guidelines (other than OMLP's written explanations on request) regarding business specific ID procedures, indicators for

recognising suspicious transactions or other requirements have been delivered to those businesses.

322. There is no specific requirement anywhere in the existing legislative acts that require financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. Though Slovenian authorities are of opinion that the expected risk analysis of the subjects of the APMLTF, as required in Article 6 of the APMLTF, will result in classifying the misuse of new technologies in a high risk category requiring applying the enhanced due diligence.[24]

323. It was pointed out by the Slovenian delegation that there exists legislation providing for general requirements for the appropriate legal and organisational risk management structures. Thus for the banking sector, for instance, Article 17 of the Regulation on Risk Management and Implementation of the Internal Capital Adequacy Assessment Process for Banks and Savings Banks applies. This Article deals with significant risks arising from a new product or system and also creates the requirement to analyse the impact of the new product on the overall risk management process.

324. The above-mentioned provision however cannot be considered as sufficient for the needs of Recommendation 8 as it is too general and targeted to achieve prudential supervision needs in terms of assessing capital adequacy. Recommendation 8 is all about new technologies already in use and financial institutions are supposed to be ready to prevent the misuse of such technologies.

325. As concerns non-face to face situations the APMLTF prescribes that direct contact with the client still remains the fundamental rule in the opening of an account and establishing of a business relation. The only possibility remains for natural persons, which are allowed to establish a business relationship (but not open an account in a bank) using a qualified digital certificate (a kind of electronic ID This applies to all the residents of the EU (Article 13 (2)-(5)).

326. The Minister of Finance has issued Rules Laying Down Conditions to Determine and Verify Customer's Identity by Using Customer's Qualified Digital Certificate (Official Gazette of the Republic of Slovenia, No. 10/08). The Rules specify the conditions, which have to be fulfilled that an organisation within the framework of electronic commerce may determine and verify the identity of a customer, which is either a natural person or a sole proprietor or self-employed person, by using the customer's qualified digital certificate. For legal persons the use of a qualified digital certificate and the electronic way of establishing a business relationship has not yet been permitted.

327. Measures for managing the risks for non-face to face situations are laid out in Article 32 of the APMLTF, which prescribes the procedure for such cases and obliges the financial institutions to obtain additional documents, data or information needed for additional verification of the identity of such customers.

Effectiveness and efficiency

[24] An act amending the Prevention of Money Laundering and Terrorist Financing Act (Official Gazette No 19/2010) was adopted on 3 March 2010 and will be valid from 27 March 2010. This act introduced clauses that bring the APMLTF into line with Recommendation 8.

328. There is now a broadly sound legal structure for the major preventive standards. The existing AML Law no longer contains a requirement for financial institutions to determine whether the customer is acting on behalf of another person, and then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.[25]

329. The banks appear to have a good understanding of the FATF standards. However, other parts of the non-banking financial services sector, particularly the insurance sector, did not appear to have developed a comprehensive preventive regime.

3.2.2 Recommendations and comments

330. All anonymous accounts, regardless of the balance on the account, should be closed or converted to nominative accounts at the earliest opportunity and not later than 1 January 2011.

331. A requirement for financial institutions to determine whether the customer is acting on his own behalf or on behalf of another person should be put back in the APMLTF.

332. The APMLTF should be amended to clarify the requirement to verify that any person purporting to act on behalf of the customer is so authorised.

333. The risk analysis prescribed in the APMLTF should be prepared by all the obliged entities as prescribed in the Law and it is advised that supervisory authorities pay attention to the results of such analysis.

334. The examples of politically exposed persons in Article 31 (3) should be amended to include all categories of senior government officials including senior politicians, senior government officials and important political party officials..

335. The Slovenian authorities indicated that considerable efforts have been put into introducing the new standards on PEPs to the financial sector in the years under evaluation. The financial supervisors check compliance with the PEP standards in supervision. There have been no STRs submitted to the FIU so far involving foreign PEPs, which the Slovenian authorities consider is itself indicative that Slovenia is not attractive to foreign PEPs.

336. The implementation of Recommendation 6 needs to be addressed as it was not clear to the financial market participants how to deal with the obligations concerning customers that become PEPs during the business relationship.

337. A clear requirement should be included in the legislative acts for financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

3.2.3 Compliance with Recommendations 5, 6 and 8

	Rating	Summary of factors underlying rating

[25] An act amending the Prevention of Money Laundering and Terrorist Financing Act (Official Gazette No 19/2010) was adopted on 3 March 2010 and will be valid from 27 March 2010. This act introduced clauses that bring the APMLTF into line with Essential Criteria 5.5.1*.

R.5	**LC**	• No obligation for financial institutions to establish or discover if a customer is acting on his behalf or on behalf of another person. • General lack of awareness in the insurance sector gives rise to concerns over effectiveness of implementation.
R.6	**LC**	• Slovenia does not fully meet essential criterion 6.1. as there is no requirement in the legislation to determine whether the beneficial owner of a customer is a politically exposed person. • No clear obligations for financial institutions concerning customers that become PEPs during the business relationship. • Lack of application by some financial sector participants gives rise to concerns over effectiveness of implementation. • The definition of Politically Exposed Persons is not sufficiently broad to include all categories of senior government officials.
R.8	**PC**	• There is still no specific requirement anywhere in the existing legislative acts that requires financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.

3.3 Financial institution secrecy or confidentiality (R.4)

3.3.1 Description and analysis

Recommendation 4 (rated C in the 3rd round report)

338. There is strong and clear language in the Articles 77 – 78 of the APMLTF for the non judicial phase and Article 156 of the Criminal Procedure Code– for the judicial phase of the inquiry, according to which persons and authorities are obliged to reveal data to OMLP or to the judicial body when required. These provisions are clear and raise no problems.

339. Moreover, applying the various provisions allowing the sharing of information between financial institutions when this is required by Recommendation 7 (correspondent banking), Recommendation 9 (third party and introducers) and SR.VII (wire transfers) institutions should have no difficulties from the perspective of data protection.

Effectiveness and efficiency

3.2.4 Recommendations and comments

340. It is undisputable, among the law enforcement and the private sector that the APMLTF legislation and the Criminal procedure code would apply in cases of requests through OMLP or a court order (both for national or MLA cases) for various data. No problems were experienced in practice.

3.3.2 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**C**	

3.4 Record Keeping and Wire Transfer Rules (R.10 and SR. VII)

3.4.1 Description and analysis

Recommendation 10 (rated C in the 3rd round report)

341. Although Recommendation 10 was rated "Compliant" in the 3rd round report it needs to be rerated in accordance with the requirements of mutual evaluation procedure for this assessment round.

342. The requirement to maintain all necessary records on transactions, both domestic and international, for at least five years following completion of the transaction (or longer if requested by a competent authority in specific cases and upon proper authority) is partially present in Article 79 of the APMLTF. The APMLTF prescribes that the relevant data be kept for ten years, which is longer than internationally required. Nevertheless the evaluators are of the opinion that, in spite of a requirement to keep the data for longer than the FATF requirement there should also be a specific requirement to retain the data for a longer period when requested by relevant authorities.

343. Slovenian authorities are of the opinion in this respect that the time limit of ten years is long enough based on the fact that the legal period of limitation of criminal prosecution for money laundering offences is normally 10 years; such provision would even be contrary to Slovenian legal order, according to which the retention time can only be determined by a law and not arbitrarily by an individual authority. Article 79, in combination with Article 83 (Content of records), applies to practically all the data obtained during the CDD process and includes both domestic and international transactions although it does not specifically distinguish between them. It is the view of the evaluators that this requirement does not fully meet the requirement under essential criteria 10.1* to maintain records for a longer period if required by the authorities.

344. Financial institutions are not specifically required to maintain records of the account files and business correspondence. The Slovenian authorities consider that this is covered by the requirements of Article 79 of the APMLTF in conjunction with Article 83. The requirements of Article 79, however, largely relate to documents related to identification and verification of customers, etc and do not appear to contain any mention of account files and business correspondence. Article 83 is specific about the data elements required to be retained without ever referring to account files and business correspondence. It is, therefore, the view of the evaluators that the requirement does not fully meet the requirement under essential criteria 10.2* to maintain records of the account files and business correspondence.

345. The necessity for transaction records to be sufficient in order to permit reconstruction of individual transactions is provided in the Article 83 of the APMLTF. This Article provides for the necessary components of such transaction records that include customer's name, address, registered office and registration number of the legal entity, date and place of birth, and tax

number of the natural persons, as well as the purpose and intended nature of the business relationship, date and time of the transaction, manner of executing transaction and information about the source of property involved in transaction. Article 83 does not, however, specifically provide for the data to be maintained in such a manner as to permit reconstruction of individual transactions. This requirements is set out in Article 8 of the Rules on Performing Internal Control, Authorised Person, Safekeeping and Protection of Data and Keeping of Records of Organisations, Lawyers, Law firms and Notaries. This article requires that "*The obliged person shall keep the data and the corresponding documentation relating to the implementation of the Act in chronological order and in a manner that enables access in an entire period, as is the safekeeping thereof prescribed in accordance with the Act.*"

346. In order to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority, Article 54 of the APMLTF prescribes the availability of such information to FIU. As to the other competent authorities, it should be noted that supervisors have the power to obtain data and documentation on timely basis on the basis of their sector-specific legislation. However, under provision of sector specific legislation financial supervisors may obtain relevant data for the purposes of supervision which according to Slovenian authorities opinion also applies for AML/CFT purposes. As to other competent authorities Article 156 of the Criminal Procedure Act applies obliging financial institutions to disclose information upon request of the investigating judge.

SR.VII (rated NC in the 3rd round report)

347. The APMLTF does not include any provisions referring to wire transfers since the EU Regulation 1781/2006 applies fully in all EU Member States, including Slovenia. National implementation is therefore limited to establishing an appropriate monitoring, enforcement and penalties regime and to applying certain derogations allowed for in the EU Regulation. Besides, the Bank of Slovenia's Guidelines include a section related to the implementation of adequate controlling procedures in order to meet to the requirements of the EU Regulation. Guidelines also consider the Committee of European Banking Supervisors' document *"Common understanding of the obligations imposed by European Regulation 1781/2006 on the information on the payer accompanying funds transfer to payment service providers of payees"*.

348. In particular, Section 4.5 of the Bank of Slovenia's Guidelines recommends the control of outflows in order to ensure the information about the originator at wire transfers which exceeded €1,000.

349. In terms of obtaining and verifying information regarding an originator, banks and savings banks have introduced different procedures with regard to whether such transfer is provided from an account of the bank's client or it is carried out by an occasional customer.

350. For a transfer of funds from the account of a bank's client, a bank must ensure that originator's information from existing records accompanies a payment order. When funds are transferred by an occasional customer, a bank must identify and verify an originator, whenever the amount of a transfer exceeds €1,000. Information on an originator is verified based on official and valid personal identification documents.

351. Slovenian banks took a common decision to provide complete information regarding an originator, regardless of whether the transfer of funds is domestic (within EU) or cross border. According to banks this approach simplifies procedures and also eliminates the need for subsequently requests to complete information, which might require additional manual work.

352. Section 4.3 and 4.4 of the Bank of Slovenia's Guidelines for the Implementation of Measures Regarding the Prevention of Money Laundering and Terrorist Financing for the Banking Sector (Banking guidelines) (see Annex IX) defines the control of inflows where banks and savings banks are obliged to detect whether the information about the originator is missing on the received wire transfers which exceeded €1.000. These controls include procedures for:

- the detection of missing information regarding a payer;
- determining the meaningfulness of information on a payer during the processing of orders or based on post-event random sampling;
- action taken by a bank in the event of missing information regarding a payer during the processing of orders and during post-event random sampling.

353. With the Decree on the implementation of the EU Regulation, issued in December 2007, Slovenia determined effective, proportional and preventable penalties in the cases of violation of the provisions of the Regulation (ES) 1781/2006, and competent bodies in charge of the supervision of the implementation of the regulation and of deciding on administrative offences. In particular, according to article 2 of this Decree, the Bank of Slovenia is identified as competent authority for the implementation of the EU Regulation and for deciding on infringement of these rules.

354. The scope of AML/TF supervision, which is conducted by the Bank of Slovenia, includes adequate controlling procedures in order to find out how banks and savings banks fulfil the requirements from EU Regulation 1781/2006. This controlling procedure involves review of banks internal policies, procedures and checking a sample of wire transfers.

355. According to the national Decree on the implementation of the EU Regulation fines are divides into two groups:

- article 3 deals with most serious offences where prescribed fine is:
  - between €12,000 and €120,000 for legal persons,
  - between €800 and €4,000 for responsible natural persons.

- article 4 deals with serious offences where prescribed fine is:
  - between €6,000 and €60,000 for legal persons,
  - between €400 and €2,000 for responsible natural persons.

356. Although the level of fines appears to be proportionate and dissuasive the lack of sanctions applied does give rise to concerns over effectiveness of application.

Additional elements

357. Section 4.3 of the banking guidelines recommended that a recipient bank consistently apply appropriate (automated and/or manual) controls to determine the meaningfulness of information regarding a payer, at a minimum for inflows that exceed € 1,000.

Effectiveness and efficiency

358. The concerns of the evaluators concerning record retention are set out below. Apart from these deficiencies the evaluators were not aware of any problems relating to the effective

application of these requirements and the indications from the FIU and Police were that full documentation was available when required.

359. With regard to wire transfers, since the APMLTF was adopted, the Bank of Slovenia has not detected any violations of the provisions of the EU Regulation and its guidelines in the inspections conducted. Furthermore, there are no cases reported of Slovenian banks regularly failing to provide information regarding a payer.

3.4.2 Recommendation and comments

Recommendation 10

360. In spite of requirement to keep the data for longer than five years there should also be a provision for data to be retained for a longer when requested by the relevant authorities. Though it could be understood from the APMLTF that recordkeeping requirements apply to both domestic and international transactions Slovenian authorities may wish to specify these requirements in the law.

361. There should be clear requirements for financial institutions in law or regulation to keep records of the account files and business correspondence.

Special Recommendation VII

362. The overall implementation of the relevant wire transfers rules is quite comprehensive and compliant with the international standards.

3.4.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**LC**	• There is no provision for data to be retained for longer than five years when requested by the relevant authorities. • Financial institutions are not specifically required to maintain records of the account files and business correspondence.
SR.VII	**C**	

3.5 Suspicious Transaction Reports and Other Reporting (R. 13 and SR.IV)

3.5.1 Description and analysis

Recommendation 13 (rated PC in the 3rd round report)

363. By the adoption of the new AML/CFT law terrorist financing is now covered in suspicious transactions reporting. Article 38 (2) of the APMLTF includes provisions that impose the obligation of reporting any transaction suspected of being related to either money laundering or the financing of terrorism, regardless of the amount of the transaction **prior to effecting the transaction**. There is therefore a concern that the reporting requirement does not cover transactions where the suspicion arises **after** the transaction has been effected. In particular there is a concern that suspicions that come to light as a result of concerns over subsequent transactions or a periodic review (under Essential Criteria 5.7.1) may not be reported. In

discussions with obligors during the on-site visit it was clear that this was not considered to be a barrier and it was confirmed by both obligors and the OPML that STRs were regularly submitted after transactions had been effected.

364. Article 38 (4) extends the obligation to make a suspicious transaction report to attempted transactions.

365. Article 38 of the APMLTF provides for reporting obligation and deadlines for filing reports and sending the data to the Office on cash transactions equal or over €30,000 as well as on any transaction suspected of being related to either money laundering or the financing of terrorism, regardless of the amount of the transaction.

366. The mentioned reporting obligation is a direct mandatory requirement. Failure to report are considered a serious offence in the APMLTF and are sanctionable in accordance with Article 91, part 1, points 19-23.

367. STRs received for the period 2005 to 31 July 2009 are set out in items 1 and 2 of Table 8 under section 2.5. Likewise, a table of reports on cash transactions above the reporting threshold is set out in Table 10 in the same section.

368. In the view of the evaluators the underlying legal requirements are adequate although a concern about effectiveness remains due to the relatively low level of reporting from the non-banking sector.

369. By the adoption of the APMLTF in 2007, terrorist financing is now covered in suspicious transactions reporting. The APMLTF provides for express provisions that impose the obligation of reporting any transaction suspected of being related to either money laundering or the financing of terrorism, regardless of the amount of the transaction. The obligation to make a suspicious transaction report also applies to attempted transactions.

370. The reporting obligation concerning the transactions referred to above shall also apply to an intended transaction, irrespective of whether it is performed at a later date or not (Paragraph 4 of Article 38 of the APMLTF).

371. The offence of money laundering relates to all "criminal activity" which would include tax evasion which is criminalised under Article 249 of the Criminal Code. The reporting entities are therefore required to report suspicious transactions regardless of whether they are thought to involve tax matters or any other crime.

Additional Elements

372. Apart from requirements in the Criminal Procedure Act to report all crimes committed, the evaluators have not been able to find other such an obligation in any law, any regulation or any other enforceable means of Slovenia.

Special Recommendation IV (rated NC in the 3rd round report)

373. By the adoption of the APMLTF in Slovenia terrorist financing is now covered for the purposes of suspicious transaction reporting. This was one of the deficiencies included in the 3rd round evaluation report.

374. Concerning STRs related to a suspicion of financing of terrorism, Article 38 requires the obliged entities to provide data in relation to the customer and transaction regarded as suspicious to the Office within the same timeframe as reporting transactions related to possible money laundering (i.e., *prior to effecting the transaction, …. Such report may also be submitted by telephone; however, the written report shall be sent to the office the next working day at the latest*). This obligation applies in the case when *reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction.*

375. The reporting obligation concerning the transactions when *reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction* also applies *to an intended transaction, irrespective of whether it is effected at a later date or not.*

376. The requirement to report transactions when *reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction* would be insufficient in the context of SR IV as it refers only to actions of the client or a party involved in a transaction but not to "funds" in general linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism. The Slovenian authorities consider that the definition of a "transaction" as defined in Article 3.19 of the APMLTF "*A transaction shall mean any receipt, handover, exchange, safekeeping, disposal, or other handling of monies or other property by a person liable*" is sufficiently broad to cover "funds" as set out in SR.IV

377. This requirement seems to be covered by the definition for *Terrorist financing* provided in Article 2 part 2 of the APMLTF that includes *direct or indirect provision or collection of funds or other property of legal or illegal origin, or attempted provision or collection of such funds or other property, with the intent that they be used or in the knowledge that they are to be used in full or in part by a terrorist …or terrorist organisation.*

378. Article 3 part 1 defines *property* as *assets of every kind, whether corporeal or incorporeal, tangible or intangible, moveable or immoveable, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets*

379. Thus it seems that all kind of "funds" as defined by the Terrorist Financing Convention are covered. However, the APMLTF requires that assets have to be linked with a transaction and therefore there is e.g. no obligation to report assets (regardless how this term is defined) linked with financing terrorism, which are simply deposited on a bank account.

380. In practice, no reports with a suspicion of terrorist financing were sent to the Office. The evaluators also got the impression that the financial institutions were of the opinion that Slovenia is not very exposed to terrorist threats and in consequence that it would be unlikely to detect a transaction related to financing of terrorism. In 2009 the OMLP has received two reports from banks in which not only a suspicion on ML was indicated but also a suspicion on TF (in the same report). One case was sent to the Police as some reasons for suspicion on other criminal offences than ML or FT were identified. The second has been forwarded to the Police because of ML suspicions.

Effectiveness and efficiency (R.13 & SR.IV)

381. As stated under below, the reporting level compared to the market size appears to be internationally above average. However, STRs are mainly coming from banks. Other financial institutions and the DNFBPs show a significantly lower level of reporting. Furthermore, there is no specific additional Guidance on reporting for the Insurance sector, Lawyers/Notaries and trust and company service providers in place.

3.5.2 Recommendations and comments

Recommendation 13

382. The reporting level compared to the market size appears to be internationally above average (Assets under management in the banking sector, €48 Billion in 2008; assets under management by Asset Managers €2.2 Billion in 2009; gross life insurance premiums written in 2008, €534.1 Million, against the number of STRs from 2005 to 31 July 2009 of 821). All 821 STRs received by the Office between January 1, 2005 and September 30, 2009, have been analysed and 408 out of the 821 STRs were forwarded to the police as case reports. 306 of these cases reported are still under investigation by the police. 102 of these case reports have been forwarded for prosecution, 77 being still under instruction and 25 terminated without any criminal complaint being filed. The 77 prosecutions resulted in 24 cases being taken to court. The police autonomously generated 6 case reports, which have been taken forward to court prosecutors. Prosecutors initiated 8 prosecutions autonomously, all of them being taken to court.

383. STRs are mainly received from banks. Other financial institutions and the DNFBPs show a significantly lower level of reporting. There is no specific additional guidance on reporting for the Insurance sector, Lawyers and Notaries and TCSPs in place.

384. Article 38 (2) of the APMLTF limits the requirement to report to suspicions that arise **prior to effecting the transaction**. There is therefore a concern that the reporting requirement does not cover transactions where the suspicion arises **after** the transaction has been effected.

385. Since supervisory authorities have not yet reached out (except for general training) to insurance companies, TCSPs and lawyers and notaries, Slovenian authorities should consider giving specific guidance on reporting to all financial institutions who have not yet received specific guidance and reaching out to those sectors of the financial industry which have not yet been thoroughly trained in order to potentially increase the efficiency of the reporting system.

Special Recommendation IV

386. The reporting obligation in relation to a suspicion of money laundering does not refer to funds. APMLTF is silent on reporting obligation for transactions already executed, i.e., when suspicious character of a transaction is discovered later. The reporting requirement should be clarified to ensure that "funds" as well as "transactions" are covered.

387. The total lack of any STRs related to financing of terrorism raises concerns of effective implementation. More outreach and guidance to financial institutions is necessary to better explain them their reporting obligations under the APMLTF.

3.5.3 Compliance with Recommendations 13 and Special Recommendation SR.IV

	Rating	Summary of factors underlying rating
R.13	**LC**	• Low numbers of STRs from outside the banking sector gives rise to concerns over effectiveness of implementation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
SR.IV	**LC**	• Only "property" linked with a transaction is covered by the reporting obligation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)

Internal controls and other measures

3.6 Foreign Branches (R. 22)

388. At the time of the on-site visit, 19 commercial banks were operating in Slovenia, of which 8 worked with majority foreign capital (i.e., more than 50% of capital from foreign sources). There was one almost fully state owned bank (98.7%).

389. Currently, the activity of the financial industry of Slovenia abroad is limited, thus the risks appear low. At the time of the on-site visit to Slovenia only one bank with its head office in the Republic of Slovenia had branches and majority-owned subsidiaries abroad. This financial group consists of branches and majority-owned subsidiaries in EU/EEA countries (Austria, Bulgaria, Czech Republic, Germany, Italy, Slovakia and Switzerland) and in third countries (Bosnia and Herzegovina, Serbia, Montenegro, "the former Yugoslav Republic of Macedonia", Kosovo and Ukraine). There are several branches and subsidiaries abroad owned by Slovenian insurance industry and securities market participants and a list of these is set out in Annex XIII.

3.6.1 Description and analysis

Recommendation 22 (rated PC in the 3rd round report)

390. Previously rated as "Partially compliant" in the 3rd round, Recommendation 22 needs to be addressed in this assessment round as well. Though in comparison with the situation at the time of the 3rd round evaluation there is some progress made in regard to foreign branches and subsidiaries of financial institutions there are still deficiencies in place that have not been addressed.

391. Financial institutions in Slovenia are required to ensure that their foreign branches and subsidiaries located in third countries apply the measures for detecting and preventing money laundering and terrorist financing stipulated by the APMLTF to the extent that local (i.e. host country) laws and regulations permit (Article 39). The term "Third countries" refers to countries that are not EU Member States countries or equivalent third countries. There is no specific

distinction between third countries and countries which do not or insufficiently apply the FATF Recommendations.

392. There is no such requirement in respect of branches and subsidiaries of the institution located in EU Member States. Slovenian authorities explained that it is presumed that AML/CFT obligations in EU Member States are equivalent to those existing in Slovenia due to the fact that all EU Member States are obliged to implement the third AML/CFT Directive, hence branches and subsidiaries of Slovenian are considered to be also obliged entities under the relevant AML/CTF legislation of other EU Member States. Nevertheless, such obligation should be applied also to branches and subsidiaries in other EU Member States.

393. Article 39 (1) requires that branches and majority-owned subsidiaries located in third countries apply the measures for detecting and preventing money laundering and terrorist financing stipulated by the APMLTF to the same extent, unless explicitly contrary to the legislation of the third country. There is, however, no requirement to apply the "higher standard" as required in essential criteria 22.1.2. Once again this requirement is limited to "third countries".

394. Financial institutions in Slovenia are required to inform their home country supervisor when a foreign branch or subsidiary in a third country is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures (Article 39, paragraph 2).

Additional elements

395. Financial institutions in Slovenia are not subject to the Core Principles as they are not specifically required to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide. Though it was noted by the Slovenian authorities that at the moment there is just one bank with foreign branches and subsidiaries in Slovenia this requirement still needs to be addressed.

Effectiveness and efficiency

396. The limitation of this requirement to subsidiaries and branches in third countries (e.g. non-EU) significantly limits its scope. Overall this has a material impact on the effectiveness of Recommendation 22 on branches and subsidiaries operating outside of Slovenia.

3.6.2 Recommendation and comments

Recommendation 22

397. It is recommended that distinction between third countries and countries which do not or insufficiently apply the FATF Recommendations is introduced.

398. A requirement should be introduced to ensure observing AML/CFT measures in respect of branches and subsidiaries of the institution located in EU Member States.

399. A requirement should be introduced to the effect that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard, to the extent that local (i.e. host country) laws and regulations permit.

400. Financial institutions in Slovenia should be subject to the Core Principles and be specifically required to apply consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide.

3.6.3 Compliance with Recommendation 22

	Rating	Summary of factors underlying rating
R.22	**LC**	• No requirement to apply the higher standard where requirements differ. • Requirement to ensure observing AML/CFT measures in respect of branches and subsidiaries of is limited to institutions located in "third countries".

Regulation, supervision, guidance, monitoring and sanctions

3.7 The Supervisory and Oversight System - Competent Authorities and SROs / Role, Functions, Duties and Powers (Including Sanctions) (R. 23, 29 and 17)

3.7.1 Description and analysis

Authorities/SROs roles and duties & Structure and resources

Recommendation 23 (23.1, 23.2) (rated LC in the 3rd round report)

The Central Bank

401. As described in the 3rd Round Report, the Central Bank acts as banking sector supervisor. It has all common supervisory powers and responsibilities, in line with international standards (including licensing, off-site, on-site, enforcement authorities and access to all documents). In general the provisions of the Banking Act as well as the provisions of the Payment Services and Systems Act define the competence of Bank of Slovenia to conduct prudential supervision but the same provisions should be used also for the purpose of AML/CFT supervision.

402. Specific AML/CTF supervision competences of the Bank of Slovenia are defined in the APMLTF. Pursuant to paragraph 1 of Article 87 of this law the Bank of Slovenia is competent to conduct AML/CFT supervision of the following financial institutions:

- banks, branches of banks from third countries and Member State banks which establish branches in the Republic of Slovenia or which are authorised to directly perform banking services in the Republic of Slovenia,
- savings banks,
- electronic money undertakings, branches of electronic money undertakings from third countries, and electronic money undertakings from Member States which establish branches in the Republic of Slovenia or which are authorised to provide electronic money services directly in the Republic of Slovenia,

- companies providing certain payment transaction services, including money transmission,[26]
- currency exchange offices.

403. All financial institutions that are mentioned above require a licence from Bank of Slovenia in order to provide banking or other financial services except banks and electronic money undertakings from Member States which provide banking or financial services in the territory of the Republic of Slovenia (via branches or directly).

The Insurance Supervision Agency (ISA)

404. According to the Insurance Act, the ISA is responsible for supervision of the insurance sector. Its main responsibility is supervising insurance undertakings, insurance agencies, insurance brokerage companies and insurance agents and brokers. The Agency also conduct supervision of legal persons related to the insurance undertaking, if necessary for the purpose of supervising the insurance undertaking's operation, as well as additional control of the insurance undertaking within an insurance group, insurance holding company and joint-venture insurance holding company. In 2000, according to the Pension and Invalidity Insurance Act, the Agency became responsible for issuing authorisations to pension companies and for supervising their operations.

405. The Insurance Act attributes to the ISA the power of granting authorisations, monitoring, collecting and verifying reports and notifications by insurance undertakings, carrying out examinations of operations of insurance undertakings and determining measures of supervision. The provisions of the Insurance Act also apply to supervision of the AML/CFT activities in life insurance undertakings and pension companies.

406. Specific AML/CTF supervision competences of the Insurance Supervision Agency are defined in the APMLTF. Pursuant to paragraph 3 of Article 87 of this law ISA is competent to conduct AML/CFT supervision of the following financial institutions:

- founders and managers of mutual pension funds and pension companies;
- insurance companies authorised to pursue life insurance business and insurance companies from Member States which establish branches in the Republic of Slovenia or which are authorised to pursue life insurance business directly in the Republic of Slovenia;
- legal entities and natural persons conducting business related to insurance agency services and insurance intermediaries for the purpose of concluding life insurance contracts.

The Securities Market Agency (SMA)

407. The Securities Market Agency was established as an independent authority by the Securities Market Act, which entered into force in 1994. The Market in Financial Instruments Act, which entered into force in 2007, transposed major EU directives in the securities field and ensured that the Agency continued to function. The basic mission of the SMA is to maintain a safe, transparent and efficient market in financial instruments. By exercising control over the brokerage companies, banks engaged in investment transactions and services, management companies, investment funds, mutual pension funds, public companies, public-limited

[26] In accordance with the Payment Services and Systems Act, which came into force on 1st November 2009, and consequent amendments to the APMLTF, the Bank of Slovenia will be also competent to licence and supervise payment institutions (including the supervision of AML/CFT).

companies governed by the Takeovers Act and performing other regulatory tasks, it creates a level playing field for efficient operation of market in financial instruments.

408. The Agency grants authorisations and conducts supervision by monitoring reports and notices that the supervised person are obliged to submit to the Agency, by means of inspection of their operations and imposing of supervisory measures.

409. Specific AML/CFT supervision competences of the Securities Market Agency are defined in the APMLTF. Pursuant to paragraph 2 of Article 87 of this law SMA is competent to conduct AML/CFT supervision of the following financial institutions:

- management companies of investment funds, branches of management companies of investment funds from third countries, management companies of investment funds from Member States which establish branches in the Republic of Slovenia or are authorised to provide services of investment fund management in the Republic of Slovenia, and other persons who may provide particular services or activities of managing investment funds pursuant to the Act governing investment fund management;
- founders and managers of mutual pension funds
- pension companies;
- brokerage companies, branches of brokerage companies from third countries, brokerage companies from Member States which establish branches in the Republic of Slovenia or are authorised to provide services relating to securities directly in the Republic of Slovenia, and other persons who may provide particular services relating to securities pursuant to the Act governing the securities market or the Act governing the financial instruments market.

The Market Inspectorate

410. The Market Inspectorate is an independent part of the Ministry of Economy with its own financial department and human resources. The basic mission of the Market Inspectorate is monitoring the implementation of several legislative acts and regulations. The main areas of activity are the following: consumer protection, product safety, trade, craft, catering and tourism, unfair competition, protection of copyrights and industrial property rights, unfair business-to-consumer commercial practices, credit agreement for consumers and sale of real estate.

411. Specific AML/CFT supervision competences of the Market Inspectorate are defined in the APMLTF. In accordance with paragraph 6 of Article 87 of this law the Market Inspectorate shall exercise supervision over implementation of the provisions of the APMLTF with pawnbroker shops and legal entities and natural persons conducting business related to: granting credits or loans, also including consumer credits, mortgage credits, factoring and financing of commercial transactions, including forfeiting, financial leasing and mediation in the conclusion of loan and credit transactions.

Recommendation 30 (Resources supervisors)

The Central Bank

412. The Banking Supervision Department as a department within the Bank of Slovenia has many tasks. It was established on 1 July 1992 and it comprises four separate sections: licensing, regulation, systemic analysis and on-site supervision.

413. Within the on-site supervision section there are groups of experts for Credit risk, Financial risk and Operational risk. Regarding AML/CFT issue there are three experts within the on-site supervision section; one of them is an expert for Operational risk and the other two are experts for Credit risk.

414. One of the persons mentioned above is responsible for all kind of activities in the AML/CFT area (e.g. cooperation with the FIU, cooperation and correspondence with banks, off-site analysis, on-site supervision, preparing AML/CFT guidelines, participating in amending the AML/CFT legislation, participating in an annual AML conference which is organised by the Banking Association, etc.). The same person also represents the Bank of Slovenia in the following groups/committees:

- Permanent Coordination Group for coordinating and monitoring of effective implementation of restrictive measures and other task under the Act Relating to Restricting Measures Introduced or Implemented in Compliance with Legal Instruments and Decisions adopted within International Organisations;
- AML Task Force (CEBS),
- delegation to MONEYVAL.

The other two persons deal with AML/CFT occasionally mainly for the purpose of on-site supervision.

415. Regarding independence and autonomy it should be pointed out that Article 31 of the Act of the Bank of Slovenia defines that the Governing Board decides on all matters for which the Bank of Slovenia is competent. Therefore the Governing Board has to approve the AML/CFT guidelines and the results of on-site supervisions. However the Governing Board also has power to take decisions other than those proposed by the examiners.

416. At the moment all three experts who are dealing with AML/CFT issue are examiners (advisors) and they have more than 7 years of experience of on-site examination of credit institutions.

417. Regarding confidential data it is noted that Article 228 of the Banking Act defines that Bank of Slovenia's employees, who act under the authority of the Bank of Slovenia, have to safeguard all information obtained during the performance of supervision and other transactions for the Bank of Slovenia as confidential. The obligation to safeguard confidential information also applies to the information obtained by the Bank of Slovenia in the exchange of information with other supervisory authorities.

418. In order to implement this legal requirement the Bank of Slovenia has prepared a special internal act and declaration. For each employee it is mandatory to sign both documents as a proof that he/she is aware of this requirement and that he/she will respect it. Furthermore the provisions regarding safeguarding confidential information are also included in contracts of employment.

419. In the last five years, two persons from the Central Bank attended seminars focused on issues related to AML/CFT; the seminars were organised by the Banking Association (Slovenia), The Joint Vienna Institute (Austria) and the Office of Comptroller of the Currency (USA). In 2009 one person attended a seminar on "Fight against financial delinquency and money laundering" organised by the Banque de France (4 days) and three persons attended a study visit in order to exchange AML/CFT experience with Central Bank of Cyprus (3 days).

420. Apart from the training specified above it should be pointed out that one person who is a member of Slovenia's delegation to MONEYVAL also attended MONEYVAL's training for evaluators in October 2008 in Strasbourg.

The Insurance Supervision Agency (ISA)

421. The ISA was established in 2000 as an independent supervisory authority and it comprises three separate sections: actuarial department, department for financial and accounting analysis and a department for on-site supervision.

422. Within the department for on-site inspection, there are inspectors – employees of the ISA, skilled for detecting ML/FT activities and they check mentioned activities on every on-site examination.

423. In addition to inspectors, ISA appointed one person – employee lawyer, who is responsible for all kinds of activities in the AML/CFT area (e.g. cooperation with the OMLP, cooperation and correspondence with insurance companies, off-site analysis, participating in amending the AML/CFT legislation, etc.).

424. Regarding the independence and autonomy of the ISA it is noted that Article 256 of the Insurance Act determines that the Council of Experts decides on most matters for which the ISA is authorised and competent. The Council on Experts neither approves nor proposes changes to findings of on-site inspections. On the basis of such findings the ISA issues orders which may be challenged. Objections by insurance companies are handled by the Council of Experts which may take relevant arguments into account and issue a decision which may differ from the findings of the on-site inspection. Legal protection against decisions of the Council of Experts is provided with the Supreme Court of the Republic of Slovenia. The ISA is financed from fees as laid down in the Tariff on fees, annual fees and lump-sum fees, adopted by the ISA and approved by the Government of the Republic of Slovenia.

425. The ISA has 28 employees: 15 with a university degree and 8 with a master's degree (6 in economy, 1 in economic informatics and 1 in law). Four employees also have the licence of a certified actuary and four the licence of a certified auditor.

426. With regards to the confidentiality of data it should be pointed out that Article 260 of the Insurance Act prescribes that the members and president of the Council of Experts and the employees of the ISA shall be obliged to protect data relating to entities supervised by the ISA, and other data relating to facts and circumstances with which they became familiar in performing their work, excluding that data which, pursuant to the provisions of the Insurance Act, is public. The above obligation also exists after the expiry of their function or employment.

The Securities Market Agency

427. The Agency is independent in implementing its tasks and responsibilities. It makes annual reports to the National Assembly of the Republic of Slovenia on the situation and conditions on the market in financial instruments.

428. The funds for the work of the Agency are provided by taxes charged for issuing decisions in individual matters and fees for exercising control. The amount of taxes and fees is determined by the tariff issued by the Agency in agreement with the Government of the Republic of Slovenia. The Government of the Republic of Slovenia also gives approval for the annual statement of account and financial plan of the Agency.

429. The Supervision Department, among other things, implements the competences of the Agency in the area of money laundering prevention and financing of terrorism. The Supervision Department has 12 employees of whom 8 are inspectors.

430. Regarding confidential data it is noted that Article 488 of the Act on Market in Financial Instruments prescribes that the Members of the Agency's council, the Director of the Agency, employees, auditors and other experts working for the Agency must protect as confidential all information they obtained in conducting their function, supervision tasks and other services or tasks for the Agency with the exception of information that is publicly available. Furthermore, the provisions regarding safeguarding the confidential information are also included in contracts of employment.

431. In the last years 3 employees of the Agency attended a seminar organised by the OMLP. Internal seminars are under preparation.

Authorities powers and sanctions

Recommendation 29 (rated C in the 3rd round report)

432. Based on Articles 85, 86 and 87 of the APMLTF, the supervisors are competent for performing the supervision of all obliged entities (including financial institutions) for the purpose of prevention of money laundering and terrorist financing. Supervisors are competent to perform the following actions according to paragraph 2 of Article 85 of the APMLTF in the case of violations of its provisions: order measures to remedy the irregularities and deficiencies within the time limit as specified by it; carry out proceedings in accordance with the law regulating offences; propose the adoption of appropriate measures to the competent authority; order other measures and perform acts for which it is authorised by law or any other regulation.

433. Based on Article 223 of the Banking Act, the Bank of Slovenia has the power to issue the following measures:

- recommendation and warning,
- order to eliminate a violation,
- additional measures for implementing risk management rules,
- withdrawal of licence,
- appointment of special administration,
- institution of liquidation,
- decision on grounds for bankruptcy.

434. In general all these measures are used for the purpose of the prudential supervision but they may also be used for the purpose of AML/CFT supervision.

435. In accordance with Article 178 of the Insurance Act, ISA can impose the following measures of supervision:

- the ordering of the elimination of violation;
- the imposition of additional measures;

- the withdrawal of the authorisation;
- the extraordinary administration;
- the compulsory liquidation of the insurance undertaking;
- the adoption of decisions on the reasons for the bankruptcy of an insurance undertaking.

436. All mentioned measures of supervision can also be used to prevent money laundering and terrorist financing in insurance and pension undertakings.

437. All of the range of supervisory measures are available for SMA: recommendation, warning, public warning, decree on violation's suppressing.

438. Financial supervisors have inspection competences. The Bank of Slovenia undertakes two kinds of on-site examination relating AML/CFT issues:

- regular on-site examination according to the annual plan; in such cases AML/CFT examination can be a part of full scope examination or it can be an independent AML/CFT examination;
- extraordinary examination based on gathered information from different sources.

439. Regarding the scope of AML/CFT on-site examination by the Bank of Slovenia, it usually involves the following activities:

1) reviewing the AML/CFT system in the bank:
   - the role of AML compliance officer an his position within the organisational structure;
   - internal policies and procedures;
   - training of staff;
   - internal audit;
2) sample testing of customers files regarding CDD and review of customer's activities:
   - new customers;
   - customers with high turnover on the account;
   - customers that represent higher risk (for example: non-resident accounts);
3) risk assessment;
4) review of banking payment system in respect of EU regulation 1781/2006;
5) IT support:
   - segmentation of customers regarding risk profile;
   - on-going monitoring of client's activities;
   - filtering of transactions regarding EU and UN sanction lists.

440. The planning of inspections is based on data about STR and CTR which have been reported to the FIU and any other relevant data (for example, designation of a new AML compliance officer in a bank). The duration of the inspections is 3-4 weeks.

441. In accordance with Article 173 of the Insurance Act, the Insurance Supervision Agency (ISA) conducts supervision of financial institutions with:

- monitoring, collecting and verifying reports and notifications by insurance undertakings and other entities which are obliged to submit reports to the ISA or notify it of individual facts and circumstances;
- carrying out examinations of operation of insurance undertakings;
- determining measures of supervision and compliance with the Insurance Act.

442. Within the scope of on-site inspections, the ISA examines the following activities as regards the scope of AML/CFT:

- the AML/CFT system in the insurance undertaking (the role of the AML compliance officer and his position within the organisational structure, internal policies and procedures, training of staff, internal audit);
- risk assessment procedures;
- IT support.

443. The planning of inspections is fixed schedule. The inspections don't include the analysis of samples of customers' files.

444. The Securities Market Agency (SMA) conducts supervision by:

- monitoring, collecting and verifying the reports and notifications of supervised entities and other persons obliged to report to the Agency or to inform it of individual facts and circumstances;
- inspecting the operations of the supervised operators (either on-site or by verifying documentation on the premises of the Agency);
- imposing supervisory measures in the process of verifying reports and inspecting operations.

445. The Agency performs the following inspections of operations:

- regular inspections (specified in the annual action plan of the SMA);
- systematic inspections of operations;
- extraordinary inspections of operations in the case of investor complaints and complaints by other persons;
- extraordinary inspections of operations in case this is necessary on the basis of the findings and analyses of reports and notifications;
- regular and extraordinary inspections in co-operation with the Bank of Slovenia and the ISA.

446. At least once a year, the ISA verifies and assesses the organisational structure, strategies, processes and mechanisms set up by the supervised operators. On-site examinations usually involve the analysis of the books of account and reports of the company. Within the scope of on-site inspections, the SMA reviews the policies and the internal controls of the supervised entities; it doesn't analyse samples of customers' files, except when there are some complaints.

447. Articles 76 and 84 of the APMLTF define the access of supervisory bodies to specific data and documentation such as STR, temporarily suspended transactions, data about customers for whom FIU require the ongoing monitoring of their business operations and data about customers for whom an investigation has been or is likely to be launched. Article 74 allows access to data if the data is required by the supervisory body for the supervision of implementation of the provisions of the APMLTF and the ensuing regulations, conducted within its competencies. Article 84 of the AML/CFT Act also provides for the duty of organisations to keep the evidence about such cases when supervisory body actually access to these data confidential. Moreover each organisation is also obliged to inform the OMLP about such cases.

Effectiveness and efficiency (R.23&29)

448. All financial supervisory bodies have now begun to check compliance with the APMLTF. However, only the Bank of Slovenia has performed inspections focused on AML/CFT issues and is the only supervisory authority to put in place a specific manual on how to conduct money laundering on-site inspections. Revealed violations do not appear to be systemic.

449. The Insurance Supervision Agency has not yet issued guidelines to help market participants to implement the provisions of the APMLTF. Furthermore, the list of indicators for the insurance sector is outdated.

450. The Market Inspectorate has not yet conducted on-site inspections on supervised entities.

Table 22: Table of inspections conducted by the financial supervisory authorities

Year	Bank of Slovenia	Type of inspections	Insurance Supervision Agency	Securities Market Agency
2005	3	Regular AML/TF inspection (part of control)	14	
	3	Follow-up inspection		
	1	Extraordinary examination (request by foreign supervisory body)		
2006	2	Regular AML/TF inspection (independent)	9	
	1	Follow-up inspection		
2007	1	Follow-up inspection	5	
2008	7	Informative AML/TF inspection in order to get information about bank's activities regarding new legal requirements	5	4
	1	Regular AML/TF inspection (independent)		

2009	2	Regular AML/TF inspection (independent)	6	44

Recommendation 17 (rated LC in the 3rd round report)

451. Penalty provisions or provisions on APMLTF violations or their sanctions have been defined in Chapter IX of the APMLTF, which divides the violations according to their level into three categories: most serious offences (Article 91 of the APMLTF), serious offences (Article 92 of the APMLTF) and minor offences (Article 93 of the APMLTF). For all violations, a fine shall be imposed to the legal person and its responsible person. The sanctions for the sole proprietor or a self-employed person have been prescribed as well.

Table 23: Fines for violation of the APMLTF

Persons subject to fines	**Most Serious Offences Article 91 €**		**Serious Offences Article 92 €**		**Minor Offences Article 93 €**	
	Maximum	**Minimum**	**Maximum**	**Minimum**	**Maximum**	**Minimum**
Legal entity	120,000	12,000	60,000	6,000	30,000	3,000
Responsible person of a legal entity, sole proprietor or self-employed person	4,000	800	2,000	400	1,000	200
Sole proprietor or self-employed person	40,000	4,000	20,000	2,000	10,000	1,000

452. The evaluators were concerned that, taken on their own, the level of fines for legal persons may not be sufficient as to be regarded as effective, proportionate or dissuasive. It was, however, noted that the level of fines is significantly higher than in many of the surrounding countries (of Slovenia's immediate neighbours only Italy applies higher levels of fines for legal persons). Findings from the supervision and related disciplinary sanctions are not made public.

453. Breach of the APMLTF does, however, also trigger the competence of financial supervisors to adopt enforcement measures as provided for in the Banking Act, Insurance Act and Financial Instruments Market Act. As already noted, according to the provisions stipulated by Article 85 of the APMLTF, all supervising bodies, in exercising supervision, have the right and duty to:

- order measures to remedy the irregularities and deficiencies within the time limit as specified by it;
- carry out proceedings in accordance with the law regulating offences;
- propose the adoption of appropriate measures to the competent authority;
- order other measures and perform acts for which it is authorised by law or any other regulation.

454. The financial supervisory authorities have not yet imposed administrative sanctions. At the time of on-site visit, ISA and SMA hadn't detected any violations of the APMLTF in their AML/CFT-specific inspections. In cases of violation of the APMLTF, the supervisory authorities are obliged to issue supervisory measures based on sectoral-specific legislation and administrative sanctions based on APMLTF.

Table 24: Enforcement measures imposed by the Central Bank

Year	Number of inspections	Type of inspections	Number of measures
2005	3	Regular AML/TF inspection (part of control)	19 recommendations 1 order to eliminate violations
	3	Follow-up inspection	1 order to eliminate violations 1 order relating conditional prohibition of certain business activity regular reporting to Bank of Slovenia on quarterly basis
	1	Extraordinary examination (request by foreign supervisory body)	1 order to eliminate violations
2006	2	Regular AML/TF inspection (independent)	1 order to eliminate violations 15 recommendations
	1	Follow-up inspection	
2007	1	Follow-up inspection	
2008	7	Informative AML/TF inspection in order to get information about bank's activities regarding new legal requirements	No measures
	1	Regular AML/TF inspection (independent)	2 warnings 6 recommendations
2009*	2	Regular AML/TF inspection (independent)	7 warnings 6 recommendations

* To 31 July 2009

455. Since 2005 the OMLP has dealt and concluded the following administrative sanctions:

Table 25: Administrative sanctions concluded by OMLP

	2005 for comparison	2006 (until 22 June 2006)	2006 (since 22 June 2006)	2007	2008	7 months to 31 July 2009
Number of AML/CFT violations identified by the supervisor	9	4	12	17	11	10
Type of measure/sanction						
Written warnings	/	5		4	5	5
Fines	4	3		3	1	/
Removal of manager/compliance officer	/	/	/	/	/	/
Withdrawal of license	/	/	/	/	/	/
Other						

Explanation of table 25 on Administrative Sanctions concluded by OMLP

1. 7 months to 31 July 2009 – all procedures on the following administrative offences started on the basis of the activities of OMLP:
   - 7 administrative offences due to delay in reporting of cash transactions by the banks
   - 3 administrative offences due to the delay in reporting of cash transactions by casinos or gaming halls

2. year 2008 – all procedures on administrative offences started on the basis of the activities of OMLP. Ten administrative offences were dealt by OMLP, as for one the initiative for the inspection supervision was given to the primary supervisor, that concluded the procedure. Administrative offences were as follows:
   - 6 of them referred to the delay in reporting of cash transactions by the banks
   - 1 administrative offence referred to the delay in reporting of cash transactions by the post
   - 4 administrative offences referred to the delay in reporting of cash transactions by casinos or gaming halls

3. year 2007 – all procedures started on the basis of the activities of OMLP except one, initiated by the primary supervisor. Administrative offences were as follows:
   - 8 administrative offences referred to the delay in reporting of cash transactions by the banks
   - 5 administrative offences referred to the delay in reporting of cash transactions by casinos and gaming halls
   - 2 administrative offences referred to non-sending the internal acts (book of rules, appointment of a compliance officer, internal control etc) and list of indicators by the companies, offering accounting services and tax advising, even though the OMLP asked for those documents
   - 3 administrative offences referred to the deficiency of data gathered by the bank at the identification of the legal person

4. year 2006 (**since 22 June 2006**, when the OMLP namely became the administrative authority and as such competent for taking decisions on the administrative offences) – administrative procedures began on the basis of the activities of OMLP. Administrative offences were as follows:
   - 5 administrative offences referred to the delay in reporting of cash transactions by the banks
   - 2 administrative offences referred to the exceeding of the prescribed time limit for sending the information to OMLP by real estate agency and building construction company
   - 5 administrative offences referred to the delay in reporting of cash transactions by the exchange offices.

456. Both kind of actions (supervisory measures and administrative sanctions) can be taken by financial supervisors although, these are dealt with separately within different departments of the supervisory bodies and by different persons. Enforcement measures are decided in accordance with the provisions of the laws that fall under the competence of the financial supervisors while the decisions on administrative sanctions are based on the provisions of the Minor Offences Act in the misdemeanour procedures.

457. The sanctioning system changed in May 2006 with the entry into force of the amendments to the Minor Offences Act. According to the provisions of this law, the OMLP and other competent supervisors took charge of rulings on administrative offences under an expedited procedure, so called "fast procedure". The aim of such a procedure is fast and simple establishment of facts and gaining of the proofs needed for the decisions on the administrative offence. The administrative offence procedure can start according to the official duty or by giving the written proposal for the beginning of the procedure of one of the proposers (impaired person, state prosecutor, other state authority, holders of public authority, autonomous local community). For that reason financial supervisory authorities can themselves start and conclude the administrative offence procedure taking into consideration the OMLP as the secondary supervisor according to the APMLTF. Under the latter, all supervisory authorities are obliged to inform the OMLP on their measures, so that OMLP will have an overview of the type of offences according to the particular group of obliged entities, imposed fines and other sanctions. Since 2006 the courts have been taking decisions on the subject only in the case of the complaint of the violator against the decision of the OMLP or other supervisory authorities.

458. The Minor Offences Act provides for several types of sanctions: a fine, an admonition, deportation in case of an alien, seizure of items and correctional measures (Article 4 of the Minor Offences Act). Due to the nature of activity of supervisory authorities in the field of the prevention of money laundering, most of the sanctions are fines and admonitions. Instead of imposing a fine the supervisory authorities can also pronounce the warning, but only when the administrative offence is insignificant and if according to the estimation of the competent person, the warning has been a sufficient measure.

459. Pursuant to the Minor Offences Act, the procedure for an offence may be opened against the offender in a period of two years after the offence was committed (prosecuting period). The prosecuting period is prolonged if the prosecuting authority executes any kind of action against the offender in the prosecuting period (i.e. the issuing of the supervisory measures). However, the prosecution is absolutely prohibited after four years since the offence is committed.

460. In the last 4 years (2006 to 31 July 2009), the OMLP imposed 19 written warnings and 7 fines. The administrative offences were mostly related to:

a) the delay in reporting of cash transactions (by banks, exchange offices, casinos, post);

b) the deficiency of data gathered by a bank for the identification of a legal person;

c) the non-sending the internal acts (book of rules, appointment of a compliance officer, internal control, etc.) and the list of indicators by the companies offering accounting and tax advising services, even though the OMLP asked for those documents.

Since 2007 the duration of the proceedings has been reducing (from 2 years to 1 year).

461. In the case of violation of the APMLTF, as well as other regulations which fall under its competence, the Bank of Slovenia carries out the supervisory process, in order to impose enforcement measures (warnings and recommendations, the latter only for underperformances and inconsistencies which do not have the characteristics of violation of regulations) and also to gather facts and circumstances which constitute the offence and are the basis for opening the administrative procedure for the offence against the offender. According to its internal policy, the Bank of Slovenia can open an offence procedure against the offender only after the supervisory process is concluded and all relevant circumstances of the case are established (including measures performed by the offender to remedy the violation). Here it should be highlighted that both activities (imposing supervisory measures and imposing administrative sanctions) are taken by the Bank of Slovenia although these are dealt separately within different department and by different persons.

462. The Bank of Slovenia has conducted three on-site supervisions regarding AML/CFT issues since the new legislation was adopted.

463. At the end of an inspection carried out in November 2008, the Bank of Slovenia imposed two warnings for violations related to the lack of data about the purpose and intended nature of the business relationship and the deficiency in the process of identifying the beneficial owner (both the violations are defined as most serious offences in the APMLTF). The Bank of Slovenia defined a deadline (30th June. 2009) for bank to introduce additional internal controls and to improve the existing process of identifying the beneficial owner. At the time of the on-site visit, the evaluators didn't obtain any information about the beginning of the administrative procedure for these offences.

464. With regard to an inspection conducted in March 2009, the Bank of Slovenia imposed seven warnings for violations related to the lack of data about the purpose and intended nature of the business relationship, the deficiency in the process of identifying the beneficial owner, the lack of enhanced CDD for correspondent relationship with a bank from a third country, the provision of simplified CDD for some customers which did not fulfil the criteria for simplified CDD and deficiencies in the process of CDD via third persons. Only after the deadline (1st April 2010) to remedy the irregularities, the Bank of Slovenia will start the administrative procedure for the offences.

465. Financial supervisory authorities have not yet imposed administrative sanctions. At the time of the on-site visit, ISA and SMA hadn't detected any violations of the APMLTF in their inspections.

Market entry

Recommendation 23 (rated LC in the 3rd round report)

(23.3, 23.5, 23.7) licensing/registration elements only

466. As described in the 3rd round Report, the licensing procedure and the ownership changes in the banking, insurance and securities market are in line with the relevant European Union regulations. Fit and proper tests for future managers are applied within the licensing procedures, including checks on criminal records with the Ministry of Justice.

467. With regard to payment institutions, the Bank of Slovenia is required to assess the suitability of the persons holding qualified holdings in payment institutions and the good repute of persons responsible for management in payment institutions when granting authorisation as a payment institution as when performing payment services. If circumstances related to the suitability of qualified holders or the repute of the management personnel changes, this could entail a withdrawal of authorisation of the payment institution.

468. At the time of the on-site visit, the ability to provide money or value transfer services was included within the licence for payment transaction services in accordance with the Payment Transaction Act. This license could be granted to banks or other legal persons (acting as bank's agents). Subsequently, a new act, the Payment Services and Systems Act was adopted in order to implement the requirement from the Payment Service Directive (PSD). The Act came in force on 1st November 2009 and fully replaced the former Payment Transaction Act. The ability to provide money or value transfer services is included within the licence for payment services in accordance with the Act[27].Pursuant to the Payment Services and Systems Act the license for payment services can be granted to banks or other legal persons (payment institutions.). In all cases the Bank of Slovenia is competent to issue such licences.

469. With the exception of two banks, all banks have a licence for payment transaction services so theoretically they are all allowed to provide money or value transfer services. However in practise there are only four banks which provide such services (two banks are members of Western Union, and two banks are members of the Moneygram system).

470. Regarding other legal persons, it is possible for them to obtain a licence from the Bank of Slovenia as payment institutions. On the other hand there also exist legal persons which work as bank's sub-contactors and they act on behalf of the bank. Among these other legal persons authorised to undertake certain types of payments are Post Offices. Post Offices act as a sub-contractor of the Post Bank which is a bank licensed and supervised by the Bank of Slovenia. Post offices are supervised indirectly (through the Post Bank) by the Bank of Slovenia. Post offices are also allowed to collect and make payment orders on their own (not on behalf of Post Bank); for this activity alone they are supervised by the OMLP.

471. The Bank of Slovenia is also responsible for the issuance of authorisations to companies (except for banks) and sole traders to perform currency exchange operations. The Foreign Exchange Act prescribes the fit and proper requirements to be fulfilled by owners and managers.

[27] The Payment Services and Systems Act authorises payment institutions and for this reason amendments to the APMLTF have been prepared. It is expected that amendments to the APMLTF will be adopted in the beginning of March 2010 and pursuant to these amendment a payment institution is defined as an obliged entity under the APMLTF and is supervised by the Bank of Slovenia.

On-going supervision and monitoring

Recommendation 23 & 32

(23.4, 23.6, 23.7) - supervision/oversight elements only) & 32.2d

472. All financial institutions that are subject to the Core Principles are authorised and licensed (see R. 23.3 and 23.5). The regulatory and supervisory measures that apply for prudential purposes are applied in a similar manner for anti money laundering and combating terrorist financing purposes.

473. In the field of on-going supervision and monitoring, all financial supervisors have the power to compel production of or obtain access to records and documents without a Court order.

474. Besides the supervision of banking sector, the Bank of Slovenia is also responsible for conducting supervision of other legal persons such as payment institutions (direct supervision) and bank's sub-contractors (indirect supervision through the bank). Pursuant to the APMLTF the Bank of Slovenia is also responsible for conducting supervision of legal persons who provide currency changing services ensuring compliance with AML/CFT requirements.

475. The Bank of Slovenia and contractual banks supervise licensed currency exchange operators. The aforementioned Foreign Exchange Act is subject to ongoing legislative procedure, the outcome of which will be the abolition of the current regime according to which each currency exchange office also had to conclude a contract with a commercial bank, which assisted the Bank of Slovenia in licensing activities and subsequent supervision.

476. During the last five years (2005-2009), the Bank of Slovenia conducted 9 regular AML/CFT inspections, 5 follow-up inspections, 1 extraordinary examination (following a request by a foreign supervisory body), and 7 informative AML/CFT inspections (in 2008) in order to get information about bank's activities regarding new legal requirements. In 2007 there were no regular on-site examinations due to the adoption of the new act.

477. 62 on-site inspections of exchanges offices were carried out in 2008 by the Bank of Slovenia. The same number of inspections is expected to be carried out in 2009. Contractual banks carried out 196 on-site inspections of exchanges offices in 2008.

478. During the last five years, the Insurance Supervision Agency conducted 39 on-site examinations; all of these inspections included the checking of AML/CFT compliance.

479. In 2008, 4 of 59 inspections of the operations of the supervised operators, carried out by the Securities Market Agency, were related to money laundering; In the year 2009, SMA performed 157 on-site examinations, AML/CFT procedures were reviewed in 51 of these.

Effectiveness and efficiency

480. The supervisory and regulatory structure on AML/CFT issues is broadly in place and is working. But perception of the risks of money laundering and terrorist financing still need further strengthening across the whole of the financial sector.

481. The AML Law has created a shared and collective responsibility for supervision of AML/CFT issues by a range of bodies. These arrangements lack precision. The sectoral supervisors have powers to supervise (including on-site visits if that is within the range of their competencies)

yet the system lacks a real lead authority with power to step in and conduct on-site inspections if another supervisor fails to perform, or inadequately performs its supervisory functions.

482. The Bank of Slovenia has imposed some AML sanctions, but only under the Banking Act. There is the possibility for other financial supervisors to use the procedure established by the Minor Offences Act, and not the AML law. This reduces the effectiveness and the dissuasive power of the existing sanctioning regime in the AML law and raises issues of consistency of sanctioning practice. The evaluators noted that no fines have been imposed in the last 2 years for violations defined in the AML law as "most serious offences".

483. The supervision by ISA appears to the assessors to be particularly weak. The insurance companies need guidelines to help them implement the provisions of the law regarding risk assessment, the CDD process and on-going monitoring. It is also necessary to compile indicators to help insurance companies recognise suspicious transactions.

484. No AML/CFT targeted inspections have been performed to date by ISA and SMA. Furthermore, in general inspections, these authorities have limited their activity to a review of policy and internal rules of the supervised entities, without assessing the effectiveness of these rules by analysing customers' files.

3.7.2 Recommendations and comments

Recommendation 23

485. The evaluators recommend the designation of a real lead authority with power to step in and conduct on-site inspections if another supervisor fails to perform, or inadequately performs its supervisory functions. The evaluators advise that the legal provisions on supervision be revisited and in the meantime clearer arrangements need to be developed within the existing structures.

486. The AML/CFT supervision by ISA appears to the evaluators to be very weak with little a lack of focus on AML/CFT issues. It is recommended that the ISA reviews its AML/CFT strategy to ensure that it fulfils its obligations under the APMLTF.

487. There is a general prohibition in Slovenia against carrying out money remittance services outside the regulated and supervised banking sector. There are few other legal persons, authorised to do certain type of payments; they must have an agency contract with a bank and are supervised indirectly by the Bank of Slovenia, through the agent banks. Foreign exchange offices are monitored by the Central Bank and the banks with which they have contracts.

Recommendation 17

488. The AML/CFT law and the respective sectoral laws establish pecuniary and administrative sanctions including withdrawing or suspending a financial institution's licence for not observing AML/CFT obligations. The number of sanctions applied for infringements of APMLTF is quite low in proportion to the number of entities subject to this law. In particular, the policy of the Bank of Slovenia to commence an administrative procedure against the offender only after the supervisory process is concluded and all relevant circumstances of the case are established (including measures performed by the offender to remedy the violation) makes the proceeding protracted and could reduce the effectiveness of the sanctions regime. It is therefore recommended that the effectiveness and efficiency of the sanctioning regime is reassessed.

489. It is also recommended that the Slovenian authorities establish a consistent policy concerning when and how to commence an administrative procedure for all financial sectors

Recommendation 29

490. It is recommended that more efforts should be made in the field of on-site supervision by ISA and SMA. No inspections targeted on AML/CFT issues have been performed until now. Furthermore, in their inspections, these authorities have limited their activity to the review of the policy and internal rules of the supervised entities, without assessing the effectiveness of these regulations by making and analysing a sample of customer's files.

491. It is recommended that the Market inspectorate includes a review of AML/CFT as part of its on-site visits on a much more regular basis.

Recommendation 30

492. Financial supervisory authorities are adequately structured, funded and staffed. However, apart from the Central Bank, more training is needed on AML/CFT issues for other financial supervisory bodies' staff.

3.7.3 Compliance with Recommendations 23, 29, 17 & 25

	Rating	Summary of factors underlying rating
R.17	**PC**	• The number of administrative sanctions imposed by financial supervisory bodies in the last two years is too low. • The policy to start an offence procedure against the offender only after the supervisory process is concluded makes the proceedings protracted and therefore doubts remain in relation to the issue of effectiveness of sanctioning system.
R.23	**LC**	• Inadequate AML/CFT supervisory framework for the insurance sector.
R.29	**PC**	• No targeted on-site AML/CFT inspections by ISA and SMA • No inspection visits to financial institutions by the Market Inspectorate. • Although the supervisors have adequate powers of enforcement and sanction these powers are not being fully utilised.

3.8 Money or value transfer services (SR.VI)

3.8.1 Description and analysis

SR.VI (rated not applicable in the 3rd round report)

493. The ability to provide money or value transfer services is included within the licence for payment services in accordance with the Payment Services and Systems Act[28]. The Act was adopted in order to implement the requirement from the Payment Service Directive (PSD). The Act came in force on 1st November 2009 and fully replaced the former Payment Transaction Act. Pursuant to the Payment Services and Systems Act the license for payment services can be granted to banks or other legal persons (payment institutions.). In all cases the Bank of Slovenia is competent to issue such licences.

494. Regarding other legal persons, prior to the adoption of the Payment Services and Systems Act the licence was limited to certain payment transaction services and an agency contract with a bank was required.

495. Pursuant to the APMLTF, the Bank of Slovenia is responsible for conducting supervision of all legal persons (not only banks) who provide payment transaction services ensuring compliance with the requirements to combat money laundering and terrorist financing. Besides the payment institutions which are licensed and supervised by the Bank of Slovenia there can exist other legal persons which act as banks' sub-contractors for certain payment transaction services. In such cases these legal persons are supervised by the Bank of Slovenia, indirectly through the banks.

496. Among these other legal persons authorised to do certain type of payments there are Post offices. Post Offices act as a sub-contractor of the Post Bank which is a bank licensed and supervised by the Bank of Slovenia. Activities of the Post Offices should be divided into two categories. The first category includes activities which are performed on behalf of the Post Bank and the second category includes activities which are performed on their own. Referring to activities which are performed on behalf of the Post Bank these activities are supervised by the Bank of Slovenia, indirectly through the Post Bank. Among the other activities which Post offices operates on their own (not on behalf of Post Bank) they are allowed to collect and make payment orders both inside and outside Slovenia by using a network with Post Offices of other countries. For this activity alone, Post offices are supervised by the OMLP.

497. There are no cases reported of illegal money or value transfer services carried out in breach of the general prohibition.

Effectiveness and efficiency

498. With the exception of two banks, all have banks have a licence to conduct payment transaction services, so theoretically they are allowed to provide money or value transfer services. However in practise there are only four banks which provide such services (two banks are members of the Western Union and two banks are members of the Moneygram system).

499. Overall the system for regulating money or value service transactions appears to be operating effectively and efficiently.

3.8.2 Recommendations and comments

500. It has not been possible for the evaluators to obtain the number of other legal persons authorised to do certain type of payment transaction services.

[28] The Payment Services and Systems Act authorises payment institutions and for this reason amendments to the APMLTF have been prepared. It is expected that amendments to the APMLTF will be adopted in the beginning of March 2010 and pursuant to these amendment a payment institution is defined as an obliged entity under the APMLTF and is supervised by the Bank of Slovenia.

501. All of the operators of the MVT sector are licensed and supervised (directly or indirectly) by the Bank of Slovenia, which monitors the implementation of the national requirements to combat money laundering and terrorist financing and the FATF Recommendations.

3.8.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**C**	

4. PREVENTIVE MEASURES – DESIGNATED NON FINANCIAL BUSINESSES AND PROFESSIONS

Generally

502. A description of the DNFBPs operating in Slovenia is set out in section 1.3 and 4.1 of the 3rd round report.

503. Although no formal risk assessment has been undertaken in this regard on the basis of experience and data available through international organisations and forums Slovenia assesses that internet gambling and other games of chance, when offered via the internet or other telecommunications means are particularly likely to be used for money laundering or terrorist financing purposes. Furthermore, obligations have been extended to several other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes:

- pawnbroker offices;
- organisers regularly offering sport wagers;
- organisers and concessionaires offering games of chance via the Internet or other telecommunications means;
- traders in works of art;
- auctioneers.

4.1 Customer due diligence and record-keeping (R.12)

(Applying R.5 to R.10)

4.1.1 Description and analysis

Recommendation 12 (rated PC in the 3rd round report)

504. The APMLTF applies to most of the designated non-financial businesses and professions, as defined by FATF glossary. DNFBP categories under the APMLTF include auditing firms and independent auditors, concessionaires organising special gaming in casinos or gaming halls, organisers regularly offering sport wagers, organisers and concessionaires offering games of chance via the Internet or other telecommunications means, pawnbroker shops, legal entities

and natural persons conducting business relating to accounting services, tax advisory services, trust and company services, trade in precious metals and precious stones and products made from these materials, trade in works of art, organisation and execution of auctions, real property transactions (Article 4, paragraph 1).

505. They are included in the group of so called "organisations" listed in paragraph 1 of Article 4 of the APMLTF. Thus it can be concluded that the same provisions apply to financial institutions and DNFBPs.

506. Article 4 (2) stipulates that "the measures for detecting and preventing money laundering and terrorist financing stipulated by the present Act shall be applied by lawyers, law firms and notaries as well". Furthermore, Article 1 (3) goes on to include lawyers, law firms and notaries within the collective term of "obliged persons" although they are subject to specific requirements under Chapter III of the APMLTF.

507. Though the legislative base seems to be sufficient in terms of preventing money laundering and terrorist financing through DNFBP, the interviews with the representatives of DNFBPs disclosed a lack of guidance and a practical knowledge across the sector for online monitoring the customer activities (real estate agents, dealers in precious metals and stones). Supervisory authorities for DNFBPs for AML/CFT issues have not provided much comprehensive training across the DNFBP sector. The guidelines for some sectors were issued recently and, as such, their implementation and effective application in everyday business could not be evaluated.

508. Supervisory bodies for DNFBP have issued the following guidance so far:

- Guidelines for the implementation of the APMLTF for legal entities and natural persons conducting real property transactions (Office of the RS for Money Laundering Prevention, July 2009);

- Guidelines for the implementation of the APMLTF for trades in precious metals and precious stones and products made from these materials (Office of the RS for Money Laundering Prevention, July 2009);

- Guidelines on customer due diligence and the determination of PEP for auditing firms and certified auditors (Audit Council of the Slovenian Auditing Institute, November 2007);

- Guidance of the State Office for Gaming Supervision (hereinafter: SOGS), which is responsible for supervision of (i) concessionaires organising special gaming in casinos or gaming halls, (ii) organisers regularly offering sport wagers and (iii) organisers and concessionaires offering games of chance via the Internet or other telecommunications means (November 2009).

- Guidelines for the implementation of the APMLTF for legal entities and natural persons conducting business relating to (i) granting credits or loans, also including consumer credits, mortgage credits, factoring and financing of commercial transactions, including forfeiting, (ii) financial leasing and (iii) mediation in the conclusion of loan and credit transactions (December 2009).

509. Recently the Chamber of Notaries and the Bar Association began, in collaboration with the OMLP, began to draft guidelines for the implementation of the APMLTF by notaries and lawyers.

Applying Recommendation 5

510. General CDD obligations for the categories of DNFBP covered by the APMLTF have the same strengths and weaknesses as described in section 3.2. Hence, for these categories there is no clear requirement to verify that the person acting on behalf of the client is authorised to do so; no obligation to establish or discover if a customer is acting on his behalf or on behalf of another person, but provision for verification of the beneficial owner of the customer applies only in cases with life insurance for beneficiary under policy.

511. Article 37 of the APMLTF limits the use of cash in activities organising or conducting auctions, dealing in works of art, precious metals or stones and other legal or natural persons accepting payments for goods in cash. The said Article of the APMLTF prohibits accepting payments in cash exceeding €15,000 in such cases. This limitation applies also in cases where the payment is effected by several linked cash transactions exceeding in total the amount of €15,000.

Casinos

512. In addition to the general requirements to conduct CDD under Article 8, Article 18 of the APMLTF stipulates that casinos are obliged to identify and verify the identity of a customer at the entrance to the casino or a gaming hall and each time the customer accesses the safe. In casinos and gaming halls (entry is only allowed to persons who are at least 18 years old) they are registered at the entrance. A special computer program for record keeping is used. The following information is recorded and stored: name, date of birth, place and country of residence, address or the type and number of identity document, date and time entry and photograph of the player.

513. The representatives of casinos explained in the interview that in practise all the clients are identified at the entrance to the casino and additional CDD measures (identification, verification of the identity) are in place at the cashier's desk when the winnings are paid out.

Real estate agents

514. Slovenian legislation does not provide specific requirements for real estate agents for cases when they are involved in transactions for a client concerning the buying and selling of real estate. There is no obligation to carry out customer due diligence in respect of both the purchasers and vendors of the property.

515. Though it was noted by Slovenian authorities that the APMLTF applies also to legal entities and natural persons engaged in real property transactions (Article 4, paragraph 16, point "p"), such obligation can be found in the APMLTF only concerning transactions with the real estate for lawyers, law firms and notaries (Article 47).

516. The interviews showed that there is vague understanding in this business sector of the potential risk of misuse of the products and services in money laundering and terrorist financing schemes.

Dealers in precious metals and dealers in precious stones

517. For dealers in precious metals and dealers in precious stones Article 37 of the APMLTF applies (see above). The said Article of the APMLTF prohibits accepting payments in cash exceeding €15,000 for these professions.

Lawyers, notaries and other independent legal professionals and accountants

518. Lawyers, law firms and notaries are obliged persons of the APMLTF when assisting in planning or executing transactions for a client concerning buying or selling real property or a company, managing client's money, securities or other assets, opening or managing bank, savings or securities accounts, raising funds required to establish, operate or manage a company establishing, operating or managing foundations, trusts, companies or similar legal organisational forms as well as conducting a financial or real estate transaction on behalf and for the account of the client (Article 47).

519. Article 48 of the APMLTF provides customer due diligence requirements for lawyers, law firms and notaries. That includes identification and verification of the identity of a client, its representative or authorised person as well as the determination of the beneficial owner of a client.

Trust and company service providers

520. Regarding trust and company service providers The APMLTF applies when they prepare for and when they carry out transactions for a client in relation to the following activities (Article 3, paragraph 6):

- forming legal entities;
- acting as (or arranging for another person to act as) a director or secretary of a company or partner, where the person concerned does not actually perform the management function or does not undertake business risks concerning capital contribution in the legal entity where he/she is a partner;
- providing head office, business, correspondence or administrative address and other related services for a legal entity;
- acting as or arranging for another person to act as trustee of an institution, trust or similar foreign law entity which receives, manages or distributes property funds for a particular purpose; the definition excludes the provision of trustee services for investment funds, mutual pension funds and pension companies; and
- acting as or arranging for another person to act as nominee shareholder for another person, other than a company whose securities are admitted to trading on a regulated market that is subject to disclosure requirements in conformity with European Community legislation or subject to equivalent international standards.

Applying Recommendation 6

521. The APMLTF applies to DNFBP the same way as to financial institutions and the concept of PEPs is applicable across the sector, and the same strengths and weaknesses are present (see section 3.2). The interviews of the representatives of different DNFBP categories lead to conclusion that in practice there is a greater lack of awareness of this issue amongst DNFBP than for the financial sector: several interviewees told the evaluation team that it is not possible for them to identify whether a person is or is not a PEP (notably in casinos).

522. Regarding application of Recommendation 6 for DNFBPs Slovenian authorities provided information that according to Guidelines on Customer Due Diligence and the Determination of PEP, issued by Audit Council of the Slovenian Auditing Institute on 13th of November 2007, auditing firms and/or certified auditors are required to pay attention to the country of residence of a

customer and the manner, purpose and value of business relationship or transaction, when establishing relationship with foreign private person.

Applying Recommendation 8

523. The situation as described above for financial institutions (see section 3.2 above) applies equally for DNFBPs.

524. Concerning non face-to-face business, it should be noted that offering of gambling via the internet is allowed in Slovenia. It is only possible to the entities, that have already acquired a concession for a casino or the classic games, and who have met all the conditions laid down in Rules on Games of Chance via the Internet or Other Telecommunication Means (Official Gazette of the RS, Nos. 42/08 and 103/08) and additional requirements in the concession contract.

525. As regards the regulation of sport bets and the establishment of a business relationship in respect of games, which are organised through the internet, additional provisions apply: Regulation on Detailed Conditions to be Met by Organiser when Permanently Offering Classic Games of Chance (Official Gazette of the RS, Nos. 70/2000 and 38/2009). Article 10 of the regulation specifies that the technological process shall be made in accordance with the rules of the game and must specify the procedures of identification of clients and transactions in respect of which there are reasonable grounds to suspect money laundering or terrorist financing and management of organiser.

526. The evaluation team was informed by the Slovenian authorities that in the concession contracts for classic game of chance it is defined that organisers are subject to the APMLTF and that there is a requirement to identify persons participating over the internet in those games (players must be older than 18 years). When organising classic games (like betting) via the Internet opening up the gaming account, which is only possible on the basis of the identification of players, closure of a gaming account were told to be possible in cases of suspicion of money laundering.

Applying Recommendation 9

527. Slovenian AML/CFT law permits reliance on professional, qualified third parties from EU Member States or equivalent third countries for the performance of CDD, under certain conditions. Requirements under Recommendation 9 have been implemented within Subchapter 2.2.3 of the APMLTF, which is applicable to financial institutions and DNFBPs. (See Article 24 - 27).

528. On the basis of Article 25 of the APMLTF and for the purposes of application the requirements of the APMLTF the Minister of Finance has issued two regulations:

- Rules laying down the list of equivalent third countries (Official Gazette of the Republic of Slovenia, No. 10/2008):

- Rules laying down conditions to be met by a person to act in the role of a third party (Official Gazette of the Republic of Slovenia, No. 10/2008).

Applying Recommendation 10

529. In general, the same situation as described above concerning financial institutions applies also for DNFBP with regard to their record keeping obligations (see section 3.4)

Effectiveness and efficiency

530. The coverage of DNFBP is comprehensive and in line with international standards. It comprises inter alia casinos; auditing firms and independent auditors; accounting and tax consulting, dealers in real estate; notaries, attorney and other legal services; activities related to trading with works of fine arts; processing and trading with precious metals and stones. Additionally Slovenia has added other categories (which are not required by international norms) to the obliged entities: e.g. auctioneers.

531. Casinos appear to be both aware of and applying the AML/CFT rules in practice. There was, however a general lack of awareness in other sectors than in the financial sector. This was particularly the case with regard to PEPs. There was a particularly notable lack of awareness among estate agents.

532. With regard to lawyers, there is no AML/CFT supervision. Furthermore, the Bar Association does not consider itself legally competent to perform this function.

533. For certain sectors (dealers in precious metals and stones; trust and company service providers; accountants and tax advisory services) there is no authority to perform inspections.

534. The Market Inspectorate accepted that there was a need for supervisor training with regard to the AML/CFT issues and no inspections have been carried out on real estate agents so far.

535. Sanctioning powers of the supervisory authorities for DNFBPs seem to be present in the existing legislation, but have not yet been used in practice.

536. Discussions with the representatives of DNFBPs disclosed a lack of guidance and practical knowledge across the sector. Supervisory authorities monitoring DNFBPs for AML/CFT issues have not provided comprehensive training and it is important that this is undertaken.

537. The weaknesses with regard to Recommendations 5, 6, 8, and 10 which applied to the financial sector also applied among DNFBPs.

4.1.2 Recommendations and comments

538. An agreement between the Bar Association and OMLP is necessary to define how and by whom the AML/CFT supervisory functions are performed.

539. Authority to perform inspections for AML/CFT purposes needs to be granted to the supervisors for dealers in precious metals and stones, trust and company service providers and accountants and tax advisory services.

540. Training on AML/CFT matters needs to be supplied to the Market Inspectorate.

541. As the APMLTF applies to DNFBP the same way as to financial institutions the same weaknesses are present in regard to Recommendations 5, 6, 8 and 10 (see section 3.2 and 3.4 above). There was a general lack of awareness among representatives of DNFBPs met by the evaluators and it is recommended that specific guidance is produced for each sector as well as outreach and training in order to raise awareness.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors underlying rating
R.12	**PC**[29]	• The same concerns in the implementation of Recommendations 5, 6, 8 and 10 apply equally to DNFBP (see section 3 of the report). • Lower level of awareness of requirements relating to PEPs amongst DNFBP than in the financial sector.

4.2 Suspicious transaction reporting (R. 16)

(Applying R.13 to 15 and 21)

4.1.4 Description and analysis

Recommendation 16 (rated PC in the 3rd round report)

Applying Recommendation 13

542. The STR reporting regime has already been described under section 3.5 above. The weaknesses that applied to the financial sector also apply to DNFBPs.

Casinos

543. Casinos (including internet casinos), Real estate agents, dealers in precious metals and dealers in precious stones, Trust and company service providers and accountants are under the same reporting obligation as financial institutions. The second paragraph of Article 38 APMLTF imposes to all obliged entities, listed in paragraph 1 of Article 4 of the APMLTF, the obligation to forward the relevant data to the OMLP where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction. Additionally auditing firms, independent auditors, legal entities and natural persons performing accounting or tax advisory services are obliged to report to the OMLP all cases where the customer seeks advice for money laundering or terrorist financing purposes (paragraph 5 of Article 38 of the APMLTF).

Lawyers, notaries and other independent legal professionals and accountants

544. Article 47 of the APMLTF sets out the basic tasks and obligations of lawyers, law firms and notaries.

545. Article 49 of the APMLTF sets out the reporting obligation with regard to their clients and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist.

[29] The review of Recommendation 12 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 9 and 11.

546. According to Article 50 of the APMLTF, lawyers, law firms and notaries are not required to report suspicious transactions under specified circumstances. In the view of the evaluators, the requirements have been improved by the issuance of specific guidance since the 3rd round report but there is still a lack of effectiveness in application.

547. Slovenia does not allow lawyers, notaries, other independent legal professionals and accountants to send their STR to their appropriate self-regulatory organisations (SRO).

Recommendation 14

548. With regards to the application of Recommendation 14 to DNFBPs, Article 76 of the APMLTF contains prohibition on disclosure.

549. Article 77 of the APMLTF does, however set out exemptions from the principle of classification.

Recommendation 15

550. According to Article 40 of the APMLTF, organisations are obliged to appoint an authorised person and one or more deputies for the specific tasks of detecting and preventing money laundering and terrorist financing stipulated by the APMLTF and the ensuing regulations. The provisions on the competences and duties of the authorised person and obligations of an organisation in that respect are provided for in Articles 41 to 43 of the APMLTF.

551. Article 44 of the APMLTF also requires organisations to provide regular professional training and education for all employees carrying out tasks for the prevention and detection of money laundering and terrorist financing.

552. Article 45 of the APMLTF requires that organisations shall ensure regular internal control over the performance of AML/CFT tasks. In that regard the Minister of Finance has issued Rules on Performing Internal Control, Authorised Person, Safekeeping and Protection of Data and Keeping of Records of Organisations, Lawyers, Law firms and Notaries (Official Gazette of the Republic of Slovenia, No. 10/2008).

553. According to Article 40 of the APMLTF organisations of fewer than four employees are not required to appoint an authorised person and conduct internal control pursuant to the APMLTF. In addition the "Rules on Performing Internal Control, Authorised Person, Safekeeping and Protection of Data and Keeping of Records of Organizations, Lawyers, Law firms and Notaries" issued by the Ministry of Finance also provide that "the obliged person shall ensure regular control of implementation of the Act's provisions, unless it has less than four employees" (Article 2 of the Rules). It is understandable that this exemption not only applies to those legal or natural persons that have four or less employees but also to those who, consequently, have no employees at all. Thus it fully exempts small entities, and possibly sole professionals, from appointing an authorised person and from conducting and implementing internal controls in accordance with the law.

554. It should be noted that although the FATF Recommendations state that the requirements for Recommendation 15 should "be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business", it does not necessarily mean full exemption of small entities from this requirement. Most DNFBPs appear to normally employ few staff. Hence it follows that a number of DNFBPs could be excluded from appointing an authorised person and from conducting internal control.

Recommendation 21

555. Article 51 (1) of the APMLTF requires that organisations, lawyers, law firms and notaries "*shall be required to compile a list of indicators for the recognition of customers and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist*". Each entity is required to continually adapt the list of indicators to new forms of money laundering or financing of terrorism which emerge over time. The list of indicators for recognising suspicious transactions is based on two main principles: know your customer and know his operations. Among the indicators concerning a customer is also the circumstance that a customer comes from a country which doesn't respect standards in the area of the prevention and detection of money laundering or is known for production of drugs or as a tax haven (see the list of indicators for the banking sector).

556. Under paragraph 4 of Article 51 of the APMLTF the minister of finance may even prescribe obligatory inclusion of individual indicators on the list of indicators for the identification of customers and transactions in respect of which reasonable grounds to suspect money laundering or terrorist financing exist. Moreover, on the basis of Article 52 of the APMLTF the OMLP and other supervisors bodies are expected to participate in drawing up the list of indicators referred to above. In that regard the OMLP, in addition to the cooperation in drafting the lists of indicators, in March 2006 issued detailed lists of countries which, according to the data of international organisations and other competent international bodies, don't respect standards in the area of the prevention and detection of money laundering or are known for production of drugs or as tax havens (in line with international developments, the list has been reviewed currently) September 2009. Furthermore, the OMLP regularly publishes on its website communications by which it informs entities, obliged to carry out AML/CFT duties, about the FATF and MONEYVAL statements. The OMLP calls all those entities to pay special attention to clients or transactions linked with the countries subject to the statements and to apply, in accordance with the AML/CFT law, enhanced customer due diligence in regard of those clients or transactions (see also R 5.8 on risk assessments).

Additional elements

557. The reporting requirement is extended to the rest of the professional activities of accountants, including auditing. (see Article 4 para 1 number 11 of the APMLTF).

558. Apart from requirements in the Criminal Procedure Act to report all crimes committed, the evaluators have not been able to find other such an obligation in any law, any regulation or any other enforceable means of Slovenia.

Effectiveness and efficiency

559. Overall the evaluators considered that the requirements on DNFBPs had improved since the 3rd round report. Lack of STRs from the sector do, however, raise concerns about the effectiveness of implementation by DNFBPs.

4.1.5 Recommendations and comments

560. STRs are mainly coming from banks. Other financial institutions and the DNFBPs show a significantly lower level of reporting. There is no specific additional Guidance for the Insurance sector, Lawyers/Notaries and TCSP in place.

561. Since supervisory authorities have not yet reached out (except for general training) to TCSP, and Lawyers and Notaries Slovenian authorities should consider giving specific guidance on reporting to all DNFBPs who have not yet received specific guidance and reaching out to those sectors of the non-financial industry which have not yet been thoroughly trained in order to potentially increase the efficiency of the reporting system.

4.1.6 Compliance with Recommendation 16

	Rating	Summary of factors underlying rating
R.16	**LC**[30]	• Supervisory authorities have not yet reached out (except for general training) to TCSP and Lawyers and Notaries. • The low level of STRs from the sector give rise to concerns over effectiveness of implementation. • TCSPs, Lawyers and Notaries were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)

5. NON-PROFIT ORGANISATIONS

5.1 Non-profit organisations (SR.VIII)

5.1.1 Description and analysis

Special Recommendation VIII (rated PC in the 3rd round report)

562. The third evaluation report noted that there had been no special review of the risks, from the point of view of terrorist financing inherent in the registration and creation of associations or of foundations, or any risk-based review of the threats which may be posed by other non-profit organisations, which do not have the legal characteristics of associations or foundations. Since the adoption of the 3rd round report, work has been done to put in place the building blocks for greater transparency in the non-profit sector. The Slovenian authorities have emphasised that they consider Slovenia to be a low risk country in terms of financing of terrorism. Therefore, this issue has not been the highest priority in AML/CFT terms for the Slovenian authorities. It was clear to the evaluators that while tighter legal regulations have been put in place for both foundations and associations generally since the last evaluation, there was no real awareness (so far the authorities with whom the evaluators discussed this issue) of the numbers and types of NPO that control significant portions of the resources of the sector and a substantial share of the sector's international activities. The extent of the sector that enjoys tax advantages was also unclear.

[30] The review of Recommendation 16 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 14, 15 and 21.

563. Most NPOs are associations or foundations. Greater transparency has been achieved through modifications to the Foundation Act (in 2005) and the Association Act (in 2006 and amended in July 2009). However, there are also other legal entities which correspond to the functional FATF definition of NPO, such as religiously-recognised communities, humanitarian organisations, institutes or etc., on which no clear information has been provided. In October 2009 there were 21,534 registered associations, 11 branches of foreign associations and 185 foundations in Slovenia.

Reviews of the domestic non-profit sector

564. A Risk Analysis was prepared after the last evaluation by the Slovenian authorities in 2006 regarding the abuse of the non-profit sector for funding terrorism, which revealed at that time important areas for improvement.

565. The Risk Analysis was followed by a report. Although this report was not formally approved by the Government, some of the measures proposed were actioned including the promotion of publicly available Registers.

566. The Report concluded that there was a need to eliminate deficiencies in respect of financial controls on the activities of religious communities and to set up a Central Public Register.

567. There were, however, some other aspects included in the Risk Analysis which have not yet been tackled by the Slovenian authorities. An example of this is the failure to designate an authority which systematically deals with monitoring and regulation in the non-profit sector.

568. From the discussions with the Slovenian authorities it is clear that the 2006 Risk Analysis was a good starting point and will be built upon in future reviews.

569. Relevant provisions set out in both the Associations and Foundations Acts for increased transparency and accountability are:

- associations and foundations are considered legal persons subject to public order requirements forbidding the establishment of NPOs whose purpose, objectives or activities involve offences encouraging racial or religious inequality and fuelling nationalism;
- there are different Registers publicly available (for example, Central Register of Associations, Foundations Registers, the Register of Affiliates of Foreign Associations) containing data on personnel, address, legal representative, etc.;
- all the legal preconditions to register an association or a foundation are verified by the relevant authorities;
- all material changes must be registered within a limited time (30 days) at the same competent authorities;
- the rules on associations are applicable *mutatis mutandis* to foreign associations, with certain specific provisions added such us: proof of acquisition of legal status for the legal person founding the association, detailed identification data on the founders, as well as of the representative of the foreign association in the Republic of Slovenia;
- generally all associations are required to maintain financial records under a double entry accounting system although there are exceptions for some associations (e.g. when annual income for the preceding year was less than €30.000, etc.). An independent audit is

required for those associations whose income or expenditure exceeded 1 million € in the preceding fiscal year. The foundations follows the general rules regarding keeping of books and the supervision done by the competent public bodies or authorised organisations;

- associations and foundations can receive and allocate financial resources only via transaction accounts; and
- associations and foundations must present annual reports and audited financial statements to the Slovenian Agency for Public Legal Records and Related Services which collects, processes and publishes them.

570. All associations and foundations must observe the general rules for record retention of at least 5 years and all of them must be able to demonstrate to the tax inspectors, the compatibility of the money spent with the purpose of the legal entity.

Protecting the NPO sector from terrorist financing through outreach and effective oversight

571. It was noted that a Permanent inter-ministerial working group on coordination issues in the cooperation of Slovenian Government with NGOs was created in 2009[31]. The tasks of this working group are:

- Preparation of a Strategy of the Republic of Slovenia for Cooperation with NGOs for the period 2009 – 2012;
- monitoring and coordinating the implementation of this strategy,
- coordination of the annual action plans of proposals for development NGOs; and
- considering the outstanding issues and preparing proposals to address the cooperation of the Slovenian Government with NGOs.

572. Rather vague information about this group was presented at the time of the on-site visit. Only one NGO representative is part of this group and the issues it has considered so far are unclear. It is known that a good representation of civil society in Slovenia and the NGOs appeared to be acting based mainly on self governing rules, especially in the area of fund-raising campaigns. However, it is clear that the authorities had not conducted any outreach to NPOs in respect of the risk of them being used for the purposes of financing of terrorism.

573. As a result of discussions with both the authorities and the private sector it was clear that no regular dialogue between public and the NPO sector is conducted on the topic of financing of terrorism.

574. No guidance was provided to designated non-financial professions with regard to CDD and STR reporting when a client is an NPO (despite the reflection on this in the 2005 MONEYVAL Report).

575. The *supervision* of NPO compliance with the legal provisions is conducted, in the case of associations and foundations by different bodies:

[31] Decision on the establishment, tasks and composition of a permanent inter-ministerial working group on coordination the cooperation of Slovenian Government with NGOs.

- the body competent for the specific foundation, with a general competence of supervising the compliance with the provisions of the entire law - Article 30a Foundation Act,

- the Inspectorate of Internal Affairs (for aspects such as not registering the changes in due time, distributing assets between members or not using the surplus income to fulfil the objectives of the association)

- the Tax Administration (for all financial aspects)

- The Agency for Public Records and Agencies (APRA) for observing the obligation to submit the annual report

576. There is no permanent cooperation between supervision authorities and those maintaining the records. There are no statistics showing how the ministries exercise their competencies in the area of supervision, with the exception of the Ministry of Interior, which imposed 59 sanctions in the period 2005 to 31 July 2009 related to violations of provisions in the Associations Act, mainly related to the content of the charter (Article 9 paragraph 1 of the Act) and the obligation to register changes (Article 20 of the Act).

577. The Tax Administration is the only authority competent to verify the content of annual reports presented by associations, as well as the monitoring of the scope of the legal entity through its activity over the years. This analysis is conducted when fiscal monitoring controls are performed. While performing controls, the tax inspectors verify compliance with several laws including the Tax Procedure Act, Tax Administration Act, Value Added Act, Associations Act and Foundations Act. It was stated that the tax inspectors are trained to detect and notify other competent authorities (especially the police) when other types of irregularities are observed. Tax Authority also address market irregularities. In practice, it appears that the inspectors are aware of their role and do bear in mind CFT issues in their work, including sanctioning. The statistics available cover all the irregularities detected by tax inspectors as, in the period 2005 to 30 September 2009, there were 408 inspections which concluded with 765 violations found. More specifically, in the period January 2007 to 30 September 2009 the Tax Administration conducted 214 audits of non-governmental organisations, however, it appears that they are conducting separate procedure concerning the violation of the provisions regulated in the Associations and Foundations Acts, however, no statistics were available to support this assertion.

578. One issue that was mentioned twice by the Slovenian authorities in the answers to the Questionnaire, and confirmed to be unsolved by the time of the on-site visit, is the fact that, due to the inadequacy of the legislation (e.g. the Accountancy Act, the Foundation Act, Offence Act, etc.), "the detection of an offence is not possible" and therefore the Inspectorate of Internal Affairs has "no possibility to impose fines" on foundations when discovering offences related to maintenance of financial records .

579. Moreover it seems that only tax inspectors can and do perform on-site controls. The other authorities (Internal Affairs Inspectorate or the Slovenian Agency for Public Legal Records and Related Services (SAPLRS)) cannot perform on-site controls, and their work is performed entirely offsite.

580. The observation made in the 3rd round report that there is still no real oversight, in particularly in respect of programme verification which addresses any potential threat to this sector from the

point of view of terrorist financing, is still apt. The only authority with such oversight is the Tax Authority, and, as noted, the effectiveness of their activity in the AML/CFT area is unclear.

Targeting and attacking terrorist abuse of NPOs through effective information gathering, investigation

581. The operational coordination where law enforcement bodies (criminal police, national intelligence, OMLP, customs) are involved seems to be well developed. Thus, there are task-forces which regularly exchange information on suspicions of terrorism.

582. The information contained in different Registers is also available to the authorities for exercising their specific competencies. There are legal bases (Criminal procedure code as well as special legislation on preventing money laundering and financing of terrorism) and the necessary tools to allow full access of the authorities to information/data regarding a particular NPO.

583. However, it still needs to be demonstrated that the fiscal/financial authorities, especially the Tax Authority, are sufficiently involved. Much reliance is placed on the external auditors for NPOs and it is important that they are sensitised to issues arising from SR.VIII and current trends and typologies in financing of terrorism.

Responding to international requests for information about an NPO of concern

584. Responding to foreign authorities involves intelligence, police, and judiciary. There is no reason to doubt good international cooperation by these authorities is any different in this area. There are no reasons to doubt that the same would apply on these issues. The national contact point is the OMLP and the procedures (regulated in Article 64 - 66 of the APMLTF) are in place to respond to international requests for information regarding particular NPOs suspected of terrorist financing or other forms of terrorist support.

Effectiveness and efficiency

585. Although there has been clear progress since the 3rd round report there is still a lack of awareness of the FT risks within the NPO sector. No specific risk assessment has been conducted of those NPOs which are most vulnerable to FT and there is a general lack of supervision for CFT purposes.

5.1.2 Recommendations and comments

586. Since the 3rd round report, several steps have been taken in line with the action points under SR.VIII. However, more actions are needed for properly tackling all of the SR.VIII requirements.

587. It is still necessary to identify the numbers and types of NPO that control significant portions of the resources of the sector and a substantial share of the sector's international activities, and conduct a specific risk assessment in these areas with a view to promoting effective supervision or monitoring of those NPOs.

588. Awareness-raising measures need to be adopted relating to the NPO sector on the risk of terrorist abuse and the available measures to protect the sector against such abuse. It is recommended that a public campaign is needed to promote this issue, particularly in the parts of the sector that control the most resources and a substantial share of the international activity.

589. The system of supervising or monitoring NPOs which control significant portions of the financial resources under control of the sector and substantial shares of the sector's international activities still needs to be developed. There is no clear supervisory power over the activity of NPOs, with the exception of audits conducted by tax authorities, as well as no specific focus on the donations' regime. No evidence was presented showing that vulnerable NPOs have appropriate controls in place to ensure that all funds are fully accounted for and spent according to their purpose and objectives. In the context of programme verification, NPOs should be in a position to know and verify that funds have been spent as advertised. This should be addressed.

590. There is still a need to get a clear picture of how many forms of legal entities exist beyond associations and foundations, and what are the rules which govern them if they are likely to present AML/CFT risks. The process which was started with the 2006 Risk Analysis needs to be pursued.

5.1.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	**PC**	• Unclear whether there is a coordination between the different governmental actors including those from law-enforcement side, in assessing the current risk in the sector. • No fully comprehensive review of domestic NPOs in order to obtain a clear picture of all the legal entities that perform as NPOs, especially ones of potential high risk as described in criteria VIII.3. • No comprehensive outreach through awareness raising campaigns in the NPO sector, particularly with regard to potentially vulnerable NPOs • No "know your beneficiary and associate" rules for NPOs. • Insufficient supervision or monitoring of NPOs which control significant portions of the financial resources of the sector and substantial shares of the sector's international activities.

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and co-ordination (R. 31)

591. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination including an Inter-Departmental working group, a Working Group for the Fight against International Threats, multidisciplinary working groups under the law (160a of the Criminal procedure Code) involving the FIU, police, prosecutors etc.

6.1.1 Description and analysis

Recommendation 31 (rated C in the 3rd round report)

592. Neither the APMLTF nor any other law provides for a specific co-ordination body that would cover the area of AML/CFT. Co-ordination is nevertheless an important part of the system and is performed on state level, inter ministerial level, expert level and operational level.

593. With regard to operational cooperation, co-ordination is arranged on the operational level, especially among OMLP, Police and Public Prosecution when more significant cases of money laundering are dealt with. In many situations also other State bodies are involved (for ex.: Tax Authority, SOVA (=SISA), Customs, etc.).

594. In the area of combating money laundering the police co-operates very closely with the OMLP. An Agreement on Co-operation between these authorities has been concluded. Co-operation involves both regular meetings and daily case-by-case co-operation.

595. Another provision enables the OMLP to overlook the AML/CFT situation and the power to ensure the coordination of statistical data among the various anti-money-laundering authorities is vested with the OMLP. To enable centralisation and analysis of all data related to money laundering, the Bank of Slovenia, the courts, the State Prosecutor's Office and other state authorities have to forward to the OMLP, under Article 75 of the APMLTF, all data on administrative offences (non-compliance) as well as on criminal offences of money laundering including all data on persons against whom a request for initiating proceedings for an administrative offence has been placed, the stage of such proceedings and the final decision in each individual stage of proceedings.

596. With regard to policy, in 2001, the National Assembly of the Republic of Slovenia adopted the Resolution on the National Security Strategy of the Republic of Slovenia (Official Gazette No. 56-2957/2001), which defines the foundations of the national security, the national security policy and the national security system. A government advisory and coordinating body – the National Security Council (NSC) – was established with the Decree on the Establishment and Tasks of the National Security Council (Official Gazette No. 6/2001). The NSC is responsible for the coordination of the national security policy as well as of the activities undertaken to ensure the implementation of the national security interests and goals.

597. The OMLP submits a report on its work to the Government once a year. This report contains an analysis of the whole AML/CFT system and proposes to the Government measures in this context to improve the system. In the past four years at least once per year (following the OMLP annual report), the Government issues a decision that contained various instructions or tasks for different bodies. The OMLP was authorised to inform those bodies of this decision and act a co-coordinator. On this basis OMLP in practice coordinates and keeps relevant state

and judicial bodies informed of the money laundering situation, open issues and problems, new developments, international legal and operational initiatives and even training possibilities.

598. Since 1997 the Government of Slovenia has been implementing a special strategy for the prevention and detection of economic crimes, involving all Government agencies and in particular the Ministry of the Interior. The strategy aims at the prevention of economic crime through detection, crime analysis and standardised investigation measures, special training of law enforcement personnel and enhanced co-operation with other agencies, including co-operation with foreign law enforcement bodies.

599. In 2007 the Parliament adopted the Resolution on the National Program of the Prevention and Fight against Criminality for the period 2007-2011 (Official Gazette of the Republic of Slovenia No. 40/2007) on which basis the National Programme on Prevention and Suppression of Criminality for the period from 2007 until 2011 was prepared. This national programme defines activities, which have to be performed by separate state authorities, independently or in cooperation with other bodies.

600. Currently, the employees of the OMLP participate in the following inter ministerial working groups established by the governmental decree:

- Interdepartmental Working Group for the Cooperation with OLAF-AFCOS
- Permanent Coordination Group for Restrictive Measures
- Anti-Terrorist Working Group
- Interdepartmental Working Group for the Adjustment of the Opened Questions and Preparation of the Suitable Protocol for the Access to the Databases in Administrative Internal Matters and Police
- Interdepartmental Working Group for the Establishment of the National Asset Recovery Office (ARO)
- Interdepartmental Working Group for the realisation of the project of establishing the National Investigation Office (NIO)
- Special Group for the Realisation of the Task 4.11.4.7 – »Composition of the Unified Methodology of Recording« - within the Resolution on Prevention and Suppression of Criminality
- Drug Commission

Additional elements

601. Evaluators have not been able to find such a mechanism in any law, any regulation or any other enforceable means of Slovenia place for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures. Even though there are no such provisions in place, the Slovenian authorities have confirmed that the consultation between the competent authorities, financial sector and other sectors (including DNFBP) has been present whenever the need arises to exchange views and experiences or to solve any kind of problems with regard to AML/CFT issues.

Recommendation 32

602. See section 2.5.

Recommendation 30 (Resources – Policy makers)

603. Overall sufficient resources appear to be devoted to national and international co-operation.

6.1.2. Recommendations and Comments

Effectiveness and efficiency

604. In the view of the evaluators, notional cooperation and coordination has improved since the 3rd round report. Overall cooperation and co-ordination appears to be an important part of the system and is performed on state level, inter ministerial level, expert level and operational level.

6.1.3. Compliance with Recommendations 31 and 32 (criterion 32.1 only)

	Rating	Summary of factors underlying rating
R.31	**C**	

6.2 The Conventions and United Nations Special Resolutions (R. 35 and SR.I)

6.2.1 Description and analysis

Recommendation 35 (rated C in the 3rd round report)

605. Slovenia notified succession to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) in 1992 and ratified the 2000 UN Convention against Transnational Organised Crime (the Palermo Convention) in 2004. The 1999 United Nations International Convention for the Suppression of the Financing of Terrorism was also ratified in 2004. On the Palermo Convention, most of the relevant obligations have been fully implemented. However, the lack of a strong confiscation regime appear (See under Section 2.3 above) gives rise to a concern that Article 12 of the Convention has not been effectively implemented. Similar concerns arise over the effective implementation of the regulatory and supervisory regime for bodies other than financial institutions particularly susceptible to money laundering (such as DNFBP- see Article 7 of the Palermo Convention).

Special Recommendation I (rated C in the 3rd round report)

606. Although Slovenia has ratified the Terrorist Financing Convention and implements UNSCR 1267 and 1373 there are deficiencies in the implementation of both. As noted in section 2.4 above, Slovenia's national mechanisms for giving effect to UNSCR 1267 and 1373 need further development. So far as implementation of the Terrorist Financing Convention is concerned, while criminalisation of financing of terrorism is broadly in line with the Convention (if not SR.III as a whole) not all of the CDD requirements set out in Article 18 of the Terrorist Financing Convention in respect of DNFBP are fully implemented.

Additional elements

607. Slovenia has ratified a series of relevant European and international instruments in the area, as follows:

- 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime
- European Convention on the Suppression of Terrorism
- Convention on CyberCrime
- Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems
- Protocol amending the European Convention on the Suppression of Terrorism
- The UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents
- International Convention against the Taking of Hostages
- International Convention for the Suppression of Terrorist Bombings
- Convention on Offences and Certain Other Acts Committed on Board Aircraft
- Convention for the Suppression of Unlawful Seizure of Aircraft
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- Protocol on the Suppression of Unlawful Acts of Violence at Airport Serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- Convention on the Marking of Plastic Explosives for the Purpose of Detection
- Convention on the Physical Protection of Nuclear Material
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
- Council of Europe Convention on the Prevention of Terrorism
- Amendments to the Convention on the Physical Protection of Nuclear Material.

The following treaty is currently in the ratification procedure:

- The Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.[32]

[32] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

6.2.2 Recommendations and comments

608. Measures still need to be taken in order to properly implement UNSCR 1267 and 1373 and to ensure full implementation of relevant provisions on confiscation and preventive measures in the Palermo and Terrorist financing Convention. A comparison should be undertaken against domestic legislation and amendments made as necessary to bring it into line with the conventions.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**LC**	• Confiscation provisions, especially from the Palermo Convention but also from the Vienna Conventions are not fully implemented in order to have a strong confiscation regime. • Reservations about full implementation of the regulatory and supervisory regime for bodies other than financial institutions susceptible to money laundering under the Palermo Convention.
SR.I	**LC**	• Implementation of UNSCR 1267 and 1373 is not yet sufficient. • Not all CDD requirements in the Terrorist Financing Convention are fully implemented for DNFBP.

6.3 Mutual legal assistance (R. 36 and SR.V)

6.3.1 Description and analysis

Recommendation 36 (rated C in the 3rd round report) and Special Recommendation* V *(rated C in the 3rd round report)

609. As set out in the 3rd round MER, Slovenia is a party to international agreements, such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its Additional Protocol and the 1990 Strasbourg Convention. It is a party to several bilateral mutual legal assistance agreements.

610. Mutual Legal Assistance (MLA) in criminal matters continues to be regulated by the Criminal Procedure Code (CPC) (Chapter XXX) and where the CPC is silent, Article 8 of the Constitution provides that a ratified convention takes precedence over national law.

611. The Act on Cooperation in Criminal Matters with the European Member States (ACCMEUMS) has replaced the European Arrest Warrant and Surrender Procedure Act and the relevant provisions of the CPC relating to MLA, the transfer of proceedings and the transfer of the execution of sentences between member states of the EU.

612. Apart from the issues raised in section 2.2 above regarding the incomplete criminalisation of terrorist financing, the MLA framework in money laundering and terrorism financing cases is comprehensive and meets the requirements of the Methodology. In practice, the incomplete criminalisation of terrorist financing has not been an issue.

613. The competence for the execution of mutual legal assistance requests is divided between the district courts and state prosecutors. The role of the Ministry of Justice is merely administrative, since it only forwards requests to the competent Slovene authorities or to the competent central authorities of other countries. Usually requests are transmitted the same day, especially in urgent cases, however no later than within a week from reception.

Recommendation 32

614. The lack of detailed statistics on cooperation relating to the financing of terrorism, money laundering or predicate offences undermines the assessment of effectiveness.

Table 26: Statistics on mutual legal assistance 2007 – 2009:

Year	Pending cases from previous year	New cases	All cases	Closed cases on 31.12.	Pending cases on 31.12.	% solved/all cases
2007	2,650	5,610	8,260	5,612	2,648	67.9
2008	2,648	4,740	7,388	5,080	2,308	68.8
2009	2,308	5,618	7,926	5,557	2,369	70.1

615. As regards the statistics relating to the criminal offences of money laundering and financing of terrorism: there were three requests for mutual legal assistance regarding the money laundering and no requests regarding the offence of financing of terrorism.

Effectiveness and efficiency

616. The Slovenian authorities maintained that MLA requests are normally complied within one to three months and are dealt with more quickly in urgent cases. No statistics have been provided to support this contention, however, the responses received by MONEYVAL to the inquiry on international cooperation described the quality of responses as good and raised no specific problems.

617. The absence of statistics, however, impacts on the ability of the evaluators to comment fully on effectiveness and efficiency.

6.3.2 Recommendations and comments

618. The 3rd round MER commented that there was still room to improve statistics by making them more specific and detailed, especially in respect of the MLA requests related to money laundering and predicate offences and that the available statistics did not indicate how many requests were executed or refused. This recommendation remains outstanding.

6.3.3 Compliance with Recommendations 36 and Special Recommendation V

	Rating	Summary of factors underlying rating
R.36	**LC**[33]	• The lack of detailed statistics on cooperation relating to the financing of terrorism, money laundering or predicate offences undermines the assessment of effectiveness.
SR.V	**LC**[34]	• The incomplete criminalisation of terrorist financing as set out in section 2.2 above could be an issue when responding to foreign requests for MLA based on dual criminality. • The lack of statistics on cooperation in money laundering and the financing of terrorism cases undermines the assessment of effectiveness.

6.4 Other Forms of International Co-operation (R. 40 and SR.V)

6.1.2 Description and analysis

Recommendation 40 (rated LC in the 3rd round report)

619. International co-operation by the OMLP has been defined in the Article 64 (2) of the APMLTF, which stipulates that prior to forwarding personal data to the authority of the Member State or third country responsible for the prevention of money laundering and terrorist financing, the OMLP obtains assurances that the authority of the country to which the data is being forwarded has a regulated system of personal data protection, and that the authority of the Member State or third country may use the data solely for the purposes stipulated by the APMLTF.

620. The requirements for the Bank of Slovenia are set out in the Banking Act.

621. Co-operation of the Securities Market Agency (SMA) with other competent authorities has been defined in the Articles 304-309 of the Market in Financial Instruments Law, Chapter 10 of the Investments Funds and Management Companies Law, Article 231, Paragraph 3 of the Banking Act (ZBan-1), CESR MMOU and signed bilateral MoU, and Articles 42-43 of the Agency`s Rules of Procedure.

622. The State Office for Gaming Supervision (SOGS) can cooperate with other bodies competent for the prevention of money laundering and financing of terrorism on the basis of the provisions stipulated by the Gaming Act.

[33] The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.

[34] The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 37, 38 and 39.

623. The Slovenian Auditing Institute (SAI): APOA has a power and obligation to cooperate with other foreign counterparts in EU and in other countries on the basis of the Article 26 of the Auditing Act – International cooperation.

Power to provide the widest range of international cooperation

624. The competent authorities of the Republic of Slovenia are able to provide the widest range of international cooperation with their foreign counterparts on the basis of the relevant legislation as set out below.

625. According to Article 66 of the APMLTF, OMLP can submit data, information and documentation on customers or transactions in respect of which there are grounds for suspicion of money laundering or terrorist financing on the basis of the request of a foreign counterpart.

626. The OMLP may refuse to reply to a foreign request, if it considers that:

1) there are no grounds for suspicion of money laundering or terrorist financing
2) the submission of data jeopardises the course of criminal proceedings in Slovenia
3) a reply might in any other way prejudice the interests of these proceedings.

In case of refusal, the OMLP shall notify the requesting FIU on its decision stating the reasons.

627. As stipulated in Article 67 of the APMLTF, the OMLP may also submit data and information on customers or transactions in respect of which there are grounds to suspect money laundering or terrorist financing to the authority of the Member State or third country responsible for the prevention of money laundering and terrorist financing, upon its own initiative under the condition of effective reciprocity.

628. On the basis of Article 68 of the APMLTF, the OMLP may issue a written order temporarily suspending a transaction for a maximum of 72 hours on the basis of a reasoned and written request by the authority of a Member State or third country responsible for the prevention of money laundering and terrorist financing, and inform the competent authorities thereof.

629. The OMLP may refuse to respond to the request if it considers there are no reasonable grounds to suspect money laundering or terrorist financing. The OMLP is required to inform the initiator of the request in writing, stating the reasons for refusal.

630. The State Office for Gaming Supervision (SOGS) has dealt with cases referring to acquiring information on prevention of money laundering through the Gaming Regulators European Forum (GREF).

631. Supervisory authorities have been able to exchange information according to the legislation relevant for the supervision of financial institutions.

632. Regarding the exchange of information about specific AML/CFT matters, Article 88 of the APMLTF defines that the supervisory authorities who detected an offence shall also inform other supervisory bodies of the findings and/or any failure in compliance, if relevant for their work.

633. The Bank of Slovenia as a bank supervisor can provide information to counter money laundering or terrorist financing according to Article 227 of the Banking Act, as the authority

competent to collect and process information about facts and circumstances important for performing its tasks and responsibilities. These particularly include the following information:

(a) authorisations to perform banking services and other authorisations and permissions issued by the Bank of Slovenia in accordance with this Act;

(b) members of the management boards and supervisory boards of banks, their organisation and operation of their internal audit departments;

(c) branches or direct provision of banking services by banks in Member States and branches or direct provision of banking services by Member State banks in the Republic of Slovenia;

(d) bank branches in third countries and third-country bank branches in the Republic of Slovenia;

(e) financial position and operation of banks and other persons whom it is competent and responsible to supervise;

(f) holders of qualifying holdings;

(g) supervision measures adopted by the Bank of Slovenia in accordance with this Act;

(h) information obtained from other supervisory authorities of the Republic of Slovenia, Member States or third countries within the framework of exchange of information.

634. Article 101 of the Insurance Act prescribes that the Insurance Supervision Agency (ISA), as one of the competent supervisors, is obliged to collect and process data with regard to the facts and circumstances relevant to its tasks and responsibilities. In particular the following data may be provided:

- authorisations to perform insurance business, and other authorisations granted by the ISA,
- members of the board of directors and supervisory boards of insurance undertakings, their organisation, and the operation of internal audits,
- branches or direct insurance business by insurance undertakings in the member states, and branches or direct insurance business by member states insurance undertakings in the R of Slovenia,
- branches of insurance undertakings in foreign countries and branches of foreign insurance undertakings in the R of Slovenia,
- compliance with the provisions on risk management and the regulations issued on the basis thereof;
- the reports on risk measurement,
- the holders of qualifying holdings,
- the audited annual reports,
- the implemented supervisory measures,
- information acquired by ISA through the exchange of information with the responsible supervisory authorities of member states.

635. Article 101 of the Insurance Act also determines that ISA is allowed to submit the data referred above to:

- domestic supervisory authorities within the framework of cooperation under Article 100 of the Insurance Act,

- the responsible authorities of member states, if this is necessary for their work as regards the supervision of insurance operations and if those authorities are obliged to protect confidential data to the extent laid down in the fourth paragraph of Article 100 of the Insurance Act,
- the competent supervisory authorities of foreign countries, if this is necessary for their work as regards the supervision of insurance operations on conditions of reciprocity, and if those authorities are obliged to protect confidential data to the extent laid down in the fourth paragraph of Article 100 of the Insurance Act,
- the court of justice, if this is necessary for bankruptcy proceedings,
- the Slovenian Institute of Auditors, if this is necessary for the supervision of the auditing house by which the financial statements of the insurance undertaking in question were audited.
- The Slovenian Auditing Institute, if this is necessary for the supervision of the auditing house by which the financial statements of the insurance undertaking in question were audited.

Providing assistance in a rapid, constructive and effective manner

636. When exchanging information with its foreign counterparts (foreign FIUs) the OMLP follows the Egmont Principles for Information Exchange between Financial Intelligence Units for Money Laundering Cases and therefore replies to all foreign requests within 1 month after the receipt of the request. If the results of the enquiries are still not all available within this period of time, the OMLP provides the requesting FIU the information gathered until that time and gives an indication when a complete answer will be provided. The OMLP gives priority to urgent requests.

Clear and effective gateways

637. The OMLP exchanges data on the basis of the effective reciprocity in accordance with the provisions of the APMLTF. Data submitted by OMLP can be disclosed to the competent authorities of the requesting FIU only on the basis of the prior consent of OMLP.

638. The OMLP can also forward data received from foreign counterparts to the competent Slovenian law enforcement authorities for the purpose of detection and prevention of money laundering or terrorist financing and related predicate criminal offences only on the basis of received prior consent.

639. The OMLP has also been encouraging and improving the exchange of information between foreign counterparts by signing informal Memoranda of Understanding (MOUs), which is not a condition to exchange the information with the OMLP. So far, OMLP has concluded 33 MOUs with its counterparts from the USA, Belgium, Italy (with the Ufficio Italiano dei Cambi and the Guardia di Finanza), Croatia, the Czech Republic, Romania, Slovakia, Cyprus, Bulgaria, Latvia, "the former Yugoslav Republic of Macedonia", Monaco, Albania, Poland, Australia, Ukraine, Serbia, Estonia, Israel, Russia, Montenegro, Georgia, Canada, Chile, Bosnia and Herzegovina, San Marino, the Netherlands Antilles, Moldavia, Malta, Kosovo and Aruba. The MOU with the FIU of Kosovo was signed in October 2009 and the MOU with the FIU of Aruba in November 2009. Additionally, OMLP has also taken the initiative to sign a MOU with its counterparts from Panama, Singapore, Malaysia and Guatemala, their replies still being expected.

640. Since the last evaluation, the following MOUs have been signed

- In the year 2005, the OMLP signed 4 MOUs (with the FIUs from Georgia, Canada, Chile and Federation of Bosnia and Herzegovina);
- in the year 2006 1 MOU with the FIU from San Marino;
- in the year 2007 1 MOU with the Netherlands Antilles;
- in the year 2008 1 MOU with the FIU from Moldova and until 31 August 2009 1 MOU with the Maltese FIU;
- in the year 2009, the OMLP has given the initiative to sign a MOU with the counterparts from Panama, Singapore, Malaysia, Guatemala, Aruba and Kosovo, where the MOU is the condition for the exchange of the information with foreign FIUs. Within two months after the on-site visit, MOUs with the FIU of Kosovo and with the FIU of Aruba have been signed, as the replies of the other 4 FIUs are expected by the end of 2009.

641. The exchange of information with FIUs takes place in a secure way, mostly via the Egmont Secure Web or FIU.NET where appropriate.

642. Supervisory authorities also encourage the exchange of information with their foreign counterparts with concluded Memoranda of Understanding (MOUs), for example:

- The Insurance Supervision Agency (ISA) concluded MOUs with the insurance and pension supervisory authorities from Bosnia and Herzegovina, Montenegro, Croatia, Kosovo, "the former Yugoslav Republic of Macedonia" and has been in the process of concluding MOU also with its Serbian counterpart.

- The Securities Market Agency concluded several MOUs with the supervisory authorities from the following countries:

  - Greece and Portugal (in 2000)
  - Czech Republic, Austria, Bosnia and Herzegovina (in 2001)
  - "the former Yugoslav Republic of Macedonia", Poland, Albania, Italy, Luxembourg (in 2003)
  - EU (Committee of European Securities Regulators) (in 2004)
  - Croatia and IOSCO (on 2009)

- The Bank of Slovenia has signed several Memoranda of Understanding :

  - Bilateral MoU between the Bank of Slovenia and other supervisory authorities (12)
  - Multilateral MoU between the Bank of Slovenia and home, host supervisory authorities within the specific banking groups (6).

- In addition, the Bank of Slovenia (as home supervisor of Nova Ljubjanska Banka, the largest Slovenian bank) has organised a supervisory college in 2008 and 2009 with foreign supervisors.

Spontaneous exchanges of information

643. The exchange of information of the OMLP with its foreign counterparts has been defined by the provisions of the APMLTF unless otherwise stipulated by international agreement (see above). Rules and procedures for the exchange of information of supervisory authorities have been precisely framed in the relevant financial sector legislation.

644. The Republic of Slovenia is a member of all relevant global and regional police cooperation organisations and initiatives:

- INTERPOL
- of the Schengen Area
- the agency of the European Union Europol (European Police Office)
- the SECI Center (The Southeast Europe Cooperative Initiative Regional Center for Combating Trans-border Crime) which is an operational regional organization bringing together police and customs authorities from 13 member countries in Southeast Europe.

The central unit responsible for international police cooperation of the slovene police is International Police Cooperation Division (INTERPOL Section, SIRENE Section, Europol Section) within the Criminal Police Directorate of the General Police Directorate of the Ministry of the Interior of Republic of Slovenia. Details of Police and customs cooperation agreements and arrangements of Republic of Slovenia with foreign states are set out in Annex XVI

Conducting enquiries on behalf of foreign counterparts

645. The relevant legislation as set out above enables the OMLP and the financial sector supervisors to conduct inquiries on behalf of foreign counterparts.

646. The OMLP has according to the relevant AML/CFT legislation been authorised to exchange all the information to which it has a direct or indirect (via request) access with its foreign counterparts. The databases to which the OMLP has access are set out in Section 2.5 above. The OMLP can also gain following data upon its request:

- data on bank accounts, transactions, business relationships with the banks (deposits, safes, credits, Western Union payment System etc.) of legal and natural persons;
- data on taxes for natural and legal persons; and
- data on the ownership of securities.

Authority to conduct investigations on behalf of foreign counterparts

647. Slovenia is a party to international agreements relating to mutual legal assistance, such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its Additional Protocol, and the 1990 Strasbourg Convention. It is a party to several bilateral mutual legal assistance agreements.

648. For non-EU countries, mutual legal assistance in criminal matters is regulated in the Code of Criminal Procedure (Chapter XXX). Where the CCP is silent, there is the constitutional

principle (Article 8 of the Constitution) that ratified conventions take precedence over national law. The CCP explicitly states that the assistance is regulated by the CCP provisions unless international agreements say otherwise (principle of subsidiarity of the national legislation).

649. Since 2007, mutual legal assistance in criminal matter with competent bodies of EU member states is regulated in the Law on Cooperation in Criminal Matters with the EU Member States. The law supports the conventions and covers all of the relevant framework decisions and also mutual legal assistance in criminal and misdemeanour matters.

650. The legal framework allows the judicial authorities to give the widest possible assistance in money laundering and terrorism financing cases, including coercive measures and execution of foreign seizure or confiscation orders related to laundered property, proceeds, instrumentalities and equivalent value assets. Basically the dual criminality principle applies, which is deemed satisfied if Slovenia also criminalises the conduct underlying the offence, irrespective of how the offence is qualified. Assistance is however also possible in the absence of dual criminality, even when necessitating coercive measures, on the basis of Article 516 (3) and (4) CCP, which in those cases provides for a court decision in consultation with the Ministry of Justice. This also applies to direct requests from foreign authorities.

Absence of disproportionate or unduly restrictive conditions.

651. Exchanges of information of the OMLP and the financial sector supervisors are not subject to restrictive conditions. With regard to the Bank of Slovenia, Article 230 and 230a of the Banking Act defines cooperation between the Bank of Slovenia and other supervisory authorities from the Republic of Slovenia and from EU Member States as well. Furthermore, Article 231 of the Banking Act defines cases when the Bank of Slovenia is allowed to disclose confidential data to other persons from the Republic of Slovenia or EU Member States. Pursuant to paragraph 3 of the same article Bank of Slovenia is allowed to disclose confidential data also to persons from third countries if certain conditions are fulfilled. The only restriction is that shared or disclosed information should be used just for the purpose of supervision and adequately treated as confident data.

Cooperation involving fiscal matters

652. The grounds for OMLP refusing to answer a foreign request for the information are set out above. In the case of a refusal, the OMLP shall notify the requesting FIU stating the reasons for its decision.

653. The Securities Market Agency (SMA) can refuse the request for assistance and cooperation on the basis of the legally justified conditions (such as Article 308 of the Market in Financial Services Act).

Secrecy or confidentiality requirements on financial institutions or DNFBP

654. The grounds for OMLP and the financial sector supervisors refusing cooperation are set out above.

655. With regard to DNFBPs, the Slovenian Auditing Institute (SAI) APOA may deny a request for information exchange in the following cases:

- if the provision of the data could adversely affect the sovereignty, security or public order of the Republic of Slovenia;

- if judicial proceedings related to the same acts and against the same certified auditors and audit companies have been initiated in the Republic of Slovenia; and
- if the competent authorities in the Republic of Slovenia have ruled against the same statutory auditors or audit companies for the same acts.

Controls and safeguards to ensure that information received by competent authorities is used only in an authorised manner

656. The control's and safeguards relating to the OMLP are set out above.

657. With regard to other supervisors, the requirements are set out in the Personal Data Protection Act and relevant MOUs. The Personal Data Protection Act (adopted in 2004 and amended in the years 2005 and 2007) determines the rights, responsibilities, principles and measures to prevent unconstitutional, unlawful and unjustified encroachments on the privacy and dignity of an individual in the processing of personal data. This act, inter alia, stipulates organisational, technical and logical-technical procedures and measures to protect personal data, and to prevent accidental or deliberate unauthorised destruction, modification or loss of data, and unauthorised processing of such data (by protecting premises, protecting software applications used to process personal data, preventing unauthorised access to personal data during transmission thereof, ensuring effective methods of blocking, destruction, deletion or anonymisation of personal data etc.). Functionaries, employees and other individuals performing work or tasks at persons that process personal data shall be bound to protect the secrecy of personal data with which they become familiar in performing their functions, work and tasks. The duty to protect the secrecy of personal data shall also be binding on them after termination of their function, work or tasks, or the performance of contractual processing services.

658. With regard to the Slovenian Auditing Institute (SAI), members of APOA's bodies and its employees shall apply the provisions of the Article 38 of Auditing Act about protection of confidentiality (Article 28 of the Auditing Act). If the Agency obtains data from other competent authorities, it may only use this data to perform its own work pursuant to the law and within the scope of related administrative and judicial procedures (Article 34 of the Auditing Act).

Additional elements

659. The mechanisms described above also allow a prompt and constructive exchange of information with non-counterparts in appropriate circumstances.

660. Paragraph 10 of Article 87 of the APMLFT requires that supervisory bodies shall forward to any other supervisory body, upon its request, all necessary information needed by that supervisory body for exercising its supervisory tasks. Furthermore, Paragraph 3 of Article 88 determines that the supervisory body which detected an offence shall also inform other supervisory bodies of its findings and/or any incompliance, if relevant for their work.

661. Paragraph 1 of Article 231 of the Banking Act allows the Bank of Slovenia to exchange confidential information with certain designated authorities which include financial supervisors. Similar provisions for the Insurance Supervision Agency are set out in Paragraph 3 of Article 101 of the Insurance Act.

662. When sending/receiving a request to or from OMLP, the letter should always contain the reason and purpose of the request namely the detection and prevention of money laundering and terrorist financing and related predicate criminal offences.

663. With regard to the Securities Market Agency (SMA) it is obligatory to disclose a purpose of a request for information (in detail, including legal framework of a request, potential breach of law and sanctioning by requesting authority) as well as the fact that a request is made on behalf of another authority.

664. OMLP has the power to obtain the relevant information requested by a foreign counterpart from other competent authorities or other persons if there exist reasonable grounds to suspect money laundering or financing of terrorism and according to other provisions stipulated by APMLTF(Article 65 in connection with article 54 to 56).

Special Recommendation V

665. As stated above the ability to provide other forms of international cooperation also applies to requests relating to the financing of terrorism.

Recommendation 32 (Statistics – other requests made or received by the FIU, spontaneous referrals, requests made or received by supervisors)

666. The only statistics provided to the evaluators related to mutual legal assistance and requests for information and other forms of cooperation are set out in section 2.5 and 6.3 above.

Effectiveness and efficiency

6.1.3 Recommendation and comments

667. The Slovenian authorities appear to have sufficient powers to enable them to provide other forms of assistance, information and cooperation without undue delay or hindrance.

668. The responses received to MONEYVAL's standard enquiry on International Cooperation which was sent to MONEYVAL and FATF members received a positive response with no indications of a failure to cooperate on a timely basis.

669. Due to the lack of statistics it was not possible to assess how effectively the Slovenian authorities were responding to international requests for cooperation and it is recommended that procedures are put in place to centrally record and monitor all international requests for cooperation on matters related to money laundering and the financing of terrorism.

6.1.4 Compliance with Recommendation 40 and SR.V

	Rating	Summary of factors underlying rating
R.40	**LC**	• Lack of detailed statistics undermines effectiveness
SR.V	**LC**	• Lack of detailed statistics undermines effectiveness

7. OTHER ISSUES

7.1 Resources and Statistics

7.1.1 Description and analysis

Recommendation 30 (rated LC in the 3rd round report)

670. Overall the level of resources applied in the OMLP appeared to be adequate. The OMLP is well structured and professional and it appears to be operating effectively.

671. Although police and prosecutors appeared to be adequately resourced and trained there were concerns about the level of resources devoted to the investigation and prosecution of money laundering and terrorist financing offences and the level of priority given to such cases. This was reflected in the relatively low number of successful money laundering convictions as well as the low level of application of provisional measures and confiscations. See section 2.6 for further details.

672. With regard to the financial sector supervisors, the banking and securities supervisors appeared to be adequately resourced although if was considered that more training was needed for the securities sector supervisors. It was also considered that the Market Inspectorate required further resources and training. There were particular concerns about the insurance sector supervisors and whether they had sufficient resources and training to adequately supervise the insurance sector. Further details are given in sections 3.2 and 3.7 above.

673. With regard to DNFBPs it was considered that there were no resources applied to the supervision of lawyers. With regard to dealers in precious metals and stones, trust and company service providers and accountants and tax advisory services there is no authority to perform inspections. The Market Inspectorate also accepted that there was a need for supervisor training with regard to the AML/CFT issues and no inspections have been carried out on real estate agents so far . Overall, there was a lack of guidance and practical knowledge across the sector. Further details are given in section 4.1 above.

674. Supervision of the NPO sector appeared to be fragmented with insufficient resources being devoted to risk assessment, supervision and outreach. Further details are given in section 5.1 above.

675. With regard to national and international cooperation, it would appear that this is seen as a priority and that there is an adequate level of resourcing applied. Further details are given in section 6 above.

Recommendation 32 (rated LC in the 3rd round report)

676. With regard to the investigation and prosecution of money laundering and financing of terrorism the statistics provided were inadequate and failed to address the underlying reasons for lack of successful convictions. There was no real link to investigations into funds-generating crimes and an inadequate breakdown concerning the underlying predicate offences and whether the ML investigation was linked to self-laundering or an autonomous offence. Furthermore, no statistics were provided on provisional measures applied and confiscations relating to all predicate offences. Further details are given in sections 2. 1 to 2.4 above.

677. Overall the OMLP provided comprehensive statistics concerning their activities including statistics on cash reports and STRs.

678. No statistics were available on international wire transfers. Further details are given in section 2.6 above.

679. The financial sector supervisors provided comprehensive statistics on inspection visits and administrative procedures relating to AML/CFT controls.

680. At the time of the on-site visit no statistics were available on mutual legal assistance or other forms of international co-operation. Further details are given in section 6 above.

681. The OMLP and the banking sectors supervisors do appear to have adequate resources devoted to AML/CFT activities. Furthermore police and prosecutors appear to have adequate resources although there are concerns about the level of resources devoted to the investigation and prosecution of money laundering and terrorist financing offences and the level of priority given to such cases.

682. There are, however, concerns about the level of overall resources devoted to the non-banking sectors and this is reflected in part in the relatively low level of STRs received from these sectors.

683. With regard to statistics the OMLP and the financial sector supervisors were able to provide comprehensive statistics and appeared to be making practical use of these.

684. There was, however, a lack of comprehensive statistics concerning overall investigations and prosecutions of funds-generating crimes as well as provisional measures applied and confiscations.

7.1.2 Recommendation and comments

Recommendation 30

685. Slovenian authorities could give more specific training on ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism to police, prosecutors, judges and the courts.

686. More resources, including detailed training needs to be given to non-financial supervisors.

687. An effective AML/CFT supervisory regime needs to be established for lawyers and notaries.

688. Supervisors responsible for the supervision of dealers in precious metals and stones, trust and company service providers and accountants and tax advisory services must be provided with the authority to perform inspections.

689. An effective AML/CFT supervisory regime needs to be established for NPOs.

Recommendation 32

690. Comprehensive statistics should be prepared and reviewed with regard to the investigation and prosecution of money laundering and financing of terrorism. These statistics should be analysed to identify the underlying reasons for lack of successful convictions.

691. Comprehensive statistics should be prepared and reviewed on provisional measures applied and confiscations relating to all predicate offences. As above, these statistics should be analysed on a regular basis to determine areas where more resources are required.

692. Slovenian authorities should consider introducing statistics on international wire transfers, breaking down the number of cases and the amounts of property frozen, seized, and confiscated relating to criminal proceeds, and breaking down the number of requests made or received by the FIU, whether the request was granted or refused.

693. Statistics should also be prepared on mutual legal assistance or other forms of international co-operation.

7.1.3 Compliance with Recommendation 30

	Rating	Summary of factors underlying rating
R.30	**PC**	• Insufficient resources and priority given to the investigation and prosecution of money laundering and terrorist financing cases. • Insufficient resources have been applied to AML/CFT supervision in the non-banking sectors
R.32	**LC**[35]	• Inadequate statistics on investigation and prosecution of funds generating crimes. • No statistics on provisional measures applied and confiscations relating to all predicate offences. • No statistics on wire transfers. • No MLA statistics have been provided to the evaluators. • Statistics are not kept indicating the number of incoming and outgoing requests in respect of money laundering or the financing of terrorism, the time taken to respond to each request and whether a request is granted or refused. • No statistics on mutual legal assistance or other forms of international co-operation.

7.2 Other Relevant AML/CFT Measures or Issues

694. N/A

7.3 General Framework for AML/CFT System (see also section 1.1)

695. N/A

[35] The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 38 and 39.

IV. TABLES

8. TABLE 1. RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Slovenia. *It includes ratings for FATF Recommendations from the 3rd round evaluation report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.*

Forty Recommendations	Rating	Summary of factors underlying rating[36]
Legal systems		
1. Money laundering offence	**PC**	• Not all designated categories of offences are fully covered as predicates as incrimination of the financing of an individual terrorist or terrorist organisation is not covered. • Given the level of proceeds generating offences in Slovenia and the low level of convictions for money laundering, the overall effectiveness of money laundering criminalisation still needs to be proved. • Autonomous investigation and prosecution of the money laundering offence still constitute a challenge for the judiciary.
2. ML offence – mental element and corporate liability	*Compliant*	
3.Confiscation and provisional measures	**PC**	• The small number of money laundering and terrorist financing related confiscations and a lack of statistics on confiscation generally negatively affect the system.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**C**	

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

5. Customer due diligence	**LC**	• No obligation for financial institutions to establish or discover if a customer is acting on his behalf or on behalf of another person. • General lack of awareness in the insurance sector gives rise to concerns over effectiveness of implementation.
6. Politically exposed persons	**LC**	• Slovenia does not fully meet essential criterion 6.1. as there is no requirement in the legislation to determine whether the beneficial owner of a customer is a politically exposed person. • No clear obligations for financial institutions concerning customers that become PEPs during the business relationship. • Lack of application by some financial sector participants gives rise to concerns over effectiveness of implementation. • The definition of Politically Exposed Persons is not sufficiently broad to include all categories of senior government officials.
7. Correspondent banking	*Largely compliant*	o *Relationships with foreign banks and ID procedures applied are same as for any other foreign legal persons. Criteria 18.2 not met.*
8. New technologies and non face-to-face business	**PC**	• There is still no specific requirement anywhere in the existing legislative acts that requires financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.
9. Third parties and introducers	*Compliant*	
10. Record keeping	**LC**	• Financial institutions are not specifically required to maintain records of the account files and business correspondence.

11. Unusual transactions	*Largely compliant*	o *Recommendation as such not transposed into national laws.*
12. DNFBP – R.5, 6, 8-11[37]	**PC**	• The same concerns in the implementation of Recommendations 5, 6, 8 and 10 apply equally to DNFBP (see section 3 of the report). • Lower level of awareness of requirements relating to PEPs amongst DNFBP than in the financial sector.
13. Suspicious transaction reporting	**LC**	• Low numbers of STRs from outside the banking sector gives rise to concerns over effectiveness of implementation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
14. Protection & no tipping-off	*Largely compliant*	o *"Safe harbour" provisions should clearly cover criminal liability.*
15. Internal controls, compliance and audit	*Largely compliant*	o *No specific provisions on employee screening and more clarification of the compliance officer's powers and role required.*
16. DNFBP – R.13-15 & 21[38]	**LC**	• Supervisory authorities have not yet reached out (except for general training) to TCSP and Lawyers and Notaries. • The low level of STRs from the sector give rise to concerns over effectiveness of implementation. • TCSPs, Lawyers and Notaries were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
17. Sanctions	**PC**	• The number of administrative sanctions imposed by financial supervisory bodies in the last two years is too low.

[37] The review of Recommendation 12 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 9 and 11.

[38] The review of Recommendation 16 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 14, 15 and 21.

		• The policy to start an offence procedure against the offender only after the supervisory process is concluded makes the proceedings protracted and therefore doubts remain in relation to the issue of effectiveness of sanctioning system.
18. Shell banks	*Largely compliant*	o *No explicit provision to meet Criteria 18.3.*
19. Other forms of reporting	*Compliant*	
20. Other DNFBP & secure transaction techniques	*Largely compliant*	o *Criteria 20.1 fully met; insufficient information on Criteria 20.2.*
21. Special attention for higher risk countries	*Compliant*	
22. Foreign branches and subsidiaries	**LC**	• No requirement to apply the higher standard where requirements differ. • Requirement to ensure observing AML/CFT measures in respect of branches and subsidiaries of is limited to institutions located in ”third countries”.
23. Regulation, supervision and monitoring	**LC**	• Inadequate AML/CFT supervisory framework for the insurance sector.
24. DNFBP - regulation, supervision and monitoring	*Largely compliant*	o *Risk-based approach in very initial stages. More resources needed for monitoring and ensuring compliance by DNFBPs, given tiny number of STRs and size of sector.*
25. Guidelines and Feedback	*Largely compliant*	o *More sector-specific guidelines required and guidelines on TF.*
Institutional and other measures		
26. The FIU	**C**	
27. Law enforcement authorities	**PC**	• The law enforcement results on money laundering investigations are increasing but are quantitatively still quite low. • Insufficient priority is given by law enforcement agencies, prosecution and other competent authorities to asset recovery and detection in investigations relating to funds-generating crimes.
28. Powers of competent authorities	*Compliant*	

29. Supervisors	**PC**	• No targeted on-site AML/CFT inspections by ISA and SMA • No inspection visits to financial institutions by the Market Inspectorate. • Although the supervisors have adequate powers of enforcement and sanction these powers are not being fully utilised.
30. Resources, integrity and training	**PC**	• Insufficient resources and priority given to the investigation and prosecution of money laundering and terrorist financing cases. • Insufficient resources have been applied to AML/CFT supervision in the non-banking sectors.
31. National co-operation	**C**	
32. Statistics[39]	**LC**	• Inadequate statistics on investigation and prosecution of funds generating crimes. • No statistics on provisional measures applied and confiscations relating to all predicate offences. • No statistics on wire transfers. • No MLA statistics have been provided to the evaluators. • Statistics are not kept indicating the number of incoming and outgoing requests in respect of money laundering or the financing of terrorism, the time taken to respond to each request and whether a request is granted or refused. • No statistics on mutual legal assistance or other forms of international co-operation.
33. Legal persons – beneficial owners	*Compliant*	
34. Legal arrangements – beneficial owners	*Not applicable*	

[39] The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 38 and 39.

International Co-operation		
35. Conventions	**LC**	• Confiscation provisions of both Palermo and Vienna Conventions not fully implemented. • Reservations about full effective implementation of the regulatory and supervisory regime for bodies other than financial institutions susceptible to money laundering under the Palermo Convention.
36. Mutual legal assistance (MLA)[40]	**LC**	• The lack of statistics on cooperation in money laundering and the financing of terrorism cases undermines the assessment of effectiveness.
37. Dual criminality	*Compliant*	
38. MLA on confiscation and freezing	*Largely compliant*	o *No asset forfeiture fund is being considered.*
39. Extradition	*Compliant*	
40. Other forms of co-operation	**LC**	• Lack of detailed statistics undermines effectiveness
Nine Special Recommendations		
SR.I Implement UN instruments	**LC**	• Implementation of UNSCR 1267 and 1373 is not yet sufficient. • Not all CDD requirements in the Terrorist Financing Convention are fully implemented for DNFBP.
SR.II Criminalise terrorist financing	**LC**	• Criminalisation of TF not yet fully in line with SR.II as it is not as broad as required by the United Nations Convention and a separate incrimination of the financing of an individual terrorist or terrorist organisation is not covered. • Several aspects coming from the second Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf must be incriminated.

[40] The review of Recommendation 36 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendation 28.

SR.III Freeze and confiscate terrorist assets	**PC**	• The freezing of terrorism related accounts and funds, and related procedures, have not been fully elaborated locally and are not publicly known. There is a lack of local guidance and training. • Slovenia does not have a fully elaborated publicly known national procedure for the purpose of delisting and unfreezing requests upon verification that the person or entity is not a designated person. • The accounts of EU internals designated on UNSCRs are not required to be frozen. • Lack of awareness in the non-banking sector of UN and EU lists.
SR.IV Suspicious transaction reporting	**LC**	• Only "property" linked with a transaction is covered by the reporting obligation. • Insurance companies were not sufficiently aware of guidance regarding the manner of reporting, including the specification of reporting forms and the procedures that should be followed when reporting. (Effectiveness issue)
SR.V International co-operation[41]	**LC**	• The incomplete criminalisation of terrorist financing as set out in section 2.2 above could be an issue when responding to foreign requests for MLA based on dual criminality. • The lack of statistics on cooperation in money laundering and the financing of terrorism cases undermines the assessment of effectiveness.
SR.VI AML requirements for money/value transfer services	**C**	
SR.VII Wire transfer rules	**C**	
SR.VIII Non-profit organisations	**PC**	• Unclear whether there is a coordination between the different governmental actors including those from law-enforcement side, in assessing the current risk in the sector.

[41] The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 37, 38 and 39.

		• No fully comprehensive review of domestic NPOs in order to obtain a clear picture of all the legal entities that perform as NPOs, especially ones of potential high risk as described in criteria VIII.3. • No comprehensive outreach through awareness raising campaigns in the NPO sector, particularly with regard to potentially vulnerable NPOs • No "know your beneficiary and associate" rules for NPOs. • Insufficient supervision or monitoring of NPOs which control significant portions of the financial resources of the sector and substantial shares of the sector's international activities.
SR.IX Cash Couriers	*Compliant*	

9. TABLE 2: RECOMMENDED ACTION PLAN TO IMPROVE THE AML/CFT SYSTEM

AML/CFT System	**Recommended Action (listed in order of priority)**
1. General	**No text required**
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 & 2)	• There is an important and urgent need to bring an appropriate case to the Supreme Court to test current assumptions on the levels of proof required with regard to the underlying offence in an autonomous money laundering case. • Consideration must also be given to utilising the existing facilities to effectively implement the legislation on money laundering by practitioners. These include guidelines to assist judicial authorities, joint training seminars, setting up an experts group to discuss and exchange experience on money laundering investigation, prosecution and proceedings, using extraordinary appeals for receiving guidelines on the points of law from the Supreme Court. • It is recommended that the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, CETS No.: 198 be ratified and applied quickly as its provisions should assist in the establishment of the

	predicate offence in an autonomous money laundering case.[42]
2.2 Criminalisation of Terrorist Financing (SR.I)	• The Criminal Code should contain a financing of terrorism offence in line with Article 2.1.a of the Terrorist Financing Convention as well as separate incrimination of the financing of an individual terrorist or an terrorist organisation.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• Priority should be given to asset detection and asset recovery • Priority should be given to increasing the volume and value of criminal asset recovery orders made
2.4 Freezing of funds used for terrorist financing (SR.III)	• The administrative procedure of freezing suspected terrorism related accounts as a result of the relevant UN Resolutions, including rules regarding unfreezing and the rights and obligations of the financial institutions and account holders, should be fully elaborated. • A comprehensive training regime together with the production of relevant guidance for the regulated sector should be undertaken to ensure that all persons under obligation are aware of their responsibilities under the sanctions regime.
2.5 The Financial Intelligence Unit and its functions (R.26)	• Specific additional Guidance on reporting needs to be developed for the Insurance sector, Lawyers/Notaries and TCSPs.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• Police and Prosecutors need to select and prosecute an appropriate case where there is no direct evidence of a particular criminal offence or type of criminal offence but where there is good circumstantial evidence from which a court could infer that the property was derived from a criminal offence. If necessary the case should be taken to the higher courts for a definitive ruling. • Slovenian authorities could consider giving specific training on ML and FT offences, and the seizure, freezing and confiscation of property that is the proceeds of crime or is to be used to finance terrorism to judges and courts.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or	• A formal risk assessment should be undertaken to assess

[42] Slovenia ratified the Convention of the Council of Europe No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (hereinafter Convention No. 198) on 4 March 2010.

terrorist financing	the areas of vulnerability to money laundering and terrorist financing in Slovenia.
3.2 Customer due diligence, including enhanced or reduced measures (R.5, R.6 & R.8)	• All anonymous accounts, regardless of the balance on the account, should be closed or converted to nominative accounts at the earliest opportunity and not later than 1 January 2011. • A requirement for financial institutions to determine whether the customer is acting on his own behalf or on behalf of another person should be introduced along with a requirement to verify the authority of any person purporting to act on behalf of the customer. • The implementation of Recommendation 6 needs to be addressed as it was not clear to the financial market participants how to deal with the obligations concerning customers that become PEPs during the business relationship. Furthermore the definitions need to be amended to come into line with the FATF definitions of PEP. • A clear requirement should be included in the legislative acts for financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.
3.3 Financial institution secrecy or confidentiality (R.4)	
3.4 Record keeping and wire transfer rules (R.10 & SR.VII)	• A provision for data to be retained for a longer when requested by the relevant authorities should be introduced into legislation. • There should be clear requirements for financial institutions in law or regulation to keep records of the account files and business correspondence. • Availability of customer and transaction data on timely basis not only to FIU but possibly to other relevant competent authorities should be prescribed in law or regulation.
3.5 Suspicious transaction reports and other reporting (R.13-14, 19& SR.IV)	• The reporting requirements should be extended to include all suspicions concerning transactions irrespective of when the suspicion arises. • There needs to be a constant raising of awareness of the reporting requirements in the non –banking sectors and, in particular, specific additional guidance on reporting needs to be developed for the for the insurance sector, lawyers and notaries and TCSPs.

	• The reporting requirement should be clarified to ensure that "funds" as well as "transactions" are covered.
3.6 Foreign branches (R. 22)	• A distinction should be introduced between third countries and countries which do not or insufficiently apply the FATF Recommendations. • A requirement should be introduced to ensure observing AML/CFT measures in respect of branches and subsidiaries of the institution located in EU Member States. • A requirement should be introduced to apply the higher standard where the minimum AML/CFT requirements of the home and host countries differ.
3.7 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29& 17)	• The ISA should review its AML/CFT strategy to ensure that it fulfils its obligations under the APMLTF and introduce additional resources as appropriate. The ISA should conduct regular on-site inspections reviewing the effectiveness of AML/CFT controls. • A lead authority should be designated with power to step in and conduct on-site inspections if another supervisor fails to perform, or inadequately performs its supervisory functions. • the effectiveness and efficiency of the sanctioning regime should be reassessed and more proportionate and dissuasive fines introduced and applied effectively and efficiently. Furthermore, the Slovenian authorities should establish a consistent policy concerning when and how to commence an administrative procedure for all financial sectors.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• A supervisory authority should be designated to conduct AML/CFT supervision of lawyers and notaries. • Authority to perform inspections for AML/CFT purposes needs to be granted to the supervisors for dealers in precious metals and stones, trust and company service providers and accountants and tax advisory services. • Outreach, including targeted inspection visits, seminars and training needs to be undertaken in order to raise awareness of the importance of AML/CFT controls across the whole of the DNFBP sector.
4.2 Suspicious transaction reporting (R.16)	• Specific additional Guidance needs to be developed for the insurance sector, lawyers and notaries and TCSPs.

5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Non-profit organisations (SR.VIII)	• The numbers and types of NPO that control significant portions of the resources of the sector and a substantial share of the sector's international activities should be identified. A specific risk assessment in these areas should be undertaken with a view to promoting effective supervision or monitoring of those NPOs. • The system of supervising or monitoring NPOs which control significant portions of the financial resources under control of the sector and substantial shares of the sector's international activities still needs to be developed. There should be clear responsibility for supervising the CFT controls of those NPOs which have been identified in the risk assessment and a clear plan for carrying out this supervision. • Awareness-raising measures need to be adopted relating to the NPO sector on the risk of terrorist abuse and the available measures to protect the sector against such abuse.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• Need to be taken in order to properly implement UNSCR 1267 and 1373 and to ensure full implementation of relevant provisions on confiscation and preventive measures in the Palermo and Terrorist financing Convention. A comparison should be undertaken against domestic legislation and amendments made as necessary to bring it into line with the conventions.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• Statistics on mutual legal assistance related to money laundering and predicate offences should be maintained. These statistics should include details of the number of MLA requests received and sent, the time taken to respond, how many requests were executed or refused and, in the latter case, the grounds for refusal.
6.4 Other Forms of Co-operation (R.40 & SR.V)	• Statistics should be maintained on international requests for cooperation received related to money laundering and the financing of terrorism. These statistics should include the nature of the request, the time taken to respond, how many requests were executed or refused and, in the latter case, the grounds for refusal.

7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	• Recommendations on resources are set out in the relevant sections above (notably, 2.6, 3.7, 4.1 and 5.1). • Comprehensive statistics should be prepared and reviewed with regard to the investigation and prosecution of money laundering and financing of terrorism. These statistics should be analysed to identify the underlying reasons for lack of successful convictions. • Comprehensive statistics should be prepared and reviewed on provisional measures applied and confiscations relating to all predicate offences. As above, these statistics should be analysed on a regular basis to determine areas where more resources are required.

10. TABLE 3: AUTHORITIES' RESPONSE TO THE EVALUATION (IF NECESSARY)

RELEVANT SECTIONS AND PARAGRAPHS	COUNTRY COMMENTS

V. COMPLIANCE WITH THE 3RD EU AML/CFT DIRECTIVE

Slovenia has been a member country of the European Union since 2004. It has implemented **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** (hereinafter: "the Directive") 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**.

The following sections describe the major differences between the Directive and the relevant FATF 40 Recommendations plus 9 Special Recommendations.

1. Corporate Liability	
Art. 39 of the Directive	Member States shall ensure that natural and legal persons covered by the Directive can be held liable for infringements of the national provisions adopted pursuant to this Directive.
FATF R. 2 and 17	Criminal liability for money laundering should extend to legal persons. Where that is not possible (i.e. due to fundamental principles of domestic law), civil or administrative liability should apply.
Key elements	The Directive provides no exception for corporate liability and extends it beyond the ML offence even to infringements which are based on national provisions adopted pursuant to the Directive. What is the position in your jurisdiction?
Description and Analysis	Natural and legal persons can be held liable for infringements of the national provisions adopted pursuant to the Third Directive (that is the APMLTF), be it for a criminal offence or a misdemeanor. If a legal person is held liable for a criminal offence the provisions of the Criminal Liability of Legal Entities Act are applicable. If a legal person is held liable for a misdemeanor pursuant to the Minor Offences Act, the sanctions for legal persons, sole traders and responsible persons of a legal person are explicitly set out in an act defining the relevant infringement (in the relevant case that is the APMLTF). Articles 13, 14 and 15 of the Minor Offences Act (Official Gazette of the Republic of Slovenia, No. 3/07) set out the relevant provisions. (See Annex VIII)
Conclusion	Criminal liability for money laundering extends to legal persons
Recommendations and Comments	

2. Anonymous accounts	
Art. 6 of the Directive	Member States shall prohibit their credit and financial institutions from keeping anonymous accounts or anonymous passbooks.
FATF R. 5	Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.
Key elements	Both prohibit anonymous accounts but allow numbered accounts. The Directive allows accounts or passbooks on fictitious names but always subject to full CDD measures. What is the position in your jurisdiction regarding passbooks or accounts on fictitious names?
Description and Analysis	Slovenian legislative acts prohibit opening and keeping of anonymous accounts, passbooks and bearer passbooks, and include in this prohibition also *other products enabling, directly or indirectly, the concealment of the customer's identity* (Article 35 of the APMLTF). Article 102 of the APMLTF in addition provides obligation to carry out full CDD in respect of the existing anonymous products.
Conclusion	Article 35 of the APMLTF provides for the prohibition of using anonymous accounts in Slovenia. In addition Article 102 of the APMLTF requires that the owners of the existing anonymous accounts (and similar products) are to be identified upon the claiming of such funds. Due diligence is required to be fulfilled in respect to such person. Otherwise funds on anonymous accounts held in a financial institution in respect to similar products are blocked until the first transaction. Although there are controls in place to prevent the misuse of the existing anonymous accounts, the authorities provided that, at the time of the on-site visit, there were 2,966 anonymous accounts held in seven banks with overall balance of €1,708,905 (in general not more than €28,200 on accounts although, one account was reported as holding €309,820).
Recommendations and Comments	All anonymous accounts, regardless of the balance on the account, should be closed at the earliest opportunity.

3. Threshold (CDD)	
Art. 7 b) of the Directive	The institutions and persons covered by the Directive shall apply CDD measures when carrying out occasional transactions amounting to EUR 15 000 or more.
FATF R. 5	Financial institutions should undertake CDD measures when carrying out occasional transactions above the applicable designated threshold.
Key elements	Are transactions and linked transactions of EUR 15 000 covered?

Description and Analysis	The obligation to apply customer due diligence is set out in the APMLTF (Article 8) and it is required in situations when establishing a business relationship with a customer as well as when carrying out a transaction amounting to €15,000 or more, whether the transaction is carried out in a single operation or in several operations which are evidently linked.
Conclusion	Transactions and linked transactions of EUR 15 000 are covered.
Recommendations and Comments	

4. Beneficial Owner	
Art. 3(6) of the Directive *(see Annex)*	The definition of 'Beneficial Owner' establishes minimum criteria (percentage shareholding) where a natural person is to be considered as beneficial owner both in the case of legal persons and in the case of legal arrangements
FATF R. 5 (Glossary)	'Beneficial Owner' refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or legal arrangement.
Key elements	Which approach does your country follow in its definition of "beneficial owner"? Please specify whether the criteria in the EU definition of "beneficial owner" are covered in your legislation.
Description and Analysis	Slovenian legislation covers the criteria in the EU definition of "beneficial owner" and thus follows the EU approach. The definition of "beneficial owner" as included in the APMLTF is as follows: *For the purposes of this Act, the term beneficial owner shall include the following:* - **a natural person** who ultimately owns or supervises or otherwise exercises control over a customer (provided the party is a legal entity or other similar legal subject), or - *a natural person on whose behalf a transaction is carried out or services performed (provided the customer is a natural person).* In addition to that Article 19 of the APMLTF states that *Pursuant to this Act, the beneficial owner of a corporate entity shall be:* *3. any natural person who owns through direct or indirect **ownership at least 25% of the business share**, stocks or voting or other rights, on the basis of which he/she participates in the management or in the capital of the legal entity with at least 25% share or has the controlling position in the management of the legal entity's funds;* *4. any natural person who indirectly provides or is providing funds to a legal entity and is on such grounds **given the possibility of***

	exercising control, guiding or otherwise substantially influencing the decisions of the management or other administrative body *of the legal entity concerning financing and business operations.*
Conclusion	The legal definition of beneficial owner as included in the APMLTF corresponds to the definition of beneficial owner in the Third Directive.
Recommendations and Comments	

5. Financial activity on occasional or very limited basis	
Art. 2 (2) of the Directive	Member States may decide that legal and natural persons who engage in a financial activity on an occasional or very limited basis and where there is little risk of money laundering or financing of terrorism occurring do not fall within the scope of Art. 3(1) or (2) of the Directive. Art. 4 of Commission Directive 2006/70/EC further defines this provision.
FATF R. concerning financial institutions	When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially (2004 AML/CFT Methodology para 23; Glossary to the FATF 40 plus 9 Special Recs.).
Key elements	Does your country implement Art. 4 of Commission Directive 2006/70/EC?
Description and Analysis	Slovenia has included the mentioned provision in Article 4 of the APMLTF, namely: *(4) The Government of the Republic of Slovenia may determine the conditions under which the obligation to apply the measures under the present Act shall not apply to legal entities or natural persons referred to in paragraph 1 of this Article who only pursue activity occasionally or in limited scope and who are exposed to a low risk of money laundering or terrorist financing. When determining terms and conditions, the Government of the Republic of Slovenia shall take account of the technical criteria adopted by the European Commission pursuant to Article 40 of Directive 2005/60/EC and the related findings of the office and supervisory bodies referred to in Article 85 hereof.* However, Slovenian authorities informed evaluators, that the government has not issued such regulation so far.
Conclusion	Article 4 of Commission Directive 2006/70/EC is implemented in Slovenian legislation.

Recommendations and Comments	

6. Simplified Customer Due Diligence (CDD)	
Art. 11 of the Directive	By way of derogation from the relevant Article the Directive establishes instances where institutions and persons may not apply CDD measures. However the obligation to gather sufficient CDD information remains.
FATF R. 5	Although the general rule is that customers should be subject to the full range of CDD measures, there are instances where reduced or simplified measures can be applied.
Key elements	Is there any implementation and application of Art. 3 of Commission Directive 2006/70/EC which goes beyond the AML/CFT Methodology 2004 criterion 5.9?
Description and Analysis	The APMLFT in Articles 33 and 34 sets out the situations when the simplified due diligence may be applied (Articles 33, 34). In addition to this the Minister of Finance has issued "Rules laying down conditions under which a person may be considered as a customer representing a low risk of money laundering and terrorist financing" (January 2008). The APMLFT also provides for an exemption from the obligation to carry out customer due diligence for certain products (Article 12). Simplified customer due diligence for certain non-resident customers mentioned in Art 33 of APMLTF may only be applied in cases where customer's country of origin is a Member state or a third country which Slovenia has recognised to be in compliance with FATF Recommendations (an equivalent third country). Such list has been provided in the "Rules laying down the list of equivalent third countries" (January 16, 2008) issued by the Minister of Finance. Customer categories mentioned in Art 33 equate to those listed under criteria 5.9 of the AML/CFT Methodology. The APMLFT does not allow to apply simplified customer due diligence in cases when there are reasons for suspicion of money laundering or terrorist financing (Article 33, part 1).
Conclusion	The articles of the APMLTF are broadly in line with the Article 3 of Commission Directive 2006/70/EC. However, it has not adopted a full simplified CDD approach as defined under the EU Directive.
Recommendations and Comments	The country may wish to consider further application of the simplified risk based approach in accordance with the EU Directives.

7. Politically Exposed Persons (PEPs)	
Art. 3 (8), 13 (4) of the Directive *(see Annex)*	The Directive defines PEPs broadly in line with FATF 40 (Art. 3(8)). It applies enhanced CDD to PEPs residing in another Member State or third country (Art. 13(4)). Directive 2006/70/EC provides a wider definition of PEPs (Art. 2) and removal of PEPs after one year of the PEP ceasing to be entrusted with prominent public functions (Art. 2(4)).
FATF R. 6 and Glossary	Definition similar to Directive but applies to individuals entrusted with prominent public functions in a foreign country.
Key elements	Does your country implement Art. 2 of Commission Directive 2006/70/EC, in particular Art. 2(4), and does it apply Art. 13(4) of the Directive?
Description and Analysis	The definition of "Politically Exposed Person" (PEP) is provided in the APMLTF (Article 31, paragraph 2) and follows the definition of the Third Directive and the Implementation Directive. The APMLTF contains the requirement that for customers who are identified as foreign PEPs the enhanced customer due diligence procedure is to be applied when entering into business relationship or executing a transaction equalling to or being more that €15,000.
Conclusion	Slovenia has implemented Article 2(4) of Commission Directive 2006/70/EC, and it applies Article 13(4) of the Directive as well.
Recommendations and Comments	

8. Correspondent banking	
Art. 13 (3) of the Directive	For correspondent banking, Art. 13(3) limits the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.
FATF R. 7	Recommendation 7 includes all jurisdictions.
Key elements	Does your country apply Art. 13(3) of the Directive?
Description and Analysis	Slovenia has applied Article 13(3) of the Directive with Article 30 of the APMLTF (*Corresponding banking relationships with credit institutions from third countries*) and limits the application of enhanced CDD to correspondent banking relationships with institutions from third countries (a European Union non-member state or a non-signatory state to the European Economic Area Agreement).

	However, Article 30 does not include all the requirements of the Directive. Namely, there are no indications for an obligation to document the respective responsibilities of each institution as well as for obligations concerning payable-through accounts.
Conclusion	The requirements included in the APMLTF are not fully in line with the Article 13(3) of the Directive.
Recommendations and Comments	The authorities need to consider additional requirements to be put in the Law or other legislative acts of Slovenia.

9. Enhanced Customer Due Diligence (ECDD) and anonymity	
Art. 13 (6) of the Directive	The Directive requires ECDD in case of ML or TF threats that may arise from products or transactions that might favour anonymity.
FATF R. 8	Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity [...].
Key elements	The scope of Art. 13(6) of the Directive is broader than that of FATF R. 8, because the Directive focuses on products or transactions regardless of the use of technology. How are these issues covered in your legislation?
Description and Analysis	Broadly speaking, Article 35 of the APMLTF (as noted above in the section on anonymous accounts) prohibits opening, issuing or keeping of anonymous accounts, passbooks or bearer passbooks, or other products enabling, directly or indirectly, the concealment of the customer's identity. In addition, Articles 6 and 29 of the APMLTF indirectly apply the EU provision by introducing a risk assessment, which aims at identifying cases where the risk is high. The organization is required to carry out a risk analysis and to establish a risk assessment for individual groups or customers, business relationships, products or transactions with respect to their potential misuse for money laundering or terrorist financing. The procedure to establish risk assessment is supposed to reflect the specific features of the organisation and its operations (e.g. its size and composition, scope and structure of business, types of customers doing business with the organisation, and types of products offered by the organisation). Where the organisation assesses that there is a high risk of money laundering or terrorist financing due to the nature of the business relationship, form or manner of executing the transaction, business profile of the customer, or other circumstances relating to the customer, it shall apply enhanced CDD.

	It should be noted in addition that the provisions in place are not sufficient to meet the requirements of Recommendation 8 as there is no specific requirement for financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes.
Conclusion	Although Article 13(6) of Directive to some extent appears to be applied by requirement for the risk assessment, which aims at identifying cases where the risk is high and it is required to carry out a risk analysis and to establish a risk assessment for individual groups or customers, business relationships, products or transactions with respect to their potential misuse for money laundering or terrorist financing, the provisions in place are not sufficient
Recommendations and Comments	Slovenian authorities should provide a clear requirement in the legislative acts for financial institutions to have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes

10. Third Party Reliance	
Art. 15 of the Directive	The Directive permits reliance on professional, qualified third parties from EU Member States or third countries for the performance of CDD, under certain conditions.
FATF R. 9	Allows reliance for CDD performance by third parties but does not specify particular obliged entities and professions which can qualify as third parties.
Key elements	What are the rules and procedures for reliance on third parties? Are there special conditions or categories of persons who can qualify as third parties?
Description and Analysis	Article 25 of the APMLTF (see Annex) defines "third parties". Thus the EU approach and provisions as provided by the AML/CFT legislation corresponds to provisions on third party reliance in the Third Directive. Third party reliance is regulated by Articles 24, 26, 27 of the APMLTF. On the basis of Article 25 of the APMLTF the minister of finance issued two implementing regulations: - Rules laying down the list of equivalent third countries (Official Gazette of the Republic of Slovenia, No. 10/2008): - Rules laying down conditions to be met by a person to act in the role of a third party (Official Gazette of the Republic of Slovenia, No. 10/2008).

Conclusion	Slovenian legislative acts permit reliance on professional, qualified third parties from EU Member States or third countries for the performance of CDD, under certain conditions.
Recommendations and Comments	

11. Auditors, accountants and tax advisors	
Art. 2 (1)(3)(a) of the Directive	CDD and record keeping obligations are applicable to auditors, external accountants and tax advisors acting in the exercise of their professional activities.
FATF R. 12	CDD and record keeping obligations 1. do not apply to auditors and tax advisors; 2. apply to accountants when they prepare for or carry out transactions for their client concerning the following activities: • buying and selling of real estate; • managing of client money, securities or other assets; • management of bank, savings or securities accounts; • organisation of contributions for the creation, operation or management of companies; • creation, operation or management of legal persons or arrangements, and buying and selling of business entities (2004 AML/CFT Methodology criterion 12.1(d)).
Key elements	The scope of the Directive is wider than that of the FATF standards but does not necessarily cover all the activities of accountants as described by criterion 12.1(d). Please explain the extent of the scope of CDD and reporting obligations for auditors, external accountants and tax advisors.
Description and Analysis	The APMLTF includes auditors and tax advisors as obligors. As to the CDD and record keeping obligations for auditing firms, independent auditors, and legal entities and natural persons performing accounting or tax advisory services they are the same as to all other organisations under the APMLTF. They cover all the obligation of the mentioned person categories. According to the second paragraph of Article 38 of the APMLTF, the reporting obligation concerning CTRs does not apply to auditing firms, independent auditors, and legal entities and natural persons

	performing accounting or tax advisory services. (See also MER on Rec. 5 and Rec. 10)
Conclusion	The obligations for auditors, external accountants and tax advisors are the same as for financial institutions and other organisations referred to in the first paragraph of Article 4 of the APMLTF, except regarding reporting obligations. The extent of the scope of CDD and record keeping obligations for auditors, external accountants and tax advisors are covered in accordance with the Third Directive.
Recommendations and Comments	

12. High Value Dealers	
Art. 2(1)(3)e) of the Directive	The Directive applies to natural and legal persons trading in goods where payments are made in cash in an amount of EUR 15 000 or more.
FATF R. 12	The application is limited to those dealing in precious metals and precious stones.
Key elements	The scope of the Directive is broader. Is the broader approach adopted in your jurisdiction?
Description and Analysis	According to the APMLTF, traders in precious metals and precious stones and products made from these materials, traders in works of art as well as auctioneers are the obliged entities. At the same time Slovenian APMLTF prohibits accepting cash payments exceeding EUR 15,000 for these persons. Hence in terms of applicability of the law Slovenia follows the broader approach while there are restrictions as to cash payments (Article 37).
Conclusion	Slovenia has adopted the broader approach as to the applicability of the AML Law.
Recommendations and Comments	

13. Casinos	
Art. 10 of the Directive	Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2 000 or more. This is not required if they are identified at entry.

FATF R. 16	The identity of a customer has to be established and verified when he or she engages in financial transactions equal to or above EUR 3 000.
Key elements	In what situations do customers of casinos have to be identified? What is the applicable transaction threshold in your jurisdiction for identification of financial transactions by casino customers?
Description and Analysis	In Slovenia customers of casinos and gaming halls are required to be identified and verified at entry (the first paragraph of Article 18 of the APMLTF). In addition to that, in transactions amounting to €15,000 or more, a concessionaire offering games of chance in a casino or gaming hall verifies the identity of the customer carrying out the transaction again and obtains the required information when the transaction is effected at the cashier's desk (the third paragraph of Article 8 of the APMLTF).
Conclusion	The identity of all customers is required to be established and verified upon each entry to a casino. The obligation to carry out customer due diligence also applies to casinos when a transaction amounting to €15,000 or more is carried out in a single operation or several obviously linked operations. In such cases it is required that identification and verification of the customer will also take place at the cashier's desk at the moment of transaction (Article 8, part 3). This is not to be fully in line with the criterion 12.1. (a) requiring casinos to comply with all the requirements of Recommendation 5 when their customers engage in financial transactions equal to or above USD/€ 3,000.
Recommendations and Comments	Slovenian authorities may wish to lower the threshold for identification of customers engaging financial transactions in casinos from €15,000 to €3,000.

14. Reporting by accountants, auditors, tax advisors, notaries and other independent legal professionals via a self-regulatory body to the FIU	
Art. 23 (1) of the Directive	This article provides an option for accountants, auditors and tax advisors, and for notaries and other independent legal professionals to report through a self-regulatory body, which shall forward STRs to the FIU promptly and unfiltered.
FATF Recommendations	The FATF Recommendations do not provide for such an option.
Key elements	Does the country make use of the option as provided for by Art. 23 (1) of the Directive?
Description and Analysis	According to the APMLTF all organizations are obliged to report to the Office. That also includes accountants, auditors, tax advisors, notaries and other independent legal professionals.

Conclusion	Slovenia has not made use of the option as provided for by Art. 23 (1) of the Directive. All reports are forwarded directly to the Office (Slovenian FIU).
Recommendations and Comments	Slovenian authorities may wish to allow accountants, auditors, tax advisors, notaries and other independent legal professionals report through a self-regulatory body, which shall forward STRs to the FIU promptly and unfiltered.

15. Reporting obligations	
Arts. 22 and 24 of the Directive	The Directive requires reporting where an institution knows, suspects, or has reasonable grounds to suspect money laundering or terrorist financing (Art. 22). Obliged persons should refrain from carrying out a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction. If to refrain is impossible or could frustrate an investigation, obliged persons are required to report to the FIU immediately afterwards (Art. 24).
FATF R. 13	Imposes a reporting obligation where there is suspicion that funds are the proceeds of a criminal activity or related to terrorist financing.
Key elements	What triggers a reporting obligation? Does the legal framework address *ex ante* reporting (Art. 24 of the Directive)?
Description and Analysis	Pursuant to the third paragraph of Article 38 of the APMLTF, the organisation is obliged to report to the FIU where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction. It has to be done prior to effecting the transaction stating the time limit in which the transaction is to be carried out.
Conclusion	Though an obligation to report to the FIU where reasons for suspicion of money laundering or terrorist financing exist in connection with the customer or transaction is included in the APMLTF, the obligation to refrain from a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction, is not addressed in the Slovenian APMLTF. This obligation cannot be found in any other legal documents.
Recommendations and Comments	Slovenian authorities should consider including in legislative acts the obligation to refrain from carrying out transactions which they know or suspect to be related to money laundering or terrorist financing according to Art 24 of EU Directive.

16. Tipping off (1)	
Art. 27 of the Directive	Art. 27 provides for an obligation for Member States to protect employees of reporting institutions from being exposed to threats or hostile actions.
FATF R. 14	No corresponding requirement (directors, officers and employees shall be protected by legal provisions from criminal and civil liability for "tipping off", which is reflected in Art. 26 of the Directive)
Key elements	Is Art. 27 of the Directive implemented in your jurisdiction?
Description and Analysis	Article 61 of APMLTF does not allow the FIU to disclose information on the employee and/or the respective organisation that has filed a report or provided any other information requested by the FIU. The article provides for exemptions for such disclosures including the cases when such data are required by the competent court. It should be noted that in addition to that, Article 135 of Criminal Code (Official Gazette of the Republic of Slovenia, Nos. 55/08, 66/08 and 39/09; CC-1) provides for the general provision in respect of threatening the security of another person, under which a person could be punished by a fine or sentenced to imprisonment for not more than one year.
Conclusion	Article 27 of the Third Directive has been implemented by the second paragraph of Article 61 of the APMLTF in combination with the Article 135 of Criminal Code.
Recommendations and Comments	

17. Tipping off (2)	
Art. 28 of the Directive	The prohibition on tipping off is extended to where a money laundering or terrorist financing investigation is being or may be carried out. The Directive lays down instances where the prohibition is lifted.
FATF R. 14	The obligation under R. 14 covers the fact that an STR or related information is reported or provided to the FIU.
Key elements	Under what circumstances are the tipping off obligations applied? Are there exceptions?
Description and Analysis	The tipping off obligations are applied under Article 76 of the APMLTF and include a provision for not disclosing to the customer or any other third person that the data or information, or

	documentation about the customer has been forwarded to the FIU. The above mentioned article also provides for situations when this prohibition can be lifted including the necessity to disclose facts in criminal proceedings, requirements by the competent court, when required by the supervisory body for supervisory purposes as well as in the situations when a lawyer, law firm, notary, audit company, independent auditor, legal entity or natural person performing accountancy services or tax advisory services seeks to dissuade the client from engaging in illegal activity.
Conclusion	The provisions of the APMLTF correspond to the first and second paragraph of Article 28 of the Third Directive. Exceptions as provided for in the third to fifth paragraph of Article 28 of the Third Directive are not implemented in Slovenian AML/CFT legislation.
Recommendations and Comments	Slovenian authorities may wish to consider including the exceptions provided in the Article 28 of the Third Directive in the Slovenian AML/CFT legislation.

18. Branches and subsidiaries (1)	
Art. 34 (2) of the Directive	The Directive requires credit and financial institutions to communicate the relevant internal policies and procedures where applicable on CDD, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication to branches and majority owned subsidiaries in third (non EU) countries.
FATF R. 15 and 22	The obligations under the FATF 40 require a broader and higher standard but do not provide for the obligations contemplated by Art. 34 (2) of the EU Directive.
Key elements	Is there an obligation as provided for by Art. 34 (2) of the Directive?
Description and Analysis	Article 39 of the APMLTF provides for the obligation to apply measures in third countries which is in line with the provisions of the Third Directive. The mentioned article obliges organisations to ensure that the measures for detecting and preventing money laundering and terrorist financing are applied in the branches and majority-owned subsidiaries located in third countries to the same extent as in the Slovenian APMLTF, unless explicitly contrary to the legislation of the third country.
Conclusion	The obligation as provided in the Article 34 (2) of the Third Directive is in place in Slovenia. Article 39 of the APMLTF introduces such obligation.
Recommendations and Comments	

19. Branches and subsidiaries (2)	
Art. 31(3) of the Directive	The Directive requires that where legislation of a third country does not permit the application of equivalent AML/CFT measures, credit and financial institutions should take additional measures to effectively handle the risk of money laundering and terrorist financing.
FATF R. 22 and 21	Requires financial institutions to inform their competent authorities in such circumstances.
Key elements	What, if any, additional measures are your financial institutions obliged to take in circumstances where the legislation of a third country does not permit the application of equivalent AML/CFT measures by foreign branches of your financial institutions?
Description and Analysis	The second paragraph of Article 39 of the APMLTF requires that if the legislation of a third country does not allow for the application of measures for detecting and preventing money laundering or terrorist financing to the same extent as stipulated by the APMLTF, the organisation is obliged to inform the FIU thereof and take appropriate measures to eliminate the risk of money laundering or terrorist financing. For the time being, no financial institution has reported such circumstances to the FIU and it has not been defined yet what measures shall be considered as appropriate
Conclusion	Slovenian legislation requires financial institutions to inform the FIU about situations where the legislation of the third country does not allow application of equivalent AML/CFT measures as stipulated by Slovenian APMLTF. Although Article 39 of the APMLTF includes an obligation for applying additional measures it is not quite clear from the text of the APMLTF to what extent and what measures should be applied under the circumstances. No specific additional measures are set forth for the financial institutions to be applied in circumstances where the legislation of a third country does not permit the application of equivalent AML/CFT measures by foreign branches of Slovenian financial institutions.
Recommendations and Comments	Slovenian legislation should provide for specific additional measures for the financial institutions to be applied for the situations described above.

20. Supervisory Bodies	
Art. 25 (1) of the Directive	The Directive imposes an obligation on supervisory bodies to inform the FIU where, in the course of their work, they encounter facts that could contribute evidence of money laundering or terrorist financing.

FATF R.	No corresponding obligation.
Key elements	Is Art. 25(1) of the Directive implemented in your jurisdiction?
Description and Analysis	Article 89 of the APMLTF provides for the obligation for the supervisory bodies to notify the FIU if in the course of their work they "discover facts that indicate money laundering or terrorist financing".
Conclusion	Art. 25(1) of the Directive is implemented in Slovenia. Obligation is imposed by the first paragraph of Article 89 of the APMLTF.
Recommendations and Comments	

21. Systems to respond to competent authorities	
Art. 32 of the Directive	The Directive requires credit and financial institutions to have systems in place that enable them to respond fully and promptly to enquires from the FIU or other authorities as to whether they maintain, or whether during the previous five years they have maintained, a business relationship with a specified natural or legal person.
FATF R.	There is no explicit corresponding requirement but such a requirement can be broadly inferred from Recommendations 23 and 26 to 32.
Key elements	Are credit and financial institutions required to have such systems in place and effectively applied?
Description and Analysis	There is no direct requirement in the AML/CFT law that credit and financial institutions have systems in place to respond fully and promptly to enquiries from the FIU. Article 54 of the APMLTF does, however, prescribe that the organisation shall respond to enquires from the FIU without delay and at the latest within 15 days of receiving the enquiry, which means that organisations have to ensure adequate tools (taking into account nature or scope of business or the number of employees) to be able to response in due time. Exceptionally, the FIU may set a shorter or extended time limit for the request. In addition, Article 8 of the "Rules on Performing Internal Control, Authorized Person, Safekeeping and Protection of Data and Keeping of Records of Organizations, Lawyers, Law firms and Notaries" sets forth the obligation keep the data and the corresponding documentation relating to the implementation of the APMLTF in chronological order and in a manner that enables access in an entire period.

Conclusion	Though credit and financial institutions are not specifically required to have such systems in place there is set of provisions in the law and other legislative acts that can be considered sufficient for this purpose.
Recommendations and Comments	

22. Extension to other professions and undertakings	
Art. 4 of the Directive	The Directive imposes a *mandatory* obligation on Member States to extend its provisions to other professionals and categories of undertakings other than those referred to in A.2(1) of the Directive, which engage in activities which are particularly likely to be used for money laundering or terrorist financing purposes.
FATF R. 20	Requires countries only to consider such extensions.
Key elements	Has your country implemented the mandatory requirement in Art. 4 of the Directive to extend AML/CFT obligations to other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes? Has a risk assessment been undertaken in this regard?
Description and Analysis	Provisions under Slovenian law AML/CFT extend the obligations to several other professionals and categories of undertaking, namely: • pawnbroker offices • organisers regularly offering sport wagers; • organisers and concessionaires offering games of chance via the Internet or other telecommunications means • traders in precious metals and precious stones and products made from these materials; • trader in works of art; • auctioneers. However, no formal risk assessment has been undertaken in this regard. Nevertheless, on the basis of experience and data available through international organizations and forums Slovenia considers internet gambling and other games of chance, when offered via the Internet or other telecommunications means, as particularly likely to be used for money laundering or terrorist financing purposes.
Conclusion	Slovenia has implemented the mandatory requirement in Art. 4 of the Directive to extend AML/CFT obligations to other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes. However, no formal risk assessment has been undertaken in this regard.
Recommendations and Comments	The Slovenian authorities should consider undertaking a formal risk assessment of the professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes.

23. Specific provisions concerning equivalent third countries	
Art. 11, 16(1)(b), 28(4),(5) of the Directive	The Directive provides specific provisions concerning countries which impose requirements equivalent to those laid down in the Directive (e.g. simplified CDD).
FATF R.	There is no explicit corresponding provision in the FATF 40 plus 9 Recommendations.
Key elements	How, if at all, does the country address the issue of equivalent third countries?
Description and Analysis	Taking into account the EU approach, the fifth paragraph of Article 25 of the APMLTF authorizes the minister of finance to draw up a list of equivalent third countries that impose and comply with money laundering and terrorist financing standards as defined by the Third Directive. On that basis the Rules laying down the list of equivalent third countries (Official Gazette of the Republic of Slovenia, No. 10/2008), issued in January 2008, are in force. If or when new circumstances arise, this implementing regulation can quickly be subject to changes. The APMLTF sets a presumption of equivalence between financial institutions subject to Slovenian AML/CFT obligations and major financial institutions located in EU/EEA countries, which reflects in specific provisions concerning countries which impose requirements equivalent to those laid down in the Third Directive (simplified CDD and when relying on the third parties).
Conclusion	Slovenian AML/CFT provisions on equivalent third countries (including the list of those countries) correspond to those in the Third Directive.
Recommendations and Comments	

APPENDIX I

Relevant EU texts

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

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

VI. LIST OF ANNEXES

See MONEYVAL(2010)7ANN