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EVALUATION OF ANTI-MONEY  
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# Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the  
Financing of Terrorism

## REPUBLIC OF MOLDOVA

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**LIST OF ACRONYMS USED**

AML/CFT	Anti Money Laundering/Countering Financing of Terrorism
AML/CFT Banks' Regulation	Regulation on bank's activity regarding prevention and combat of money laundering and terrorist financing (Attachment to the Decision of the Council of Administration of the National Bank of the Republic of Moldova no. 172 of 04 August 2011)
AML/CFT Law	Law no. 190-XVI of 26 July 2007 on Prevention and combating money laundering and terrorism financing
AML/CFT NCFM Regulation	Regulation on measures to prevent and combat money laundering and terrorism financing on financial market" of 21 October 2011
C	Compliant
CC	Criminal Code
CCECC	Centre for the Combating of Economic Crime and Corruption
CID	General Criminal Investigation Directorate of the CCECC
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CCP	Code of Criminal Procedure
DNFBP	Designated Non-Financial Businesses and Professions
CETS	Council of Europe Treaty Series
FATF	Financial Action Task Force
FI	Financial institution
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
LC	Largely compliant
LiC	Licensing Chamber
LEA	Law enforcement agency
MoJ	Ministry of Justice
MoF	Ministry of Finance
ML	Money Laundering
MoU	Memorandum of Understanding
MVT	Money Value Transfer
NA	Non applicable
NBM	National Bank of the Republic of Moldova
NC	Non compliant

NCFM	National Commission of Financial Market
NPO	Non-Profit Organisation
OPFML	Office for the Prevention and Fight against Money Laundering
PEP	Politically Exposed Persons
PC	Partially compliant
PCMLTF	Programme on prevention and combat of money laundering and terrorist financing
SR	Special recommendation
STRs	Suspicious transaction reports
TF	Terrorism Financing
UN	United Nations
UNSCR	United Nations Security Council resolution

## **EXECUTIVE SUMMARY**

### **1. Background Information**

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in the Republic of Moldova at the time of the 4<sup>th</sup> on-site visit (20 to 26 November 2011) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4<sup>th</sup> cycle of evaluations 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 the Republic of Moldova received non-compliant (NC) or partially compliant (PC) ratings in its 3<sup>rd</sup> round report. This report is not, therefore, a full assessment against the FATF 40 Recommendations 2003 and 9 Special Recommendations 2001 but is intended to update readers on major issues in the AML/CFT system of the Republic of Moldova.

### **2. Key findings**

2. In September 2010 the Republic of Moldova's authorities adopted a national strategy for prevention and combating of money laundering and financing of terrorism for 2010-2012 (the National Strategy). The authorities involved in the process of implementation of the National Strategy have set the main objectives for improving the AML/CFT system in the country: compliance with the relevant international standards, appropriate and viable legislation and efficient collaboration between law enforcement and supervision bodies in the area of AML/CFT. Some of the objectives were set as a result of recommendations issued by the specialised international organisations, including the recommendations stated in the 3<sup>rd</sup> round evaluation report of MONEYVAL.
3. The AML/CFT Law has been modified due to a 2010 Constitutional Court decision, the main adjustment being related to the specific provisions on the reporting regime and on the organisation of the Office for Preventing and Combating Money Laundering (OPFML) within the structure of the Centre for Combating Economic Crimes and Corruption (CCECC).
4. The Republic of Moldova has developed the criminal legislation since the 3<sup>rd</sup> round evaluation by bringing the money laundering offence more in line with the Vienna and Palermo Conventions. The money laundering offence, which was reformulated according to this standard, is generally understood and actually interpreted by practitioners so as to cover the laundering by the author of the predicate offence (self-laundering). Such laundering activities have actually been subject to prosecution in a number of criminal cases. Nonetheless, the continued judicial insistence on a prior conviction for the predicate offence as a precondition of prosecuting stand-alone money laundering is a major deficiency.
5. The terrorism financing offence now addresses the general concept of financing of terrorist organisations and individual terrorists. It was also positively noted that the Moldovan criminal substantive law appears to cover all offences within the scope of the nine treaties listed in the Annex to the TF convention. There has not been any investigation or prosecution for TF offences.
6. The structural characteristics of the confiscation and provisional measures regime in the Republic of Moldova remained largely the same since the previous round of evaluation. The fundamental principles of the constitution are thus unchanged and so is the structure by which the general rules of

confiscation are provided in the Criminal Code (CC). Sequestration (i.e. seizure of goods) as the main provisional measure is prescribed in the Criminal Procedure Code (CPC).

7. As far as the freezing of assets of designated persons and entities pursuant to SR.III is concerned, the evaluation team noted some fundamental deficiencies in the domestic legislation. On the positive side, there is some legislation in place that regulates the publication of the respective lists as well as the possibility to elaborate national lists in this respect. The AML/CFT Law also requires, at least implicitly, the reporting entities to postpone transactions that involve assets of designated persons and entities. Notwithstanding all these measures, there is no specific legislation in the Republic of Moldova to provide for the actual freezing of these assets beyond the period of postponement (ie. 5 days) nor are there any procedural rules for delisting, unfreezing etc. This in itself raises questions as to the meaning and purpose of the entire regime.
8. The Republic of Moldova's FIU (OPFML) is placed within the administrative structure and premises of the CCECC. The functions and responsibilities of the FIU, are set out in AML/CFT Law, and appear to sufficiently cover the core requirements set out in Recommendation 26. On a legislative level, the issue of the independence and autonomy of the FIU was resolved with the enactment of a series of amendments to AML/CFT Law brought into force in April 2011. Notwithstanding the fact that the OPFML continues to be situated within the operational structure of the CCECC, the AML/CFT Law now provides for the establishment of the OPFML as an independent subdivision with powers and functions which are clearly distinct from those of the CCECC.
9. There are various law enforcement authorities which are involved in the investigation of ML/FT cases. The authority which is mainly responsible for receiving disseminations by the OPFML is the Criminal Investigation Directorate (CID) within the CCECC. Although this Directorate has dedicated two sub-Directorates to deal with ML/FT cases, the level of knowledge related to the financial aspect of investigations, asset identification and tracing does not appear to be very comprehensive. Additionally, in spite of a number of steps taken (MoUs signed, joint working groups, etc.) there appears to be a lack of co-operation and co-ordination between the various law enforcement authorities in order to properly pursue and investigate ML/FT cases.
10. As evident from the statistical data provided, suspicious transaction reports (STRs) are to a very large extent reported by banks. This indicates a serious lack of awareness by some of the reporting entities, especially in the designated non-financial businesses and professions (DNFBP) sector.
11. The Republic of Moldova has taken significant steps in order to improve the AML/CFT legal and regulatory framework, as well as the supervisory system. The new AML legislation introduced the risk-based approach. The preventive measures are established by the AML/CFT Law, the Law on Financial Institutions, the Law on Foreign Exchange Regulation and various other sector specific Laws and regulations which provide a comprehensive legal framework including customer due diligence (CDD) and record keeping requirements.
12. The financial supervision is undertaken by the National Bank of Moldova (NBM) for banks and foreign exchange entities. The National Commission on Financial Market (NCFM) was established in 2007 and is the supervisory authority for the non-banking financial market. Both the NBM and the NCFM apply on-site and off-site supervisory measures, although their effectiveness was not fully demonstrated.
13. The Republic of Moldova has made a number of improvements in the legal framework in relation to the DNFBP. By amending the AML/CFT Law, the Moldovan authorities have now listed all the DNFBP as reporting entities, including independent accountants.

14. The AML/CFT Law provides the list of the authorities empowered to supervise the DNFBP. However, there is no specific provision to establish a clear link between every specific category of DNFBP and the specific authority empowered to supervise it. The allocation of supervisory powers over a specific DNFBP should be more clearly stated. The effective supervision over the DNFBP was not demonstrated.
15. The use of shell or “ghost” companies for money laundering remains an issue despite the current company registration rules.
16. Legal provisions for providing mutual legal assistance are laid down in domestic law, bilateral and multilateral treaties and apply both to ML and FT. According to the AML/CFT Law, the Moldovan judicial authorities are able to co-operate without concluding a treaty, since the national legislation allows co-operation on the basis of reciprocity and, to some extent, even in absence of it.

### **3. Legal Systems and Related Institutional Measures**

17. The examiners note the developments achieved in the AML criminal legislation. The Moldovan authorities responded positively and effectively to almost all recommendations made by the third round evaluation team: completed the list of designated categories of offences, provided for the explicit coverage of foreign predicate offences, the implicit and practical coverage of self-laundering and amended the rules governing corporate criminal liability to meet the respective international standards. These achievements are welcomed by the evaluators. The only exception is the adoption of the term “*purchase*” instead of “*acquisition*” which appears more restrictive than the previous wording and therefore it should be remedied by legislation or, at least, by guiding jurisprudence.
18. What however needs to be criticised is the judiciary’s apparent insistence on a prior conviction for the predicate offence as a precondition of prosecuting autonomous ML offences. Widespread application of this approach will necessarily make it impossible to secure a ML conviction in case of autonomous (third-party) ML offences in general. This is applicable not only in cases where the prior conviction could not be achieved by lack of evidence, but also where a proceeds-generating offence has been committed, but the perpetrator is dead, or has absconded. The efforts that the CCECC and other authorities have made in this respect are to be appreciated. Nevertheless, they have proved to be insufficient so far to effectively change the judiciary’s approach and therefore the Moldovan authorities need either to further these efforts or to seek for other, possibly legislative solutions to overcome this obstacle.
19. Despite the improvement in statistics, especially in terms of ML investigations and indictments, the judiciary stage still presents a bottleneck in the system with numerous cases pending before the courts. The evaluators share the view of the previous team concerning the implementation aspect which is still far from being perfect and thus it needs to be addressed by a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements.
20. At the time of the 4<sup>th</sup> evaluation round, the evaluation team found the TF criminalisation more in line with the standards set in the FT Convention and SR.II. Namely, the FT offence now encompasses the financing of terrorists and terrorist organisations and expressly covers all offences defined as terrorist offences in the Annex to the FT Convention. The criminal liability of legal persons now applies to the FT offence and a number of related offences and, finally, the FT offence extends to the full notion of “*funds*” according to the FT Convention.

21. There remain some aspects which need to be corrected so as to achieve full compliance with SR.II. The generic offence of terrorist act (Art. 278 CC) should explicitly be applicable to the population or government of “*any country*”. In addition, the FT offence should be more precise in not requiring that the funds be linked to a specific terrorist act. The current legislation needs some clarification or completion so as to clearly provide that the financing of terrorist organisations and individual terrorists for any purpose (including legitimate activities) is actually covered.
22. The general results of the confiscation regime are still low even in the context of the economic situation in the Republic of Moldova. The legislation still does not clearly provide for the confiscation of the property that has been laundered (the “*corpus*” of the ML offence) as recommended in the previous evaluation report. The confiscation mechanism should be extended to proceeds the perpetrator or a *mala fide* third party has transferred to a *bona fide* third party without compensation. The legislation still does not extend the scope of applicability of sequestration to clearly cover the property belonging to legal entities and third persons (*mala fides* third parties as a minimum).
23. While the provisional measures and confiscation regime underwent changes and developments, many of the deficiencies remained. Apart from the more or less serious weaknesses of the legal framework, the evaluators still have the impression that the authorities make insufficient use of the powers currently vested to them by the existing legislation which, despite its deficiencies, offers a relatively broad authority to seize/sequester and to confiscate.
24. Further efforts are needed to familiarise law enforcement and judiciary authorities with the provisional and confiscation measures so that they actually and regularly apply their powers to seize/sequester and confiscate proceeds and instrumentalities of crime.
25. The examiners could not find any significant changes in the CFT legislation and practice that would have brought the Republic of Moldova closer to the standards set in SR.III. The legal framework remains largely deficient. The freezing mechanism only covers the postponement of transactions involving assets that belong to the listed persons or entities, thus apparently excluding all other funds and assets not directly involved in transactions. There are still no procedures for systematically checking whether designated persons have funds or other assets in the country, no procedures for de-listing, to challenge a listing decision and to release part of the frozen assets for legitimate purposes, etc. The majority of the areas that fall under the scope of SR.III have not been addressed.
26. The AML/CFT Law provides for the powers, functions and structure of the OPFML, which is designated as the FIU in the Republic of Moldova. The AML/CFT Law is complemented by Orders issued by the Director of the CCECC. Although the functions and powers of the OPFML as the central authority for the prevention of ML/FT are clearly set out under the AML/CFT Law and Order No. 96, at the time of the on-site visit, other legislative acts were still making reference to the CCECC in relation to certain functions specifically attributed to the OPFML.
27. The OPFML is required and empowered to analyse STRs and to disseminate information and documents, to criminal investigation authorities and other competent authorities, when there are reasonable suspicions of ML/FT and other proceeds-generating crimes.
28. Notwithstanding the recent welcome developments, the evaluators noted a number of factors which could potentially have a bearing on the effectiveness and efficiency of the OPFML. These include the disproportionate number of functions being carried out by the Tactical Analysis Department, who appear to be conducting most of the activities of the OPFML. In addition, the analysis methodology does not provide for clear provisions on the dissemination process, in order to determine the



circumstances and criteria that shall be taken into consideration when determining which LEA is to receive the OPFML analytical work and based on which circumstances and criterions.

29. In the course of an ML/FT investigation, the Moldovan law enforcement authorities may exercise all the investigative powers set out under the Criminal Procedure Code (CPC), including the interrogation of suspects, conducting on-site investigations, searches and seizing objects and documents in order to collect evidence and trace criminal assets. Nevertheless, as noted in the Third Mutual Evaluation Report, the range of techniques available is fairly limited and the use of such techniques is restricted to serious crimes, especially serious crimes and exceptionally serious crimes.

#### **4. Preventive Measures – financial institutions**

30. Since the 3<sup>rd</sup> round mutual evaluation the Republic of Moldova has made welcome progress in aligning its AML/CFT legal framework with international standards. At the time of the present assessment, the risk-based approach is embedded in the AML/CFT Law and in related guidance and regulation.
31. According to the legal requirements, reporting entities are obliged to establish due diligence procedures. The identification and verification of the identity of natural or legal person and of the beneficiary owner on the basis of the identity documents, as well as data or information obtained from a reliable and independent source is required by the AML/CFT Law. Enhanced CDD is required by law for relationships established with politically exposed persons (PEPs), correspondent current accounts and non-face to face relationships.
32. The scope of AML/CFT obligations broadly covers the financial institutions (FI) provided by the FATF standard. However, the Law contains one exception to this, namely the “A” license Savings and Credit Associations. The evaluation team is of the opinion that those should be included within the scope of the AML/CFT Law.
33. The FI in the Republic of Moldova appeared to be generally aware of the identification and verification obligations. They also appeared well aware of their obligation to retain the relevant documentation and the importance of a quick response to the authorities in case of a request for documentation.
34. However, further guidance is needed on the steps to be taken in respect of the identification of the beneficial owners and for the process of understanding the ownership and control structure of customers that are legal persons or legal arrangements, including cases when somebody exercises ultimate effective control.
35. Moldovan laws and regulations do not allow third party introducers but neither do they specifically prohibit it. According to the explanations provided to the evaluators by the Moldovan authorities, the prohibition would result logically from the CDD obligations in the sense that the FIs are obliged to apply the identification requirements directly on their customers. Neither the prohibition nor the requirement to apply identification procedures in direct contact are stated in the law.
36. The stipulations of the AML/CFT Law as well as those of the Law on Financial Institutions state that financial secrecy should not obstruct the application of the AML/CFT requirements including the provision of information to the FIU. The scope of this legislation has been broadened since the previous evaluation round. The evaluators were not advised of any particular problems occurring in practice.

37. The record keeping requirements are largely in line with the FATF standards. According to the AML/CFT Law, the FI are required to keep records of the information and documents of the natural and legal persons, of the beneficial owner, the registers of identified natural and legal persons and the archive of accounts and primary documents, including business correspondence, for a period of least 5 years after the business relationship ends or bank account closes. Upon supervisory authorities' request, the reporting entities are required to prolong the record keeping period.
38. In respect of the wire transfers requirements, the Regulations on the activity of banks within the international money transfer systems are stricter than the AML/CFT Law. According to this Regulation, the participating bank shall develop and implement effective mechanisms for establishing the identity of the payer/beneficiary before providing an international money transfer service; the identity of the payer/beneficiary shall be made, at least, based on the identification documents, and if an empowered person makes the transfer, based on the identification documents and letter of attorney which shall be presented. There is no threshold for identification mentioned in the Regulation, therefore it appears that the identification requirements apply for all transfers regardless of the amount. In practice, in the Republic of Moldova, only banks and the Post Office perform wire transfers. Deficiencies have been identified in relation to effective monitoring of compliance with the rules and regulations implementing SRVII, mainly related to the supervision of the Post Offices.
39. The AML/CFT Law requires that the reporting entities shall adopt enhanced due diligence measures when natural or legal persons receive or send funds from/to countries that lack norms regarding money laundering and financing of terrorism. Furthermore, lists of countries which are considered to pose a higher risk of ML/FT are annexed to the Guide to Suspect Activities or Transactions under the Law on Prevention and Combating of Money Laundering and Terrorism Financing. However, no requirement to pay special attention to transactions performed by customers from countries that do not apply or insufficiently apply FATF Recommendation is to be found in the Moldovan legislation. For the non-banking FIs, the counter measures for countries that do not apply or insufficiently apply the FATF Recommendations are limited to enhanced CDD.
40. The requirement to report suspicions of ML/FT is primarily set out under the AML/CFT Law. This obligation is supplemented by various provisions under other laws and regulations. It has to be noted that the reporting obligation provided by the AML/CFT legislation refers to "*transactions*" and not to "*funds*" which are suspected to be linked or related to or are used for terrorism, terrorist acts of by terrorism organisations. This is clearly not in line with essential criterion IV.1 as it limits the obligation of reporting and does not cover assets (including funds) which are in the possession of terrorists or used for terrorism or terrorist organisations but which are not used in a transaction.
41. The Orders issued by the CCECC provide an extensive list of criteria and indicators of suspect ML/FT activities or transactions within both the financial and non-financial sector. The evaluators are concerned that the systematic (tick box based) reporting might negatively influence reporting entities' reporting behaviour.
42. In terms of effectiveness, there is a major discrepancy between the number of (ML related) STRs submitted by banks and the reports submitted by other reporting entities. The evaluators consider the reporting level by all reporting entities, except for banks, to be extremely low, although the authorities remarked that the OPFML is focussing considerable resources to raise awareness among all reporting entities on their reporting obligations.
43. The AML/CFT Law requires the reporting entities to adopt proper programmes on prevention and combating money laundering and financing terrorism (PCMLTF), according to the recommendations and normative acts approved by the supervising authorities. FIs are obliged to include in their

PCMLTF the name of a managerial employee responsible for ensuring the compliance of the policies and procedures with the AML/CFT legal requirements. However, both the AML/CFT Law and the Law on Financial Institutions remain silent on the internal audit function including its size and duties concerning AML/CFT matters.

44. There are no legal requirements for foreign branches and subsidiaries of the Moldovan FIs to observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local laws and regulations permit. During the on-site visit, the evaluation team was informed that in practice, Moldovan FIs do not have foreign branches. However, there are no provisions in the Moldovan legislation which prohibit the FIs from having foreign branches. Furthermore, the Law on Financial Institutions explicitly mentions “*branches and subsidiaries, including those abroad*” which explicitly opens the possibility for the FIs to open foreign branches in the future.
45. According to the Law on Financial Institutions, it is forbidden to engage in financial activities, without a license issued by the National Bank of Moldova. According to the AML/CFT Law, the FIs are not allowed to establish business relations with shell banks or with a bank that is known as allowing shell banks to use its accounts. Although the general provisions on the correspondent banking requirements are largely in line with the FATF standards, there is no express requirement for all FIs to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.
46. The main legal provisions for the AML/CFT regulation and supervision of the FIs are contained in the AML/CFT Law, which lists the OPFML, the National Bank of Moldova, the National Financial Market Commission and the Ministry of Information Technology and Communications as supervisory bodies. The allocation of supervisory powers over a specific type of reporting entity to a specific authority is not contained in the AML/CFT Law but the Moldovan authorities indicated that this derives from the AML/CFT Law in conjunction with the sector specific laws (e.g. Law on Financial Institutions, Law on Insurance).
47. The evaluators reached the conclusion that AML/CFT supervision is effectively carried out by the NBM with regard to the FIs within its remit (banks and foreign exchange entities). The effectiveness of the NCFM’s supervision over the non-banking financial market participants is assessed to be of a sufficient degree in line with the FATF Recommendations. With respect to the remaining non-banking financial market participants (Post Office, leasing companies) there is a lack of legal clarity which was not compensated by the amendments to the AML/CFT Law.
48. The requirements related to prevention of criminals from controlling FI and the fit and proper criteria are largely in place through the AML/CFT Law and sectoral Laws. However, there are no procedures to prevent criminals from holding or being the beneficial owner of a significant or controlling interest or holding a management functions in case of leasing companies.
49. The evaluation team welcomes the amendments brought in August 2011 to Art. 291<sup>1</sup> of the Administrative Code that now contains penalties for violation of the provisions of the AML/CFT Law. According to the new article, infringements of the AML/CFT legislation include fines. The fines amount from 100<sup>1</sup> to 150 conventional units for natural persons (~ from €133 to €200), and from 300 to 500 conventional units for legal persons (~ from €400 to €670). The evaluators are of the opinion that the amounts of the possible fines are far from being dissuasive for the financial sector.

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<sup>1</sup> According to Art. 64 of Criminal Code, “*one conventional unit*” is equivalent of 20 Moldovan lei.

Furthermore, contemplating the minimum and the maximum limits of the fines, it is difficult to assess that they might be applied in a “*proportionate*” manner.

50. The money and value transfer providers (MVT) are not mentioned as such in the AML/CFT Law (except for the Post Office) therefore they do not have direct obligations in respect of SR VI requirements. In practice, the MVT services are provided by the banks and post offices and all AML/CFT measures apply. The banks demonstrated a relatively high level of awareness in respect of CDD and reporting obligations and since the MVT services are considered as part of the banking services, the AML/CFT obligations pertain equally.
51. In order to provide guidance for the reporting entities, the CCECC has issued Orders establishing criteria and indicators for suspicious transactions and activities. The criteria are dedicated for every specific financial institution, and describe ML and TF methods and techniques to which FIs have to pay attention when carrying out the transactions.
52. The guidance issued by the supervisory authorities is limited. Although the NBM and NCFM are empowered to do so, they have not made extensive use of this power so far. Instead, they rely to a high degree on regulations further detailing the provisions of the AML/CFT Law (AML/CFT Banks’ Regulation and the AML/CFT NCFM Regulation). The two documents contain guidance on the structure of the AML/CFT programmes, know your customer and CDD measures, reporting procedures, data storage and internal controls but they do not contain red flags, indicators or ML trends.

## **5. Preventive Measures – Designated Non-Financial Businesses and Professions**

53. In the Republic of Moldova all the DNFBP specified by the FATF Recommendations are covered by the AML/CFT Law and all the obligations applicable to the FI are relevant for the DNFBP too.
54. Although the legal system is largely in place and the AML/CFT provisions apply equally to the DNFBP, the evaluators have effectiveness concerns as a series of deficiencies have been identified in relation to the application of the risk-based approach in respect of CDD, the verification of the identity documents and the measures taken for PEP’s identification.
55. The number of STRs received from DNFBP is low and therefore more emphasis is needed to increase their awareness on AML/CFT matters.
56. Significant steps have been taken by the Moldovan authorities to ensure regulation, supervision and monitoring of the DNFBP. However, some technical and effectiveness shortcomings were identified. The allocation of supervisory powers in the area of AML/CFT to a specific supervisory authority for a specific supervised category is still missing.
57. The supervisory authority for the casinos is the Licensing Chamber (LiC). The main LiC activity is related to licensing. According to the LiC representatives, the beneficial owner is considered to be the shareholder of the casino or the person which has a power of attorney to represent the casino in relation to the authorities or other entities. No measures are in place to identify the beneficial owner as defined by the FATF standards.
58. There are no legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in casinos.

59. The Ministry of Finance (MoF) licenses and supervises auditing activities and is empowered to conduct inspections to verify compliance with the licensing requirements and conditions set out in licensing agreements, including for AML/CFT matters. It was unclear to the evaluation team which legal provision stipulates the supervisory powers of the MoF over the auditors for AML/CFT purposes.
60. The Ministry of Justice (MoJ) (Division for notaries and lawyers) licenses and regulates the activity of lawyers and notaries. The powers of the MoJ boil down to controlling compliance of persons subject to supervision with the legal practice laws, license requirements and conditions, obtaining information on the observance of the legislation and submitting proposals on disciplining lawyers to the Bar associations.
61. The supervisory function for controlling compliance of real estate agents with the AML/CFT legislation, including inspections and imposition of sanctions for violations, is assigned to the FIU. However, the FIU's capacity to conduct supervision and monitoring over the DNFBP (human and financial resources) is limited. The other supervisory authorities do not seem to pay special attention to the AML/CFT issues during their on-site inspections.

## **6. Legal Persons and Arrangements & Non-Profit Organisations**

62. The activity of companies and other profit-making legal persons is primarily regulated by the Law on Enterprises and Entrepreneurship (Law No. 845-XII of 3 January 1992 as amended) which includes provisions on entrepreneurial activities in the Republic of Moldova and determines the legal, organisational and economic principles of this activity.
63. Steps taken to simplify and to speed up the registration process, to increase the transparency of the legal persons and to provide full availability of registered data, are to be appreciated. Notwithstanding that, the concept of beneficial ownership, which has otherwise been established in the Moldovan legislation by the AML/CFT Law, is entirely absent from the legislation governing corporate entities and their registration. Therefore, the examiners have serious doubts that any registers of legal entities contain any relevant information on beneficial owners of legal persons, as this term is defined by the AML/CFT Law.
64. The use of shell or “ghost” companies for committing ML and other crimes through fictitious banking transactions remains a laundering method in the Republic of Moldova despite the current company registration rules and the introduction of corporate criminal liability.
65. The Civil Code sets out general provisions with regard to the non-profit organisations (NPOs) (non-commercial organisations), their legal form (NPOs can operate in three legal forms: associations, foundations and institutions), the compulsory clauses to be enclosed in their statutes and provisions that regulate the economic activity and the conflicts of interest within the NPOs.
66. The evaluators noted the developments that took place in the Republic of Moldova in the areas relevant to SR.VIII. One of the main achievements was the establishment of the central register of NPOs which, considering the volume of relevant information and documents it contains, as well as the public accessibility of all registered data through the Internet, not only increases the transparency of the NPO sector, but will doubtless facilitate the examination of any specific NPO and accelerate any related procedures or investigations.

## 7. National and International Co-operation

67. The National Strategy sets out the basis for coordination between all authorities involved in the AML/CFT sphere and sets the CCECC as the authority responsible for its monitoring. The authorities which are required to contribute towards the implementation of the strategy are the National Bank of Moldova, the National Commission for Financial Markets, the Ministry of Justice, the Ministry of Information Technology and Communications, the Ministry of Finance, the Customs Service the General Prosecutor Office, Ministry of Interior, Ministry of Finance, Chamber of Licence, Ministry of Economy and National Bureaux of Statistics.
68. The National Strategy is also intended to create a forum for consultation between the various authorities involved in the prevention of ML/FT. However, the evaluators were not informed as to whether the authorities concerned meet on a regular basis to discuss issues and best practices in the AML/CFT field.
69. On a practical level, the OPFML cooperates with law enforcement authorities, especially the CID, on a daily basis. In the course of an ML/FT investigation the CID and the Anti-corruption Prosecutor Office co-operate closely with the OPFML. However, such close cooperation does not appear to exist between the OPFML and other law enforcement authorities which receive disseminations from the OPFML.
70. The Republic of Moldova is a party to international agreements, such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its additional protocol, the 1957 Council of Europe Convention on Extradition and its two protocols and the 1990 Strasbourg Convention. Furthermore, the Republic of Moldova signed and ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS n°198) as well.
71. Neither the CCP nor the MLA Law allow for the refusal of MLA requests on the grounds of secrecy or confidentiality requirements. In the Moldovan law, no financial institution secrecy law appears to inhibit the implementation of the FATF Recommendations and this general approach must be followed when executing foreign letters rogatory.
72. Pursuant to the provisions of the AML/CFT Law, the OPFML, on its own initiative or on the basis of a request, can send, receive or exchange information and documents with foreign authorities having similar functions to the OPFML. Such exchange of information shall be subject to the conclusion of a memorandum of understanding (*cooperation agreement*). The law enforcement authorities use informal channels, such as Interpol and Europol, for the exchange of intelligence in the course of criminal investigations.
73. The NBM is empowered to represent the Republic of Moldova in all intergovernmental meetings, councils and organisations concerning monetary policy, bank licensing and supervision, and other matters that are within its fields of competence. According to the NCFM Law, the Commission is legally empowered to cooperate with the corresponding specialised international organisations and to be their member, as is the case of the IAIS. Some shortcomings have been identified in respect of the legal basis for the NBM to sign bilateral agreements, and in respect of the NCFM's obligations to provide assistance in a rapid, constructive and effective manner to foreign counterparts.

## **8. Resources and statistics**

74. The OPFML is structured in four separate departments: the Tactical Analysis Department composed of nine officers, the Financial Investigation Department composed of five officers and the Strategic Analysis Department composed of two officers and the International Cooperation Department composed of two officers. The permanent staff of the OPFML is supplemented by ten officers of the CCECC which are delegated by the Director of the CCECC to assist the OPFML in undertaking its functions and duties.
75. An assessment of the internal structure of the OPFML does not appear to have been properly undertaken in order to determine the strengths and weaknesses of each department of the OPFML and to allocate resources in accordance with the identified needs.
76. Analytical software is available to assist the analysts in the analysis of cases. However, the authorities should ensure that the OPFML is adequately funded to enable it to properly perform its functions without the need to rely on the resources of the CCECC.
77. Law enforcement officers need specific training on proceeds of crime identification and tracing. This should be complemented with adequate software to assist the investigative authorities in financial investigations.
78. The resources of the NBM appear largely adequate allowing for on-and off-site supervision but the human resources of the NCFM do not appear sufficient for effective supervision of all supervised entities, given the number of reporting entities. For both supervisory authorities, professional standards and integrity of employees seem to meet the requirements and some training is in place.
79. The statistics kept by the Moldovan authorities are not always comprehensive and do not contain all the necessary data for an accurate analysis of effectiveness. No information on the predicate offence is contained in the statistics on ML investigations, prosecutions and convictions.
80. The situation of the statistics maintained by the supervisors has improved since the 3<sup>rd</sup> MER. However, better statistical data should be kept by all supervisory bodies, detailing the nature of AML/CFT violations detected and penalties imposed. Statistics of on-site visits and use of sanctions need reviewing collectively and on a coordinated basis, in order to have a clear picture of the level of AML/CFT compliance across the financial sector.

**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 the Republic of Moldova. *It includes ratings for FATF Recommendations from the 3<sup>rd</sup> round evaluation report that were not considered during the 4<sup>th</sup> assessment visit. These ratings are set out in italics and shaded.*

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating<sup>2</sup></b>
<b>Legal systems</b>		
1. Money laundering offence	<b>LC</b>	<p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Low number of ML convictions achieved;</li> <li>• Uneven understanding by judiciary on the need for a prior conviction to achieve ML convictions.</li> </ul>
2. <i>Money laundering offence Mental element and corporate liability</i>	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• The scope of corporate criminal liability is limited to commercial legal entities</li> </ul>
3. Confiscation and provisional measures	<b>PC</b>	<ul style="list-style-type: none"> <li>• The explicit coverage of the body (“corpus”) of the ML offence has not yet been provided for;</li> <li>• Inconsistency in criminal legislation as regards confiscation from third party legal persons;</li> <li>• Incapability to confiscate (at least the equivalent value) of proceeds the perpetrator or a mala fide third party transferred to a bona fide third party without compensation;</li> <li>• Overly high evidentiary standards for the application of provisional measures (sequestration) together with restrictions as regards the property that belongs to third parties and legal entities;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Insufficient effective use of the current seizure/sequestration and confiscation provisions;</li> <li>• The volume of confiscated property is low in comparison with the number of convictions for predicate offences.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>C</b>	

<sup>2</sup> These factors are only required to be set out when the rating is less than Compliant.



5. Customer due diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• Exclusion of “A” license savings and credit associations from the application of the AML/CFT Law;</li> <li>• No legal prohibition on keeping anonymous accounts in the non-banking financial sector for all customers;</li> <li>• Exemptions from CDD requirement exist;</li> <li>• No requirements or instructions on identification of the legal persons in case of Post Office and leasing companies;</li> <li>• No clear procedure in respect of Post Office and leasing companies on identification measures and verification of the source of funds;</li> <li>• No clear requirements to determine whether the customer is acting on his own behalf or on behalf of somebody else (except for accounts opened for investments and fiduciary assets);</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Effectiveness and efficiency of implementation is not demonstrated in non-banking financial institutions;</li> <li>• No domestic ML/TF risk assessment to allow effective application of the risk based approach in performing CDD.</li> </ul>
6. Politically exposed persons	<b>LC</b>	<p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Lack of appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP;</li> <li>• Effectiveness and efficiency of implementation not demonstrated.</li> </ul>
7. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>• Insufficient safeguards against correspondent relationships with respondent institutions with insufficient anti-money laundering and terrorist financing controls.</li> </ul>
8. New technologies and non face-to-face business	<b>PC</b>	<ul style="list-style-type: none"> <li>• No direct requirement for the financial institutions to pay special attention to any money laundering threats that may arise from new or developing technologies;</li> <li>• No requirements for the Post Office and leasing companies in respect of having policies in place or taking measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• Effectiveness not fully demonstrated due to recent adoption of legal provisions.</li> </ul>
9. Third parties and introducers	<b>NC</b>	<ul style="list-style-type: none"> <li>• There are no general legal or regulatory provisions applicable to intermediaries and third parties in the case where financial institutions are relying on</li> </ul>

		them for CDD purposes, despite evidence of it happening in practice.
10. Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>• No express legal provision that the transaction records should be sufficient to permit reconstruction of individual transaction so as to provide, if necessary, evidence for prosecution of criminal activity;</li> <li>• Law enforcement authorities are not empowered to request the prolongation of the record keeping period.</li> </ul>
11. Unusual transactions	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no definition or further guidance for the financial institutions to identify complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose;</li> <li>• No requirements for non-banking FI and Post Offices to examine as far as possible the background and purpose of such transactions;</li> <li>• No requirement to set forth the findings (of the examinations) in writing;</li> <li>• No requirement to keep records on the findings of examinations of unusual large transactions;</li> <li>• Effectiveness not demonstrated.</li> </ul>
12. DNFBP – R.5, 6, 8-11	<b>PC</b>	<ul style="list-style-type: none"> <li>• Accountants not covered by the AML/CFT Law in practice;</li> <li>• No clear requirements to determine whether the customer is acting on his own behalf or on behalf of somebody else.</li> </ul> <p><i>Applying Recommendation 5</i></p> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• No procedure on identification measures and verification source (with the exception of auditors);</li> <li>• The concept of risk-based approach in respect of CDD is generally absent;</li> <li>• No verification of the identity documents is routinely performed from independent and reliable sources.</li> <li>• No measures are in place in respect of the beneficial owners.</li> </ul> <p><i>Applying Recommendation 6</i></p> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Low awareness on PEP matters all across the DNFBP.</li> </ul> <p><i>Applying Recommendation 8 and 9</i></p> <ul style="list-style-type: none"> <li>• N/A.</li> </ul>

		<p><b><i>Applying Recommendation 10</i></b></p> <ul style="list-style-type: none"> <li>• No express legal provision that the transaction records should be sufficient to permit reconstruction of individual transaction so as to provide, if necessary, evidence for prosecution of criminal activity.</li> </ul> <p><b><i>Applying Recommendation 11</i></b></p> <ul style="list-style-type: none"> <li>• There are no definition or further guidance for the DNFBP to identify complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose;</li> <li>• No requirements for DNFBP to examine as far as possible the background and purpose of such transactions;</li> <li>• No requirement to set forth the findings (of the examinations) in writing;</li> <li>• No requirement to keep records on the findings of examinations of unusual large transactions;</li> <li>• Low awareness on unusually large transaction matter across the sector.</li> </ul>
<p>13. Suspicious transaction reporting</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• The scope of the reporting requirement does not extend to the reporting of “<i>funds</i>” suspected to be the proceeds deriving from “<i>criminal activity</i>”;</li> <li>• The reporting obligation provided for FT is limited to “<i>transactions</i>” and does not extend to “<i>funds</i>”;</li> <li>• Reporting is limited to a “<i>request</i>” for a transaction or activity;</li> <li>• Issues regarding the definition of “<i>suspicious transactions and activities</i>”;</li> <li>• Certain exemptions applicable to the reporting regime;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Low level of reporting by non-banking financial institutions;</li> <li>• Low level of awareness of the reporting requirement by non-banking financial institutions;</li> <li>• Concerns on the effectiveness of the systematic reporting mechanism (tick box approach).</li> </ul>
<p>14. Protection and no tipping-off</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• Protection of non-employee natural persons (directors, officers etc.) who take part in directing, managing or representing a reporting entity is unclear;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• No specific sanctions applicable to natural persons for the violation of the prohibition of “<i>tipping-off</i>”.</li> </ul>

<p>15. Internal controls, compliance and audit</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• No requirements for all reporting entities to establish and maintain internal procedures, policies and controls to detect unusual and suspicious transactions and report to the FIU;</li> <li>• No requirements for the non-banking financial sector, that the AML/CFT compliance officer and other appropriate staff have timely access to customer identification data and other CDD information, transaction records, and other relevant information;</li> <li>• No requirement for the non-banking financial system to maintain an adequately resourced and independent audit function to test compliance (including sample testing) with these procedures, policies and controls;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• The question of effectiveness arises for financial sector participants other than banks.</li> </ul>
<p>16. DNFBP – R.13-15 &amp; 21</p>	<p><b>NC</b></p>	<p><b><i>Applying Recommendation 13 and SR.IV</i></b></p> <ul style="list-style-type: none"> <li>• Unclear statute for the independent accountants in respect of the scope of the reporting requirements;</li> <li>• The scope of the reporting requirement does not extend to the reporting of “funds” suspected to be the proceeds deriving from “criminal activity”;</li> <li>• The reporting obligation provided for FT is limited to “transactions” and does not extend to “funds”;</li> <li>• Reporting is limited to a “request” for a transaction or activity;</li> <li>• Issues regarding the wording used for the reporting requirement and the definition of “suspicious transactions and activities”;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Low level of STRs submitted by DNFBP;</li> <li>• Low-level of awareness on the reporting obligation by DNFBP.</li> </ul> <p><b><i>Applying Recommendation 14</i></b></p> <ul style="list-style-type: none"> <li>• Protection of non-employee natural persons (directors, officers etc.) who take part in directing, managing or representing a reporting entity is unclear;</li> <li>• No specific sanctions applicable to natural persons for the violation of the prohibition of “tipping-off”;</li> <li>• Lack of awareness on the legal protection on AML/CFT matters for some sectors (lawyers).</li> </ul>

		<p><b><i>Applying Recommendation 15</i></b></p> <ul style="list-style-type: none"> <li>• No requirements for all reporting entities to establish and maintain internal procedures, policies and controls to detect unusual and suspicious transactions and report to the FIU.</li> <li>• No requirements for the AML/CFT compliance officer and other appropriate staff to have timely access to customer identification data and other CDD information, transaction records, and other relevant information;</li> <li>• No proper trainings for all of the DNFBP;</li> <li>• No independent audit applied in practice;</li> <li>• No special screening procedures recruitment of employees.</li> </ul> <p><b><i>Applying Recommendation 21</i></b></p> <ul style="list-style-type: none"> <li>• The requirement to pay special attention refers only to transactions performed in relation to the countries that do not apply or insufficiently apply FATF Recommendation and do not extend to business relationships with clients from those countries;</li> <li>• No requirements for DNFBP to examine the transactions with no apparent economic or lawful purpose related to countries which do not or insufficiently apply FATF Recommendations;</li> <li>• Counter-measures limited to ECDD;</li> <li>• Low level of awareness on weaknesses in the AML/CFT systems of other countries.</li> </ul>
17. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>• No clear designation of authorities to impose sanctions;</li> <li>• Penalties for non-compliance with the AML/CFT Law are incomplete and not clearly specified;</li> <li>• Fines are not enough dissuasive and cannot be applied in a proportionate manner;</li> <li>• No possibility to sanction directors and senior management of Post Office and leasing companies;</li> <li>• Effectiveness issues.</li> </ul>
18. Shell banks	<b>LC</b>	<ul style="list-style-type: none"> <li>• No specific requirement for the banks to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• Insufficient understanding among market participants on how to verify that their correspondent banks are not servicing shell banks.</li> <li>•</li> </ul>

19. <i>Other forms of reporting</i>	<i>Compliant</i>	
20. Other DNFBP and secure transaction techniques	<b>LC</b>	<ul style="list-style-type: none"> <li>• Dealers in high value and luxury goods, pawnshops and auction houses are not subject to the AML/CFT Law;</li> <li>• No evidence of measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.</li> </ul>
21. Special attention for higher risk countries	<b>PC</b>	<ul style="list-style-type: none"> <li>• The requirement to pay special attention refers only to transactions performed in relation to the countries that do not apply or insufficiently apply FATF Recommendation and do not extend to business relationships with clients from those countries;</li> <li>• No requirements for non-banking financial institutions to examine the transactions with no apparent economic or lawful purpose related to countries which do not or insufficiently apply FATF Recommendations;</li> <li>• Counter-measures limited to ECDD for the non-banking financial institutions.</li> </ul>
22. Foreign branches and subsidiaries	<b>NC</b>	<ul style="list-style-type: none"> <li>• No legal requirements for foreign branches and subsidiaries to observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e. host country) laws and regulations permit.</li> </ul>
23. Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• The allocation of supervisory responsibilities are not clear;</li> <li>• Exclusion of „A“ Savings and Credit Association from the supervision in AML/CFT matters;</li> <li>• No requirements to carry out fit and proper tests of senior managers and executive/supervisory board members in insurances;</li> <li>• No procedures to prevent criminals from holding or being the beneficial owner of a significant or controlling interest or holding a management functions in case of leasing companies;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• In the absence of a risk assessment, the implementation of adequate risk based supervision was not demonstrated;</li> <li>• Low number of on-site examinations for AML/CFT compliance in the non-banking financial sector;</li> <li>• Effectiveness of supervision over some reporting entities by the designated supervisory authority was not demonstrated;</li> <li>• No evidence of supervision for the value transfer system provided by the Posta Moldovei.</li> </ul>

24. DNFBP - Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• No supervisory authority and no supervision on, independent accountants and real estate agents;</li> <li>• Unclear supervisory powers and allocation of supervisory responsibilities for lawyers.</li> <li>• Incomplete sanctions regime for the DNFBP sector;</li> <li>• No requirements to carry out fit and proper tests of senior managers and executive/supervisory board members for casinos;</li> <li>• No requirements to prevent criminals from holding or being the beneficial owner of a significant or controlling interest or holding a management functions of a casino;</li> </ul> <p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• Effectiveness was not demonstrated;</li> <li>• Little applicability of the sanctioning regime for the DNFBP.</li> </ul>
25. Guidelines and Feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>• No information on results of financial investigations conducted by the FIU is available to financial institutions;</li> <li>• Little information is provided to financial institutions on recent trends (typologies);</li> <li>• No sector-specific guidelines for FI and DNFBP;</li> <li>• The supervisory authorities and the FIU do not provide any feedback to the DNFBP sector.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	<b>LC</b>	<p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Lack of proper allocation of duties between different departments of the OPFML which may have a negative bearing on the proper functioning of the Tactical Analysis Department;</li> <li>• No clear methodology on the beneficiaries recipients of the FIU disseminations of the OPFML;</li> <li>• Inability to comprehensively assess the effectiveness of the analytical function of the OPFML due to incomplete statistics.</li> </ul>
27. Law enforcement authorities	<b>PC</b>	<ul style="list-style-type: none"> <li>• LEAs are not in a position to properly investigate ML/FT offences since the required expertise for the identification and tracing of assets is missing and complete reliance is placed on the OPFML for such purposes;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Emphasis on the investigation of predicate offences rather than ML offences.</li> </ul>

28. Powers of competent authorities	Compliant	
29. Supervisors	PC	<ul style="list-style-type: none"> <li>• The supervisory powers' legitimacy (except for the NBM) is disputable;</li> <li>• Supervisory authorities are not authorised in respect of Post Office and leasing companies to conduct AML/CFT inspections;</li> <li>• No explicit competence of the NCFM to conduct on-site inspections;</li> <li>• No legal basis meeting the formal requirements for the supervisory authorities to compel production of records, documents and alike in respect of Post Office and leasing companies;</li> <li>• No supervisory powers to apply sanctions against entities' directors and senior management;</li> </ul> <p><b>Effectiveness:</b></p> <ul style="list-style-type: none"> <li>• A lack of supervision over the non-banking financial market participants.</li> </ul>
30. Resources, integrity and training <sup>3</sup>	PC (composite rating)	<ul style="list-style-type: none"> <li>• Inadequate budget to enable the OPFML to function fully independently and autonomously of the CCECC;</li> <li>• No clear human resources assessment to ensure adequate allocation between departments in the OPFML;</li> <li>• Insufficient training to ensure use of OPFML's IT tools at full capacity;</li> <li>• Lack of adequate training for law enforcement authorities involved in the investigation of ML/FT offences;</li> <li>• Lack of specialised software to assist law enforcement authorities in the investigation of ML/FT offences;</li> <li>• Insufficient AML/CFT specialised staff in some supervisory authorities (NCFM, LiC);</li> <li>• Adequacy of the resourced of the policy makers not demonstrated;</li> <li>• Adequacy of the human and technical resources of the Ministry of Justice dedicated to MLA not demonstrated.</li> </ul>
31. National co-operation	PC	<ul style="list-style-type: none"> <li>• The existing policy level mechanism for co-operation and co-ordination between domestic authorities point in the right direction but appear not to be effective at present in ensuring that all necessary co-operation and co-ordination happens in practice.</li> <li>• Apart from a good level of cooperation between</li> </ul>

<sup>3</sup> The review of Recommendation 30 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on resources integrity and training of law enforcement authorities and prosecution agencies.



		<p>the OPFML and the CID, there seem to be no proper cooperation with other law enforcement authorities.</p> <ul style="list-style-type: none"> <li>• Absence of cooperation mechanisms between law enforcement authorities involved in investigation ML/FT.</li> <li>• Effective cooperation not demonstrated.</li> </ul>
32. Statistics <sup>4</sup>	<b>PC (composite rating)</b>	<ul style="list-style-type: none"> <li>• The effectiveness of the AML/CFT system is not reviewed on a regular basis;</li> <li>• Last quarter of 2008 is not/partly covered by statistics relevant to R.1 and SR.II;</li> <li>• No statistics maintained on the category of reports generating cases opened by the FIU;</li> <li>• No statistics maintained on the cases opened by LEA based on FIU disseminations (including predicate offence);</li> <li>• Limited and unreliable statistics on the number of ML/FT investigations;</li> <li>• Poor quality of statistics on on-site examinations and sanctions in the area of AML/CFT;</li> <li>• Statistics insufficiently detailed (nature of request, time required to respond, number of domestic cases vs. number of letters rogatory);</li> <li>• No statistics on information exchange between supervisory authorities;</li> <li>• Insufficient accurate, detailed and up-to date information and statistics on extradition;</li> <li>• No law enforcement and supervisory authorities' statistics in respect of international cooperation.</li> </ul>
33. Legal persons – beneficial owners	<b>PC</b>	<ul style="list-style-type: none"> <li>• The procedure for registration of corporate entities does not provide for an effective, if any, verification of the data submitted by the applicants and hence it does not ensure an adequate level of reliability of information registered;</li> <li>• Transparency of ownership structure does not provide information on beneficial ownership.</li> </ul>
34. Legal arrangements – beneficial owners	<b>N/A</b>	
<b>International Co-operation</b>		
35. Conventions	<b>LC</b>	<ul style="list-style-type: none"> <li>• Reservations about certain aspects of the implementation of the FT Convention;</li> <li>• Insufficiencies in effective implementation of the standards in relation to ML.</li> </ul>
36. Mutual legal assistance (MLA) <sup>5</sup>	<b>LC</b>	<ul style="list-style-type: none"> <li>• Co-operation could potentially be inhibited by vague and indecisive reasons for refusal;</li> </ul>

<sup>4</sup> 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 3<sup>rd</sup> round report on Recommendation 38, 39 and SR.IX.

<sup>5</sup> 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 3<sup>rd</sup> round report on Recommendation 28.

		<p><b>Effectiveness:</b></p> <ul style="list-style-type: none"> <li>Effectiveness cannot be demonstrated due to the absence of detailed and comprehensive statistics on MLA requests.</li> </ul>
37. <i>Dual criminality</i>	<i>Compliant</i>	
38. <i>MLA on confiscation and freezing</i>	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>No information on co-ordination arrangements for seizure and confiscation</li> </ul>
39. <i>Extradition</i>	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>Legal imperfections may negatively affect the extradition possibilities</li> </ul>
40. Other forms of co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>No legal basis for the NBM to sign bilateral agreements (e.g. MoU) which would facilitate and allow for prompt and constructive exchanges of information directly between counterparts;</li> <li>No explicit legal basis for the NCFM to provide assistance in a rapid, constructive and effective manner to foreign counterparts, to exchange information directly with foreign counterparts;</li> <li>No authorisation to national supervisory authorities to conduct inquiries on behalf of foreign counterparts;</li> <li>With respect to supervisory authorities for leasing companies and Post Office there is a generally noted lack of legal basis for any sort of international cooperation;</li> </ul> <p><b>Effectiveness:</b></p> <ul style="list-style-type: none"> <li>Effectiveness issues regarding law enforcement authorities;</li> <li>Due to a lack of statistics, the effectiveness of supervisory authorities' international cooperation cannot be assessed positively.</li> </ul>
<b>Nine Special Recommendations</b>		
SR.I Implement UN instruments	<b>PC</b>	<ul style="list-style-type: none"> <li>Reservations about certain aspects of the implementation of the FT Convention;</li> <li>Deficient and incomplete implementation of UNSCRs 1267 and 1373;</li> <li>Efforts to identify terrorist assets remained focused on the banking sector only (effectiveness issue).</li> </ul>
SR.II Criminalise terrorist financing	<b>LC</b>	<ul style="list-style-type: none"> <li>FT offence requires that the funds be linked to a specific terrorist act;</li> <li>The financing for any purpose does not cover terrorist organisations and individual terrorists;</li> <li>The generic offence of terrorist act is not explicitly applicable to the population of any country.</li> </ul>

<p>SR.III Freeze and confiscate terrorist assets</p>	<p><b>NC</b></p>	<ul style="list-style-type: none"> <li>• Major deficiencies in the freezing regime: limited applicability as regards assets not directly involved in transactions and a gap in the legal framework as regards the freezing of assets beyond the deadline of 30 working days;</li> <li>• No clear legal structure for the conversion of designations into Moldovan law under procedures initiated by third countries;</li> <li>• No effective and publicly known procedures in place for considering de-listing and unfreezing, authorising access to frozen funds for necessary expenses etc;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Awareness appears to be limited and so does the monitoring of compliance;</li> <li>• Limited implementation of UNSCR requirements especially by the non-banking financial institutions and DNFBP.</li> </ul>
<p>SR.IV Suspicious transaction reporting</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• Reporting is limited to a “request” for a transaction or activity;</li> <li>• Issues regarding the wording used for the reporting requirement and the definition of “suspicious transactions and activities”;</li> <li>• The reporting obligation provided for FT is limited to “transactions” and does not extend to “funds”;</li> <li>• Deficiencies in FT offence might limit the reporting obligation;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Low level of awareness among reporting entities on FT reporting and unclear distinction between reporting obligations under SR II and SR III;</li> <li>• Concerns on the effectiveness of the systematic reporting mechanism.</li> </ul>
<p>SR.V International co-operation</p>	<p><b>LC (composite rating)</b></p>	<ul style="list-style-type: none"> <li>• Deficiencies prescribed under R.40 apply equally to SR.V;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• Effectiveness issues regarding law enforcement international cooperation.</li> </ul>
<p>SR.VI AML requirements for money/value transfer services</p>	<p><b>PC</b></p>	<ul style="list-style-type: none"> <li>• No formal prohibition to provide MVT services without a license;</li> <li>• No list of MVT providers;</li> </ul> <p>The effectiveness of the supervision and sanctioning regime was not demonstrated.</p>
<p>SR.VII Wire transfer rules</p>	<p><b>LC</b></p>	<ul style="list-style-type: none"> <li>• No regulation in respect of the SRVII requirements on domestic transfers for Posta Moldovei;</li> </ul>

		<ul style="list-style-type: none"> <li>• Insufficient supervision/monitoring for wire-transfers related matters impacts effectiveness.</li> </ul>
SR.VIII Non-profit organisations	<b>LC</b>	<ul style="list-style-type: none"> <li>• No mechanism introduced for the periodic/systemic reassessment of the FT vulnerabilities of the NPO sector;</li> <li>• No systemic/programmatic monitoring of the sector with a view to detecting potentially FT-related illicit activities;</li> </ul> <p><b><u>Effectiveness:</u></b></p> <ul style="list-style-type: none"> <li>• In lack of any actual practice and experience, it is doubtful whether the general control mechanisms being in place are appropriate and/or effectively applicable to ensure that funds of other assets, collected by or transferred through NPOs are not diverted to support terrorist activities, terrorists or terrorist organisations.</li> </ul>
<i>SR.IX Cross Border declaration and disclosure</i>	<i>Largely Compliant</i>	<ul style="list-style-type: none"> <li>• Not all bearer negotiable instruments covered by declaration regime;</li> <li>• Insufficient focus on recovery of criminal proceeds (efficiency).</li> </ul>