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Azerbaijan

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

14 December 2011

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

Azerbaijan is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 37th Plenary meeting (Strasbourg, 13-16 December 2011). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 37th Plenary meeting at http://www.coe.int/moneyval

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

Azerbaijan

Second 3rd Round Written Progress Report Submitted to MONEYVAL

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

1.1. Introduction

1. The purpose of this paper is to introduce Azerbaijan's second report back to the Plenary concerning the progress that it has made to remedy the deficiencies identified in the 3rd round mutual evaluation report (MER) on selected Recommendations.

2. The on-site visit to Azerbaijan took place from 12 to 16 April 2008. MONEYVAL adopted the mutual evaluation report (MER) of Azerbaijan under the third round of evaluation at its 28th Plenary meeting (8-12 December 2008). As a result of the evaluation process, Azerbaijan was rated Non-compliant (NC) on 19 Recommendations and Partially Compliant (PC) on 22 Recommendations, including most of the core and key recommendations.

3. According to MONEYVAL procedures, Azerbaijan submitted its first year progress report to the Plenary in December 2009. The 1st progress report was analysed and adopted by the 31st Plenary and as a result Azerbaijan was requested to report back in December 2011.

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

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

6. Azerbaijan received the following ratings on the core Recommendations:

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

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

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

8. It is important to be noted that the present analysis focuses only on the core Recommendations and thus only a part of the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by the country, and, as such, the assessment made does not confirm full effectiveness.

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

A. Main changes since the adoption of the MER

9. Since the adoption of the MER and the First Progress Report, Azerbaijan has taken a significant number of measures with a view to addressing the deficiencies identified in respect of the core Recommendations, including:

- further amendments of the Criminal Code in 2010 in order to bring its ML and FT articles into line with the Palermo and Vienna Conventions and the UN Convention for the Suppression of the Financing of Terrorism;
- amendments aimed at ensuring Azerbaijan completely criminalised money laundering in respect of all the FATF's designated categories of offences by introducing new criminal provisions on market manipulation and new provisions on insider information;
- establishment of more comprehensive CDD procedures and record keeping requirements.

10. Azerbaijan has also taken additional measures to address deficiencies identified in respect of the key and other Recommendations, as indicated in the progress report. However these fall outside of the scope of the present report and are thus not reflected in the text of the analysis beneath.

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

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

11. In the 3rd round MER Azerbaijan was rated NC for R.1, in view of the fact that a number of important deficiencies existed at that time, in particular not all of the designated predicate offences were covered and the ML Article was not in line with Vienna and Palermo Conventions, since physical and material elements were not clearly elaborated.

12. Deficiency No.1 – *Azerbaijan should establish offences of insider trading and stock market manipulation.* Azerbaijan follows an "all crimes" approach to money laundering and the 3rd round report found 19 of the 20 designated categories of offences required by the FATF to be covered for money laundering purposes. Only offences dealing with insider trading and market manipulation were not covered. At the time of the adoption of the first 3rd round progress report legislation to remedy these deficiencies was in draft.

13. The Law of the Republic of Azerbaijan, No 973-IIIQ, "On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism" (adopted by the Parliament of the Republic of Azerbaijan on March 5, 2010) has introduced relevant amendments to the Criminal Code as well. By this Law, enacted on March 17, 2010 market manipulation (article 203-1) and insider trading (article 202-2) have been classified as criminal offences. Under the provisions of the Criminal Code, insider trading and market manipulation offences shall be considered as serious crimes with mandatory confiscation of property.

14. The above-mentioned Law amended the Criminal Code to create an offence under Article 202-2CC of insider trading carrying up to 8 years imprisonment with confiscation of property or a fine from 3,000 to 5,000 manats in its basic form, and with higher penalties where there are aggravating factors, such as a conviction for the same crime or the involvement of an organised crime group or in a preliminary conspiracy. The wording of this article of the CC is broadly in line with international understanding of such an offence. However, it seems that while the transfer of such information to a 3rd party is covered, the provisions of Article 202-2 do not cover the criminal liability of a third party for the use of disseminated insider information.

15. In relation to market manipulation, actions constituting market manipulation are defined in Article 203-1, and appear to correspond with internationally recognised understanding of this concept. This Article of the Criminal Code stipulates imprisonment for market manipulation up to 8 years confiscation of property or a fine from 5,000 to 7,000 manat in its basic form, with higher penalties where there are aggravating factors, such as the conviction for the same crime, the involvement of an organised crime group or the use of the mass media.

16. It should be noted that Azerbaijan in respect of criminalisation of insider trading and market manipulation has taken broad steps to address this deficiency and now all predicate offences to ML are criminalised. This deficiency is fully covered.

17. Deficiency No.2 – *Azerbaijan should widen the offence of "financing of terrorism" to cover all relevant issues as predicate offences to money laundering).*Azerbaijan has taken necessary steps to address this deficiency, in particular re-defined Article 214-1 and brought it into line with the UN Convention for the Suppression of the Financing of Terrorism (see also information under SR.II).

18. Deficiency No.3 – *Azerbaijan should amend legislation to provide clear definitions for the following concepts: "financial transactions", "other transactions", "money funds" or "property".* In order to address these deficiencies Azerbaijan had introduced several amendment to the AML/CFT Law and the Law "On Combating Terrorism". In particular, Articles 1.0.1 (**criminally obtained funds or other property**) and 1.0.3 (**transactions with funds or other property**) of the AML/CFT Law and Article 1 (**funds or other property**) of the Law "On Combating terrorism".

Article 1.0.1. criminally obtained funds or other property *– funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan.*

Article 1.0.3. transactions with funds or other property *– transactions aimed at acquisition, exercising, change or termination of civil rights to the funds or other property as a result of transactions with them.*

Article 1 of the Law of the Republic of Azerbaijan «On Combating Terrorism»:

funds or other property *– means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders.*

19. In relation to the definitions of *"financial transactions"* and *"other transactions"* it should be stated that Article 1.0.3. in conjunction with the article 324 of the Civil Code covers definitions of *"financial transactions"* and *"other transactions"*, since the Articles of the AML/CFT Law and the Civil Code are not limited to specific areas.

20. Regarding the definitions of *"funds"* and *"property"*, they are covered by Articles of the AML/CFT Law (art. 1.0.1.) and the Law "On combating terrorism" (Art. 1). The definitions used in these Articles fully correspond with the definition in the UN Convention for the Suppression of the Financing of Terrorism.

21. It seems that Azerbaijan has taken substantial steps on this matter in order to implement wide definitions in accordance with the international requirements and the recommendations of the 3rd round MER.

22. Deficiency No.4 – *Azerbaijan should make the necessary amendments to article 193-1 of the Criminal Code to bring it into line with the provisions of the Vienna and Palermo Conventions.*In the 3rd round MER of Azerbaijan it was stated that the physical elements of the money laundering offence do not fully correspond to the Vienna and Palermo Conventions. Particularly it was recommended to remedy these shortcomings in order to bring money laundering offence in line with international standards. In this regard Azerbaijan followed those recommendations and amended CC in order to bring ML articles into line with international standards. The wording of the revised articles cited below.

«***Article 193-1. Legalization of funds or other property, knowing that such funds or other property is the proceeds of crime***

193-1.1. Legalization of funds or other property, knowing that such funds or other property is the proceeds of crime, that is:

193-1.1.1. the conversion or transfer of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the funds or other property or of helping any person who is involved in the commission of any crime to evade the legal consequences of his or her action, or accomplishment of financial transactions or other deals for the same purposes by using funds or other property, knowing that such funds or other property is the proceeds of crime;

193-1.1.2. the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to funds or other property, knowing that such funds or other property is the proceeds of crime—

shall be punished by a fine at a rate from 2000 up to 5000 manats or imprisonment from six up to nine years with confiscation of property with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to three years or without it.

193–1.2. The same acts, committed:

193–1.2.1. by group of persons in a preliminary conspiracy;

193–1.2.2. repeatedly;

193–1.2.3. by a person using his/her official position—

shall be punished by imprisonment from eight up to eleven years with confiscation of property, with deprivation of the right to engage in certain activities and to hold certain post up to three years or without it.

193–1.3. The acts provided for by articles 193–1.1 or 193–1.2 of this Code, committed:

193–1.3.1. by organized group or criminal community (criminal organization);

193–1.3.2. in large amount—

shall be punished by imprisonment from ten up to twelve years with confiscation of property with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to three years or without it.

Note: In the article 193–1.3.2 of this Code the "large amount" shall mean the amount exceeding 45 000 manats.

Article 194. Acquisition, possession, use or disposition of funds or other property, knowing, at the time of receipt, that such funds or other property is the proceeds of crime

194.1. Beforehand not promised acquisition, possession or use of funds or other property in large amount, knowing, at the time of receipt, that such funds or other property is the proceeds of crime, or disposition of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose not to conceal or disguise the illicit origin of the funds or other property—

shall be punished by the fine from one thousand up to three thousand manats or restriction of liberty for the term up to three years or with the imprisonment for the term up to four years with confiscation of property.

194.2. The acts provided for by article 194.1 of the present Code, committed:

194.2.1. by group of persons in a preliminary conspiracy or organized group;

194.2.2. by an official person with use of his/her service position;

194.2.3. by person, who have been convicted earlier for this crime;

194.2.4. in the large amount—

shall be punished by imprisonment for the term from six up to ten years with confiscation of property.

In Article 194.1 of the Criminal Code «significant amount» means the sum from one thousand up to seven thousand manats, in Article 194.2.4 of the Criminal Code «large amount» means the sum exceeding seven thousand manats.

23. According to the wording of the new Articles, the ML offence has been brought into line with the requirements of the Vienna and Palermo Conventions, with the exception that the offence in A.194 (acquisition, possession or use) is limited to property in "significant amounts" and "large amounts" (1-7,000 Manats, approx 900 Euros), which is not in line with the international standard. Azerbaijan should consider revising Article 194 in a timely fashion in order to meet all the requirements of the Vienna and Palermo Conventions.

24. Deficiency No.5 – *Azerbaijan should criminalise clearly and explicitly the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action.* According to the amendments to the Criminal Code Article 193 was revised. The physical and material elements, in particular the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or

of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action, are covered by the wording of the Article 193-1.1.1.

25. Deficiency No.6 – *Azerbaijan should criminalise clearly the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.* Article 193-1.1.2 of the Criminal Code (please see information above) covers the requirements of the Vienna and Palermo Conventions, specifically the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.

26. Deficiency No.7 – *Azerbaijan should criminalise clearly the acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime.* As it was stated in the previous paragraphs, Azerbaijan has introduced amendments to the Criminal Code to bring the ML offence into line with international standards. In this regard Article 194 (the wording of the article is cited in paragraph 25) of the CC was amended to cover such physical elements as acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime.

27. However, the property is still limited to property in "significant amounts" and "large amounts".

28. Deficiency No.8 – *Azerbaijan should criminalise conspiracy in order to cover agreements to commit basic money laundering by others not involved in organised crime.* As it has been explained by Azerbaijan to the experts in the course of previous discussions a combination of Articles 27, 28 (preparation of crime), 29 (attempt) of the CC can provide a functional equivalence to the Common Law offence of conspiracy for minor serious and especially serious crimes and when prosecuting offences committed by organised crime. While conspiracy to commit basic ML is not explicitly provided for, it is accepted that this can be covered either as preparation or attempt (Article 27, 28, 29 CC).

29. Deficiency No.9 – *Azerbaijan should clarify the Criminal Code to make it clear that Azerbaijan has jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen.* Concerning the clarification of jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen, the Azerbaijani authorities rely on article 12 (*Implementation of the criminal law concerning the persons who have committed a crime out of border of the Republic of Azerbaijan*) of the Criminal Code:

A foreign citizen who has committed a crime outside of jurisdiction of the Republic of Azerbaijan, shall be instituted to criminal liability under the Criminal Code when:
if the crime targeted against the citizens or interests of the Republic of Azerbaijan;
in the cases stipulated by international instruments to which the Republic of Azerbaijan is a party, if these persons were not condemned in the foreign state.

Foreign citizen committed a crime against the peace and mankind's, war crimes, terrorism, financing of terrorism, stealing of an air ship, capture of hostages, torture, a sea piracy, illegal circulation of narcotics and psychotropic substances, manufacturing or sale of false money, attack on persons or the organizations using the international protection, the crimes connected to nuclear materials, and also other crimes, punishment for which stipulated in international instruments to which the Republic of Azerbaijan is a party, shall be instituted to criminal liability and punishment under the Criminal Code, irrespective of a place of committing a crime.

30. This provision is not wholly relevant as the person who commits the underlying predicate offence abroad may not be the money launderer. Of more relevance is the article 2.2 of the AML/CFT Law, which appears to give an explicit basis for ML jurisdiction when the funds have been criminally obtained outside Azerbaijan.

31. It seems therefore that Azerbaijan has jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen, which will allow to investigate third/autonomous ML. However it is impossible to assess the effectiveness of these provisions in practice since there has been no cases investigated in this respect.

32. Deficiency No.10 *Azerbaijani prosecutors should test the provisions they have to prosecute money laundering as a "stand alone" crime and, where necessary, invite the courts to draw necessary inferences.* It appears that the Azerbaijani prosecutors have still not addressed autonomous / stand alone ML cases, and ML cases remain coupled with the predicate offence (corruption).

33. Deficiency No.11 – *Azerbaijan is strongly advised to introduce a provision in its legislation clarifying that the absence of a judicial finding of guilt in respect of the predicate offence should not preclude money laundering investigations and prosecutions. This should be coupled with a provision, which clearly indicates that the existence of the underlying predicate offence (or, indeed, the intentional element of the money laundering offence) can be established in a money laundering case by objective facts and circumstances.* According to the Azerbaijani Legal Doctrine, all articles of the Criminal Code may serve as a basis for criminal prosecution on their own. Article 193-1 of the Criminal Code criminalises money laundering. Criminal prosecution of the money laundering offence does not require the successful prosecution of corruption offences.

34. Therefore the absence of a judicial finding of guilt in respect of the predicate offence does not preclude money laundering investigations and prosecutions. The criminal prosecution of the money laundering offence shall be founded solely on the proving of the elements of this particular offence. Moreover, the possibility of the investigation of the ML as a separate criminal offence is substantiated by the provisions of AML/CFT Law.

35. It seems that there is possibility to carry out two investigations simultaneously, in particularly predicate offence and ML offence. However there is a question of effectiveness in practice, since there has been no investigations on third/autonomous ML case, it appears that it would be quite hard for prosecutors to investigate ML case without convictions for predicate offences, except possibly for corruption offences. This deficiency has not been addressed as the evaluators strongly advised and there still remains a lack of 3rd party ML investigations and prosecutions.

36. Deficiency No.12 – *There needs to be a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements. This should be accompanied by training and awareness-raising in respect of police officers, prosecutors and judges.* Since 2010 a number of trainings, workshops and seminars were organised for judges, prosecutors and investigators to assist them in carry out their duties in respect of ML/FT. The detail of these trainings is unclear and is not known, what, if any emphasis is given to 3rd party / autonomous ML, and ML in the context of offences other than corruption. It seems that those trainings and seminars were organised in the framework of the Action Plan for the implementation of the National Strategy For Increasing Transparency and Anticorruption 2007-2011, which mostly focuses on anti-corruption issues. However Azerbaijan should also concentrate on other predicate offences.

Effectiveness

37. In 2009, at the time of the first progress report, there had been 1 ML conviction and the predicate offence was corruption. In 2010 also there was 1 ML conviction, which was also related to a corruption offence.

38. In 2011 – 5 cases are still under the investigation and 2 cases are under the prosecution in the court. The 5 cases under the investigation are with the Anticorruption Department of the GPO, and the 2 cases under consideration by the court are also corruption related.

39. The number of convictions for money laundering is very low. All convictions are related to corruption and are self-laundering. There no third party/autonomous laundering cases. It seems that the Azerbaijani authorities are still more focused on fighting against corruption, but not ML and other major proceeds-generating predicate offences. Clearly more awareness-raising and training is needed for investigators, prosecutors and judges on the importance of ML in other predicate offences.

40. As a general conclusion in respect of R.1 since the adoption of the 1st progress report, Azerbaijan revised the ML articles in order to cover all physical and material elements of ML according to the Vienna and Palermo Conventions and criminalised insider trading and market manipulation, which is very welcome. Now all designated predicate offence are covered by the CC. As for statistics Azerbaijan should pay more attention to other predicate offences.

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

41. Deficiency 1 identified in the MER – *Azerbaijan is strongly recommended that financing of terrorist organisations and individual terrorists be explicitly criminalised.* At the time adoption of the 3rd evaluation report, the financing of terrorism offence in Azerbaijan had a number of substantial deficiencies. However, in order to address these deficiencies, Azerbaijan adopted the Law No 973-IIIQ "On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism" (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new definition of the terrorist financing offence to the Criminal Code.

Article 214–1. Terrorist financing
Willful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organization or carrying out by a person or by a group (organization, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organization—
shall be punished by imprisonment for the term from ten up to twelve years with the confiscation of property.
Note:
1. Terrorist financing offence shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act.
2. The person who has committed act, provided by the article 214-1 of this Code shall be released from a criminal liability if he/she had warned authorities or in different way promoted prevention of commitment of such act and if in his/her actions there were no attributes of structure of other crime».

42. According to these amendments the terrorist financing offence has been re-defined in Article 214-1 of the Criminal Code. It now clearly covers financing of individual terrorists or terrorist organisations within the meaning of the FATF standards. The new definition of terrorist financing does not use previously uncertain concepts such as "money resources", "money" and "other property". The wording of the new definition is also clearer on another issue - that terrorist financing shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist. The Criminal Code has been significantly improved to comply with Special Recommendation II, which is vey welcome.

43. Deficiency 2 identified in the MER – *Referring to the meaning of the terms "money resources" and "other property" the evaluators were unable to find definitions of these concepts. Furthermore no definition was found for the term "money". It is not clear if the concept "money resources" refers without any doubt to cash, money in the bank accounts or financial deposits and if the property includes all physical objects and property rights. It is also not clear if the concept covers all types of negotiable instruments and bank accounts. Because of that, the evaluators consider that future clarification is required to cover all these concepts.* Pursuant to the Law 973-IIIQ the wording of the Article 1 of the Law "On Combating Terrorism" was revised. The definition of "funds and other property" is defined in paragraph 12 of this Article.

Article 1 of the Law of the Republic of Azerbaijan «On Combating Terrorism» has been amended by the new definition of funds or other property:
*«**funds or other property** – means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders».*

44. The new definition of terrorist financing does not use previous uncertain concepts such as "money resources", "money" and "other property". The definition is taken from the UN Convention for the Suppression of the Financing of Terrorism.

45. Deficiency 3 identified in the MER – *The legislation does not provide a definition of "funds" in relation to terrorism financing. Azerbaijan should ensure that "funds" fully covers the concept, as defined in the Terrorist Financing Convention.* As noted in paragraph 57 Azerbaijan introduced amendments to the Law "On combating terrorism". The revised definition of "funds and other property" under Article 1 of the Law "On Combating Terrorism" stipulates the required definition, which fully corresponds to the UN Convention on FT.

46. Deficiency 4 identified in the MER – *Azerbaijan should ensure that the financing of terrorism provision explicitly extends to any funds, whether they come from legitimate or illegitimate sources.* The Law No 973-IIIQ "On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism" has introduced a new definition of the terrorist financing offence to the Criminal Code and revised the wording of the Article 1 of the Law "On Combating Terrorism" in respect of definition of "funds and other property" (*«**funds or other property** – means assets of every kind, from a legitimate or illegitimate source…."*).

47. The new Article 214-1 of the CC, in conjunction with the revised Article 1 of the Law "On Combating Terrorism", ensures that the financing of terrorism provision explicitly extends to any funds, whether they come from legitimate or illegitimate sources.

48. Deficiency 5 identified in the MER – *The legislation should also provide that the terrorist financing offence should not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act*. In order to address this deficiency, as was mentioned above, Azerbaijan amended the TF offence, which is now fully in line with international standards. The wording (see paragraph 55) of the new definition is also clearer on another issue - that terrorist financing shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act.

49. Deficiency 6 identified in the MER – *The legislation does not address the issue whether the intentional element can be inferred from objective facts and circumstances, and the issue has not been tested in practice. It would be prudent to explicitly provide for this*. Azerbaijan national legislation has accepted with the ratification of the Palermo Convention that the criminal intent, knowledge or purpose can be inferred from objective factual circumstances.

50. In accordance with article 124 of the Code of Criminal Procedure reliable evidence (information, documents, other items) obtained by the court or the parties to criminal proceedings shall be considered as prosecution evidence. Such evidence shall be obtained in accordance with the requirements of the Code of Criminal Procedure, and shall be produced in order to show whether or not the act was a criminal one, whether or not the act committed contains the features of offence and other circumstances essential to determining the charge correctly. If there is no doubt as to the accuracy and source of the information, documents and other items and as to the circumstances in which they were obtained, they may be accepted as reliable evidence.

51. It seems that Azerbaijan has necessary tools to infer the intentional elements from the objective facts and circumstances, however the effectiveness in this respect could not be assessed in desk review.

52. Deficiency 7 identified in the MER – *Azerbaijan should consider extending the offence of financing of terrorism to legal entities*. In the 3rd MER of Azerbaijan the assessment team noted that there was no criminal liability for ML or FT to legal persons. In order to address this shortcoming Azerbaijan has submitted the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" for the final discussion to the joint Working Group consisting of representatives of the Government and Parliament of the Republic of Azerbaijan in October 2011. Once agreed by the Working Group, the draft law will be sent to the Parliament for adoption during its next spring session. This draft Law introduces the provisions on corporate criminal liability.

53. According to those proposed amendments to the Criminal Code legal persons shall be subject to criminal liability for offences stipulated in Articles 144-1, 144-2, 193-1, 194, 202-2, 203-1, 214, 214-1, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256.1, 256.2, 257, 258.1, 258.2, 259, 260.2, 261, 312, 312-1.2-ci, 316-2 of this Code. It can be seen that legal persons shall be subject to criminal liability for ML (Art. 193-1) and FT (Art. 214-1). Azerbaijan should adopt these amendments as soon as possible to introduce criminal liability to legal persons.

54. Hence, Azerbaijan has not yet remedied the deficiency identified in the 3rd round MER which recommends extending the offence of financing of terrorism to legal entities. No other legislative steps have been taken in this respect.

Effectiveness

55. According to the statistics provided by Azerbaijan, since the adoption of the 1st Progress report there have been no investigations, prosecutions or convictions in respect of TF. In this regard it is

hard to assess the existing framework to combat TF in a desk review. Effectiveness of these legal provisions will be assessed during the 4th round on-site mission to Azerbaijan.

56. As a conclusion it should be noted that Azerbaijan took significant steps to remedy the deficiencies identified in the 3rd MER in respect of SR.II, which is very welcome, in particular they have brought into line the TF Article and covered all the requirements of the TF Convention. The only legal shortcoming that remains – relates to criminal liability of legal persons.

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

57. Deficiency 1 identified in the MER – *The Azerbaijani authorities should introduce comprehensive AML/CFT legislation with a "risk based" approach.* In the 3rd round MER of Azerbaijan it was stated as a deficiency that there is no comprehensive AML/CFT legislation with a "risk-based" approach. In order to comply with this requirement Azerbaijan has adopted the Regulation "On establishment of Internal Control System". This Regulation introduces a "risk-based approach" performing enhanced and simplified customer due diligence measures for different categories of customer, business relationships, transactions and products.

58. According to item 6 of this Regulation, each reporting entity should establish the rules and procedures that allow detection of all types of risks related to customers, business relationships, transactions and products. Moreover, the reporting entities may determine additional risk types for identifying and assessing the risks related to money laundering or terrorism financing along with risk types specified by this Regulation.

59. It appears that Azerbaijan has created a basic legal framework which addresses the "risk-based" approach. However it is impossible to assess these legal provisions in practice in a desk review.

60. Deficiency 2 identified in the MER – *Azerbaijan is strongly advised that the asterisked criteria in R.5 be placed into AML/CFT legislation (the asterisked criteria are set out directly beneath).*Pursuant to the Law #973-IIIQ Azerbaijan adopted amendments to Article 9 of the AML/CFT Law that included all asterisked criteria in R.5. Further in the report all of these criteria will be considered in detail.

61. Deficiency 3 identified in the MER – *Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious names. Where numbered accounts exist, financial institutions should be required to maintain them in such a way that full compliance can be achieved with the FATF Recommendations. For example, the financial institutions should properly identify the customer in accordance with these criteria, and the customer identification records should be available to the AML/CFT compliance officer, other appropriate staff and competent authorities.*At the time of the adoption of the 3rd MER the evaluators noted that there was no prohibition to keep anonymous accounts or accounts in fictitious names. In order to rectify this deficiency Azerbaijan implemented the requirements of R.5. In particular, essential criteria 5.1 has been implemented by Article 9.1 of the AML/CFT Law, based on which monitoring entities are not permitted to keep anonymous accounts or accounts in fictitious names, or anonymous deposit accounts, as well as to issue the anonymous deposit certificates. It appears that Azerbaijan implemented necessary legal provisions to address this deficiency.

62. Deficiency 4 identified in the MER – *Financial institutions should be required to undertake customer due diligence (CDD) measures when: establishing business relations; carrying out occasional transactions above the applicable designated threshold (USD/€ 15,000). This also includes situations where the transaction is carried out in a single operation or in several*

operations that appear to be linked; carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII; there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. In order to comply with criteria 5.2, Azerbaijan amended Article 9.2 of the AML/CFT Law. According to this Article monitoring entities shall take CDD measures in the following cases: before establishing business relations (9.2.1); before carrying out occasional transactions above the applicable designated threshold in the amount of 15.000 manats; this also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked (9.2.2); before carrying out occasional transactions that are wire transfers regardless of the amount (9.2.3); when there is a suspicion of money laundering or terrorist financing regardless of any exemptions or thresholds (9.2.4); when there are doubts about the veracity or adequacy of previously obtained customer identification data (9.2.5). These measures taken by Azerbaijan fully cover the requirements of criteria 5.2.

63. Deficiency 5 identified in the MER – *Financial institutions should be required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data).* Essential criteria 5.3 has been implemented by Articles 9.2 and 9.8 of the AML/CFT Law. In accordance with Article 9.2 of the AML/CFT Law, monitoring entities shall identify the customers and beneficial owners (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and on the basis of Article 9.8 shall verify the identification data of their customers and beneficial owners using reliable and independent sources.

64. Deficiency 6 identified in the MER – *For customers that are legal persons or legal arrangements, the financial institution should be required to verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person.* Article 9.4 of the AML/CFT Law stipulates that identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Monitoring entities shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. Monitoring entities are required to verify the legal status of the legal person, by obtaining proof of incorporation (establishment or existence), and obtain information concerning the customer's name, legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person.

65. Deficiency 7 identified in the MER – *Financial institutions should be required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.*Azerbaijan has implemented necessary legal provisions to identify the beneficial owner of natural persons as well as legal persons. Pursuant to Article 9.8 of the AML/CFT Law, the monitoring entities, in cases stipulated in Article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in Articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).

66. Deficiency 8 identified in the MER – *For all customers, the financial institution should determine whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.*Following the recommendations of the assessors Azerbaijan has introduced procedures on determining whether the customer is acting on behalf of another person. In accordance with article 9.6 of the AML/CFT Law, a representative authorized to act on behalf of a customer shall submit the documents evidencing competence, as well as other relevant identification documents depending on the customer being a natural or a legal person. Based on the article 9.8 of the AML/CFT Law the monitoring entities shall verify the identification data of their customers (natural or legal person) and beneficial owners using reliable, independent sources.

67. As regards the securities sector, according to the article 5.1.3., 5.2.4 and 5.4 of the "Regulations on carrying out broker activity in securities market" and articles 4.1, 4.2 and 4.3 of "Regulations on carrying out professional management of securities in securities market" measures applying for identification and verification of customers acting on behalf of another person are obtaining the power of attorney and the ID of both persons involved.

68. Deficiency 9 identified in the MER – *For customers that are legal persons or legal arrangements, the financial institution should be required to take reasonable measures to determine who are the natural persons that ultimately own or control the customer.*Following the amendments adopted on March 5, 2010, Article 9.8 of the AML/CFT Law defines that for customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).

69. Deficiency 10 identified in the MER – *Financial institutions should be required to conduct ongoing due diligence on the business relationship.*In accordance with Article 9.12 of AML/CFT Law, monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence process should include: scrutiny of transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds (9.12.1); ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships (9.12.2).

70. Deficiency 11 identified in the MER – *The concept of verification and identification should be further established. The Azerbaijani authorities should take steps to apply an enhanced verification process in appropriate cases. Financial institutions should then determine an internal procedure for approval from senior management for categories of clients, products, services and transactions considered as higher risk of money laundering and of terrorism financing.*In order to address this deficiency Azerbaijan has explicitly defined in the amended Article 9.13 of the AML/CFT Law enhanced CDD measures. According to this article monitoring entities shall perform enhanced due diligence for higher risk categories of customer, business relationship or transaction. Article 9.14 describes the enhanced CDD measures performed by the monitoring entities.

71. As for the requirement in respect of senior management approval for conducting transactions, AML/CFT legislation has identified two circumstances when it is required. The senior management approval for conducting transactions with some higher risk customers has been reflected in article 9-

1.2 of the AML/CFT Law and the item 7.12 of the Regulation "On Establishment of Internal Control Systems".

72. According to the Article 9-1.2 of the AML/CFT Law monitoring entities are required to obtain senior management approval for establishing business relationships with a politically exposed person of a foreign country. Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a politically exposed person of a foreign country, monitoring entities should be required to obtain senior management written approval to continue the business relationship. Also, according to item 7.12 of the mentioned Regulation, establishing of new correspondent relationship shall be based on the approval of the senior level management of the monitoring subject.

73. Deficiency 12 identified in the MER –F*inancial institutions should be advised to use not only the documents as currently prescribed by law but also to use other reliable, independent source documents, data or information for the verification of the customer's identity.*Items 5.3 and 5.4 of the Regulation "On Establishment of Internal Control Systems" stipulates that for verification of identification data obtained about the customer and beneficial owner, the monitoring subject may apply one or more measures set forth in articles 9.9 and 9.10 of the AML/CFT Law for the verification of information. For verification of the submitted data, as a rule, information should be obtained from independent sources that do not cause doubts.

74. Deficiency 13 identified in the MER – *Azerbaijani legislation should provide a definition of "beneficial owner", on the basis of the glossary of the FATF Methodology.*"Beneficial owner" definition is stipulated in the article 1.0.12 of the AML/CFT Law on the basis of the glossary of the FATF Methodology as follows: "beneficial owner – 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 arrangements". It appears that the definition of "beneficial owner" is fully in line with FATF Methodology.

75. Deficiency 14 identified in the MER – *Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship.*Pursuant to Article 9.11 of the AML/CFT Law, monitoring entities shall obtain information on the purpose and intended nature of the business relationship.

76. Deficiency 15 identified in the MER – *The scrutiny of transactions and the updating of identification data acquired during the CDD process should be undertaken as an ongoing process of due diligence on the business relationship. This requirement should be set out by the AML Law, in order to ensure that the transactions being conducted are consistent with the financial institutions' knowledge of the client.*Pursuant to Article 9.12 of the AML/CFT Law, monitoring entities shall conduct ongoing due diligence on the business relationship. This ongoing due diligence process should include: scrutiny of transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds (9.12.1); ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships (9.12.2).

77. Deficiency 16 identified in the MER – *It should be made clear to financial institutions that if they are unable to satisfactorily complete CDD measures, (before account opening or commencing business relations or where the business relationship has commenced, when doubts about the*

*veracity or adequacy of previously obtained data arise) they should consider making an STR.*In accordance with Article 9.15 of the AML/CFT Law, where the monitoring entity is unable to identify and verify the parties of transactions or where there has been a refusal to submit identification information on the customer or beneficial owner, or the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data, the monitoring entity shall not open the account, commence business relations or perform the transaction, and in accordance with Article 11 of the Law shall inform the Financial Monitoring Service.

78. In addition, following the MONEYVAL recommendation made in desk-based review in 2010, abovementioned obligation has been also extended in Item 5.9 of the Regulation "On Establishment of Internal Control Systems". It appears that Azerbaijan has clearly introduced procedure for FIs if they are unable to comply with criteria 5.3-5.6.

79. Deficiency 17 identified in the MER – *Financial institutions should be required by enforceable means to identify all existing clients (on the basis of materiality and risk) and to conduct due diligence on such existing relationships at appropriate times, in order to acquire all missing data and information.*Article 9.16 of the AML/CFT Law obliges monitoring entities to apply CDD measures to customers existing before the entrance into force of this Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times. And jointly with paragraph 88 reporting entities have to conduct ongoing due diligence on the business relationship. This approach formally address the shortcoming.

Effectiveness

80. Overall it is clear that Azerbaijan has taken significant legislative and regulatory measures to address the identified deficiencies on R.5 and to bring more consistency to CDD procedures, which is very welcome. The effectiveness of implemented measures in respect of CDD cannot be determined in a desk review. Based on the provided statistics it is unclear how many of the sanctions applied related to violation of CDD requirements. Notwithstanding, the developments overall appear to be in the right direction, and should increase effectiveness of implementation. This will need to be confirmed in the follow up assessment.

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

81. Deficiency 1 identified in the MER – *A clear obligation to keep records of account files and business correspondence should be introduced for all financial institutions*. A clear obligation for all financial institutions to keep records of the account files and business correspondence and to retain documents supporting customer identification is established in Article 10 of the AML/CFT Law. However, paragraph 10.1.2 of the Law requires financial institutions to keep account files and business correspondence of the transaction for at least 5 years following completion of the transaction, which is not in line with Recommendation 10 (criterion 10.2), which requires the keeping of these records for at least five years following the termination of an account or business relationship. Authorities noted that the Regulation issued by the FMS on the establishment of the internal control system has a record keeping provision (11.4.1. and 11.5) that would fully address this aspect. However, the requirements of the AML/CFT law take precedence over those envisaged by a regulation. Azerbaijan should address this shortcoming by amending the AML/CFT law.

82. Deficiency 2 identified in the MER – *All documents relating to customer identification data must be retained for a minimum period of 5 years and made readily available to all relevant authorities.* Pursuant to Article 10.3 of the AML/CFT Law, monitoring entities are obliged to

ensure that all customer and transaction records and information mentioned in Article 10.1 of the Law are available on a timely basis to the supervision authorities and Financial Monitoring Service upon appropriate request. In accordance with Article 10 of the AML/CFT Law, the monitoring entities shall maintain: documents on CDD measures envisaged by the article 9 of the Law, documents on the transactions with the funds or other property and documents envisaged by articles 9–1 and 9–2 of the Law, if no longer period is envisaged by the legislation; documents on due diligence measures of the customer, beneficial owner or authorized representative – at least for 5 (five) years after the customer's account is closed or after termination of legal relations with the customer; documents on the transactions with the funds or other property conducted by the customer (account files, business correspondence and other relevant documents) and the information prepared in accordance with the article 11 of the Law – at least for 5 (five) years following completion of the transaction.

83. Deficiency 3 identified in the MER – *A provision to ensure that the mandatory record-keeping period may be extended in specific cases upon request of an authority should be included in the legislation.* Pursuant to Article 10.3 of the AML/CFT Law, the timeframe stipulated in Article 10.1 of the Law may be prolonged if requested by supervision authorities or the Financial Monitoring Service in specific cases upon proper authority.

84. Deficiency 4 identified in the MER – *No formal provision requiring that customer transaction records to be made available on a timely basis to domestic competent authorities.* Pursuant to Article 10.2 of the AML/CFT Law, monitoring entities are required to ensure all customer and transaction records and information mentioned in the Article 10.1 of the Law are available on a timely basis to the supervision authorities and Financial Monitoring Service upon appropriate request.

85. Deficiency 5 identified in the MER – *No provision as yet in secondary legislation defining the record keeping documents to be retained and the length of retention in the insurance sector.* In accordance with the Article 123.2 of the Law "On Insurance Activity" amended in June 30/2009, insurers, reinsurers and insurance intermediaries should preserve the documents related to the operations carried out by them as well as information on such operations contained in the electronic information carriers within the term at least 5 years after the cancelation of legal relationship with clients or other contract parties, and identification documents of the client, beneficiary or competent representative prescribed in the article 13 of this Law within the term determined by the legislation (this term is also determined 5 years according to the article 10 of AML/CFT Law) and should submit them to the competent state authority in case of necessity.

Effectiveness

86. In general, Azerbaijan has taken necessary steps to comply with the requirements of R.10, with the exception noted above with regard to the record keeping obligation concerning account files and business correspondence. In respect of effectiveness, it could not be assessed in a desk review. It was unclear whether these had been sanctions for breaches of record keeping requirements.

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

87. Deficiency 1 identified in the MER – *Azerbaijan as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities in law or regulation. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning the financing of terrorism.*

88. The Azerbaijani authorities took important legislative steps to comply with Recommendation 13 in the AML/CFT Law. Based on the article 7.2 of the AML/CFT Law, monitoring entities shall make suspicious transaction report (STR) to Financial Monitoring Service on funds or other property, transactions with them and the attempts to carry out transactions regardless of their amount.

89. The Regulation broadly defines the ways in which the STRs should be submitted to the FIU and determines the content of the information to be provided to the FIU. The text of Article 7.2 of the AML/CFT Law together with the Regulations bring Azerbaijan broadly into line with the text of Recommendation 13.

90. Deficiency 2 identified in the MER – *All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty.* In accordance with the amendments to the AML/CFT Law made on March 5, 2010, the mandatory requirement to make STR also refers to all reporting entities.

Effectiveness

91. Pursuant to the statistics provided by Azerbaijan the quantity of STRs has risen dramatically in recent years since the adoption of the 1st progress report. In 2009 commercial banks submitted 2 STRs, in 2010 – 7920 STRs and in 2011 – 25049. The significant increase in number of STRs, submitted to the FIU consequential to the adoption of amendments to the AML/CFT may have been influenced by the recent installation of analytical software. It appears at present that most of the STRs relate to objective indicators in the Law (transactions associated with the citizens or companies from high-risk jurisdictions (24452), foreign PEPs (194) and etc.) and only few STRs (the catch-all STR regime), according to Article 7.2.1 (other situations that cause suspicious of ML etc), were submitted to the FIU.

92. The impression is that banks just strictly follow the AML/CFT Law obligations, where there objective indicators. Though they are still less focused on additional analysis of other transactions that might be suspicious. It is noted that only 3 STRs related to ML were disseminated to law enforcement during the reporting years. It appears that there is still work to do in making the STR regime effective.

93. In respect of the non-baking financial institutions and DNFBPs, the provided statistics show that few STRs are provided outside the banking sector.

94. In any event it should be noted that Azerbaijan has necessary legal provisions in place to establish a comprehensive STR regime. A detailed assessment of the effectiveness of the STR regime will be carried out in the follow up round.

95. In regard to the above-mentioned Azerbaijan should take necessary steps to increase the number of disseminated cases to law enforcement, in particular additional guidelines or trainings are needed for the FIs to raise the awareness of these sectors to the importance of Article 7.2.1 of the AML Act.

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

96. Deficiency 1 identified in the MER – *The evaluators recommend that Azerbaijan as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning the financing of terrorism and should cover all predicate offences. All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty.* As noted above, it appears that Azerbaijan has now established an STR system in place in law which is applicable for terrorist financing as required under Special Recommendation IV.

Effectiveness

97. During the period covered by the 2nd progress report, in 2009 only 1 STR was submitted to the FIU that was related to TF, in 2010 - 12 STRS and in 2011 3 STRS. All of the TF STRs were analysed by the FIU and disseminated to law enforcement, though they did not result in formal investigations by law enforcement. In practice, probably all of them were related to potential matches with names on the UN lists. It appears that the STR regime in respect of TF is beginning to work.

1.3. Main conclusions

98. The financial "threshold" in respect of A.194 should be reconsidered and it is strongly advised that it should be removed. Beyond this, on Recommendation 1, progress has been made in that the range of designated categories of predicate offence is now complete. Only a number of cases were investigated in the period under review. All of the convictions related to self laundering. As at the time of the 3rd report, Azerbaijan is strongly encouraged also to investigate and prosecute stand-alone money laundering cases, where the evidence permits, in respect of serious proceeds-generating cases other than corruption.

99. The shortcomings in the criminalisation of TF have been addressed in that the individual terrorist and terrorist organisations are now covered. While the issue of corporate criminal liability has been revisited, there is no progress on the issue of criminal liability of legal persons. However, the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" was developed in order to introduce the provisions on corporate criminal liability, which was submitted to the joint Working Group consisting of representatives of the Government and Parliament of the Republic of Azerbaijan in October 2011. Once agreed by the Working Group, the draft law will be sent to the Parliament for adoption during its next spring session. In any event, the offence as it stands appears, on a desk review, to be broadly implemented in line with SR.II.

100. On Recommendation 5 there have been several significant and positive developments in the regulatory measures to address the shortcomings identified in the report. Azerbaijan has introduces a risk-based approach and the definition of "beneficial owner" is fully in line with the FATF Methodology in the amended AML/CFT Law. The effectiveness of all legal provisions will also be fully analysed in the forthcoming follow up onsite visit.

101. Azerbaijan has implemented necessary legal provisions to create a comprehensive formal STR regime. In the light of the limited number of disseminations by the FIU to law enforcement and the

preponderance of reports is based on objective indicators, there is still more work to do to make the regime fully effective in practice.

102. In conclusion, subject to what has been said above, Azerbaijan has responded positively to most of the recommendations in the last report with respect to the Core Recommendations. Steady progress is being made overall in the implementation of the AML/CFT regime.

103. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the Plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in two years from the adoption of this report unless the 4th onsite visit has taken place before then.

The MONEYVAL Secretariat

2. Information submitted by Azerbaijan for the 2nd progress report

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

Position at date of first progress report (23 September 2009)

Following the Third Round Mutual Evaluation of the anti-money laundering and combating financing terrorism (AML/CFT) system of the Republic of Azerbaijan completed in December 2008, MONEYVAL experts offered a number of recommendations to improve the existing legislation. Under FATF Recommendations, the Republic of Azerbaijan requested take targeted measures to ensure further development of the AML/CFT system and present a progress report at the MONEYVAL Plenary in December 2009.

Within implementing such measures it is expected to achieve overall compliance of internal AML/CFT system with FATF 40+9 Recommendations. This involves improvement of legislation, institutional reforms and international cooperation.

The Government of Azerbaijan has achieved substantial progress in aligning the AML/CFT framework with FATF Recommendations and in establishing a solid system to combat money laundering and financing terrorism in Azerbaijan.

Comprehensive legal reforms were conducted in accordance with FATF Recommendations. New preventive AML/CFT Law (the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism") was adopted in February of 2009. It addresses criticisms of the Mutual Evaluation Report and eliminates the gaps highlighted in the assessment. By the AML/CFT Law had been established mandatory provisions concerning the identification and verification of customers and beneficial owners, record keeping requirements, requirements of reporting CTR and STR, establishment of the internal control system by designated financial institutions and DNFBP.

In order to align national legislative framework with international AML/CFT standards and requirements, significant number of legislative acts, specifically 4 codes, 15 laws and 6 presidential decrees, in total covering more than 100 articles, were amended in July 2009. So, Laws "On Auditing Services", "On Currency Regulation", "On Notaries", "On Investment Funds", "On Advocates and Advocate Activities", "On Non–Governmental Organisations (public associations and funds)", "On Banks", "On Lottery", "On Post", "On Central Bank of the Republic of Azerbaijan", "On Precious Metals and Precious Stones" and "On Insurance Activity", Civil Code, Criminal Code, Criminal Procedural Code and Code of Administrative Infringements were amended by this way.

Particularly, criminal liability for «tipping off» was established in the Criminal Code. Administrative liability for all other breaches of the AML/CFT legislation was established in the Code of Administrative Infringements. The liability measures cover failing to report CTR and STR, to perform CDD measures, to apply internal control mechanisms and other elements as well. All these amendments were made in a very short period of time, during the next session of the parliament following the receiving MONEYVAL recommendations.

Hence, as a result of legal reforms in the AML/CFT area:

- STR and CTR systems were improved in line with FATF Recommendations;
- CDD measures (including ongoing and enhanced due diligence) for financial institutions and DNFBPs were expanded;
- record keeping requirements were strengthened;
- internal control systems by the financial institutions and DNFBPs were developed;
- regulation and supervision of the financial institutions and DNFBPs was enforced;
- measures on international cooperation are defined more clearly;

- a more precise mechanism for freezing and seizing of funds related to money laundering and financing of terrorism was established.

Regulators of all financial institutions and DNFBPs designated by the AML/CFT Law were granted with the relevant functions. The Statutes of the relevant supervisory authorities were amended by the Presidential Decree # 130 from July 20, 2009 to provide them with adequate powers.

For further implementation of FATF Special Recommendation IX, Declaration form for currency brought into or out of the Republic of Azerbaijan submitted by the State Customs Committee to the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan was approved by the Ordinance # 112 from July 28, 2009, of the Cabinet of Ministers of the Republic of Azerbaijan.

The designated threshold for the purposes of FATF Recommendations 5 and 19 for transactions with funds or other property in the amount of 20 000 manats (15 000 euro) was approved by the Chairman of the Central Bank of the Republic of Azerbaijan in July, 2009.

In order to implement FATF Recommendation 7 into the banking legislation, Central Bank Regulation "On opening, maintenance and closing of accounts in banks" has been amended in October 2009. Currently, in relation to cross-border correspondent banking relationships banks should, in addition to performing CDD measures to take the measures set out in essential criteria 7.1-7.5.

So, most of the concerns in the AML/CFT area in Azerbaijan have been resolved. Nevertheless in order to further develop and improve national legislation Draft Law on amendments to some legislative acts of the Republic of Azerbaijan has been prepared. The amendments are going to be done to the AML/CFT Law, Criminal Code, Code of Administrative Infringements and Criminal Procedure Code, the Laws "On State registration and registry of legal persons", "On Non-governmental organizations (social associations and funds)", "On Normative legal acts", "On Auditor Services", "On Currency regulation", "On Notaries" and "On Suppression of Terrorism".

The Draft Law was submitted to the Council of Europe Directorate of Cooperation.

Azerbaijan has also made significant reforms in creating effective AML/CFT institutional framework in line with FATF Recommendations. In accordance with the Decree of the President of the Republic of Azerbaijan of February 23, 2009 Financial Monitoring Service was established under the Central Bank of the Republic of Azerbaijan. Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan was established in order to provide implementation of the state policy in the AML/CFT sphere, to improve the supervision system and to coordinate the activity of the relevant state authorities in this field. Financial Monitoring Service serves as a national centre for the receiving (requesting), analysis and dissemination of STR and other information regarding potential money laundering or terrorist financing.

The Statute of the Financial Monitoring Service was approved on July 16, 2009. Shortly after this according to the Decree of the Chairman of the Central Bank the structure and the staff list were confirmed.

Director and Deputy Director of the Financial Monitoring Service were appointed by the Decree of the President of 07 October 2009. After that, appointments of key positions have already been made for the short period.

Financial Monitoring Service is composed of the Director, Deputy Director, Secretariat and eight Departments, which are the followings:

- Data Processing Department;
- Analytical Department;
- Supervision Department;
- Legal and Methodological Department;
- International Cooperation Department;
- Information Technologies Department;
- Administrative Department;
- Accounting Department.

There are 41 employees, including leadership at the Financial Monitoring Service.

Within the second decade of October Financial Monitoring Service was provided with the administrative building, as well as its budget for 2009 was approved. At present Financial Monitoring Service is appropriately equipped with IT and other equipment. Currently the budget for 2010 was approved, and it reflects prior needs of the Service, such as establishment of IT system, training of employees, etc.

FINANCIAL MONITORING SERVICE operationally independent and functions under required budget framework to ensure operational efficiency as well as provide market-based salary and motivation system to ensure long-term operational and institutional sustainability.

Immediately following the appointment of Financial Monitoring Service leadership, two main directions of further activity have been determined: IT system and development of an internal Action Plan.

Concerning first direction it should be mentioned that the reporting system and information database of the AML/CFT division of the Central Bank (created in 2003) has started to be transferred to Financial Monitoring Service and it will be expanded to include DNFBPs as well. According to the approved Action Plan, the Financial Monitoring Service will be in a position to receive first STR and CTR in December of 2009. For that purposes "Regulations on submission of data by monitoring entities and other persons involved in monitoring to the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan" was approved by the Director of the Financial Monitoring Service. It is planned to organize special training for supervision authorities, financial institutions and DNFBP to be more acquainted with relevant Regulations.

Additionally, the needs of the IT system of the Financial Monitoring Service were assessed within the frame of the AZPAC Project of the Council of Europe in September 2009. According to assessment experience of Italy, Netherlands, Poland, Russia and Ukraine may be useful for Azerbaijan FIU in strengthening its IT system, which have AML/CFT systems similar to Azerbaijani. Particularly it concerns information exchange with supervisory and law-enforcement authorities, as well as obtaining access to databases of appropriate state agencies.

Second direction related to the development of an Action Plan to improve the Azerbaijani AML/CFT system taking into account recommendations contained in the Council of Europe MONEYVAL Committee Country Report has been initiated. The prepared Action Plan was coordinated with the MONEYVAL Secretariat during consultations. After final revision, the Action Plan was approved by the Director of the Financial Monitoring Service and further implementation of the Action Plan was taken under special control.

The Action Plan spanned three years. The measures will be implemented with the participation of all authorities involved in the AML/CFT system, including the FINANCIAL MONITORING SERVICE, Central Bank, General Prosecutor's Office, Ministry of National Security, Ministry of Finance, Ministry of Justice, State Customs Committee and State Committee for Securities. The Action Plan covered all aspects of the AML/CFT system and it included taking specific measures to:

- improve legislation;
- improve the activity of Financial Monitoring Service;
- improve supervision over the financial institutions and DNFBP;
- develop the system of personnel education and training for AML/CFT purposes.

Paying special attention to the international cooperation, Financial Monitoring Service requested the Egmont Group of FIUs for the membership. At present, application letter is under the consideration by the Egmont Outreach Working Group and Financial Monitoring Service is expecting for advises on further actions required in order to become an Egmont Group member.

Financial Monitoring Service intends to cooperate with the Eurasian Group on Combating Money Laundering and Financing of Terrorism. This issue is coordinated with appropriate national agencies.

Financial Monitoring Service pays significant attention to technical assistance issues and actively cooperates with international organisations and foreign state agencies to this end.

In April 2009 the Central Bank requested from the International Monetary Fund technical assistance on AML/CFT issues. The request consisted of the followings:

- multidisciplinary training course(s) for financial intelligence officers;

❖ multidisciplinary training course(s) for other relevant agencies designated in the AML/CFT Law;
❖ organizational support to the Financial Monitoring Service, e.g. providing guidelines, job descriptions, Manual of Operations, Rules of Procedure;
❖ study visits for the new staff of Financial Monitoring Service to other FIU's to be more acquainted with relevant activity.

The IMF Technical Assistance Mission visited Azerbaijan in September 2009. The main objective of the mission was to identify and discuss with the authorities the potential needs of Azerbaijan in AML/CFT area, particularly related to the local Financial Monitoring Unit. In addition, one workshop on "New AML/CFT Law implementation" was conducted for compliance officers.

Additionally, Financial Monitoring Service had identified following priority areas for technical assistance: ***i)*** improvement of legal framework; ***ii)*** establishment of internal Information Technologies System; ***iii)*** capacity building of AML/CFT stakeholders; ***iv)*** development of middle-term Strategy Plan for Financial Monitoring Service. In this regard, the leadership of Financial Monitoring Service have held meetings with representatives of the US Embassy in Baku and USAID, where above mentioned priorities were discussed.

It should be stressed that a number of events and study visits have been carried out within the framework of the Council of Europe AZPAC Project. Special training courses were organized for financial institutions, DNFBP and supervision authorities defined by the AML/CFT Law at the Central Bank on 16–18 June 2009, as well as for representatives of the law–enforcement agencies on 8–10 July 2009. Two study visits were arranged to Czech Republic and Montenegro during the implementation of AZPAC Project. The purposes of these visits were acquainting with the best practices of European FIUs in the context of developing the national capacity.

Based on mentioned issues in our opinion there are a number of important results that contribute to the effectiveness of the overall AML/CFT system as well as raise the level of compliance of its participants with the FATF Recommendations.

The results are reflected in the progress report.

New developments since the adoption of the first progress report

The Republic of Azerbaijan has continued the development and strengthening of its anti-money laundering and combating financing of terrorism system since the adoption of the first progress report *(07 December 2009)*.

1. National AML/CFT Strategy

The Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan in cooperation with all relevant government institutions involved in AML/CFT system developed a mid-term National Strategy for 2010-2013 aimed at strengthening AML/CFT regime. The Strategy covers such elements as improving its AML/CFT legislation, developing institutional capacity *(particularly, strengthening the institutional capacity of the Financial Monitoring Service, training to build the capacity of reporting entities, judiciary, law enforcement agencies and supervisors, raising public awareness)* and broadening international cooperation.

2. Improving national AML/CFT legislation

The Law:

On March 5, 2010, the Parliament of the Republic of Azerbaijan adopted the Law «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» **(*hereinafter – New Law)*** which was promulgated by the President of the Republic of Azerbaijan on March 17, 2010. With the

adoption of this Law, 2 laws and 3 codes, in total covering more than 26 articles, were amended; therefore, the profound changes brought the legislation of the Republic of Azerbaijan into line with FATF Recommendations.

The key amendments are as follows:

- The physical and mental elements of ML and TF offences were accordingly aligned to Palermo and Vienna Conventions and UN Convention against financing of terrorism;
- Insider Trading and Market Manipulation were criminalized;
- The predominant elements of asset freezing within the Special Recommendation III were incorporated into AML/CFT legislation;
- CDD procedure was thoroughly altered and more sophisticated preventive measures were established;
- The comprehensive record keeping requirements were launched;
- Provisions dealing with Politically Exposed Persons, Unusual Transactions and Non-face to face business relationships were embedded to the AML/CFT Law;
- Substantial elements of Recommendation 21 and 22 *(non-cooperative jurisdictions)* were explicitly defined in the AML/CFT Law;
- The authority of the Financial Monitoring Service was expanded in terms of adoption of regulations;
- The supervision authorities were authorized to hear administrative infringements cases.

Regulations:

Alongside with the entry into force of the New Law, 9 Regulations which impose mandatory requirements with sanctions for non-compliance, were issued:

i) Regulation on the procedure of listing and de-listing of designated persons under the relevant UNSCRs *(#124, dated 25 June 2010)*;

ii) Regulation on the procedure of approval of the NCCT list *(#123, dated 25 June 2010)*.

iii) Regulation on submission of data by financial institutions and DNFBPs to the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan *(#001, dated 31 May 2010)*;

iv) Regulation on requirements to professional skills of compliance officers *(#002, dated 25 June 2010);*

v) Regulation on supervising the observance of requirements of the AML/CFT Law by pawnshops and real estate agents *(#003, dated 5 July 2010);*

vi) Regulation on establishment of the internal control system by financial institutions and DNFBPs which are legal persons *(#004, dated 21 September 2010);*

vii) Regulation on submission of statistical information to the Financial Monitoring Service about infringement AML/CFT legislations. *(Feedback regulation) (#005, dated 09 February 2011);*

viii) Central Bank Regulation «On supervision over the activities on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism in the banks» (# 247, dated *February 2011*);

ix) Regulation on the inspection of the activities of the securities market participants *(September 2011)*

Guidelines:

The Financial Monitoring Service has adopted two guidelines for reporting entities:

i) Criteria for detection of cases that cause suspicions or create sufficient grounds for suspicions on their being linked to criminally obtained funds or other property or terrorist financing (red flags);

ii) Regulations on informing of monitoring entities and other persons involved in monitoring in response to submission of information to the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan.
The Financial Monitoring Service has also developed a new draft "On simplified CDD measures".

In general, these legislative amendments provided the achievement of compliance of AML/CFT Law with the FATF 40+9 Recommendations.

3. Capacity building/trainings

During the reporting period, the capacity of the national stakeholders in the AML/CFT area was strengthened. The staff of AML/CFT stakeholders participated in various training events both domestically and abroad organised by MONEYVAL, IMF, World Bank, UNODC, Egmont Group, USAID, US Department of Treasury, OSCE and SECO as well as foreign FIUs.

The total number of the domestic trainings is 71, which were attended by over 3600 participants. Some of these trainings were conducted in the regions of the country. These trainings were attended by judges, investigators, prosecutors, management and compliance officers, desk staff of reporting entities and staff of supervisors. Also, in 2010-2011, the representatives of the AML/CFT stakeholders, including the Financial Monitoring Service, participated in 27 training events and workshops abroad on various AML/CFT related topics, such as tactical analysis, ML/TF typologies, mutual evaluations, legal and regulatory issues, international cooperation, and use of technology solutions in analysis, FIU and IT security. The ten staff members of the AML/CFT stakeholders received the certificates of renowned international agencies and associations *(such as MONEYVAL and ACAMS)* specialized in AML/CFT issues.

In order to facilitate real-time submission of reports and their processing and analysis, the Financial Monitoring Service developed its own electronic reporting system *(AzAML)* and since September 2010 launched it. This system enables reporting entities to send reports via reporting portal on the web-page of the Financial Monitoring Service – www.fiu.az.

Improving its analytical capacity, in February 2011, the Financial Monitoring Service with the financial support of the USAID signed the agreement with the UNODC for the deployment of the goAML analytical software system in Azerbaijan. In October 2011, the goAML system was deployed.

To enhance the national cooperation with the AML/CFT supervisors and law enforcement agencies, the Financial Monitoring Service signed the Memoranda of Understanding with all these institutions.

4. International Cooperation

The Republic of Azerbaijan has a long record of cooperation with a variety of international agencies that include MONEYVAL, IMF, World Bank, UNODC, OSCE, USAID, US Department of the Treasury Office of Technical Assistance and SECO. These technical assistance efforts have been mainly directed at analytical capacity building, awareness raising and professional development for reporting entities and AML/CFT stakeholders, improvement of national AML/CFT legislation and institutional development. In February 2011, the First Regional AML/CFT Conference in Baku was organized with the technical assistance from USAID, OSCE and SECO attended by about 40 experts from over 20 FIUs and international agencies. The Financial Monitoring Service delegation visited two foreign FIUs, getting familiarized with their operation and experience.

MONEYVAL – The representatives of AML/CFT stakeholders regularly attend the trainings organized by the MONEYVAL. The Azerbaijani delegation acted as rapporteur for Moldova's progress report and the Azerbaijani expert participated as legal expert in IV round evaluation of Latvia.

USAID - The Financial Monitoring Service enjoys fruitful cooperation with the USAID. As a part of joint efforts to further strengthen the national AML/CFT system, the USAID delivered a number of trainings for reporting entities, law enforcement agencies and the Financial Monitoring Service. The USAID assigned several long and short-term experts that provided consulting services to the Financial Monitoring Service staff in preparing internal procedures in such fields as financial and human resources management, information technologies, data processing, e-learning and public relations. Moreover, with the assistance of this agency, one of the staff members of the Financial Monitoring Service attained the ACAMS certificate in 2011. With the financial support of the USAID, the Financial Monitoring Service installed the UNODC-product goAML application.

IMF – Throughout 2010-2011, the IMF continued its technical support to the national AML/CFT stakeholders. The Azerbaijani authorities hosted a number of IMF missions to Azerbaijan during the reporting period. During these missions the IMF organized trainings for the law enforcement agencies, the judiciary, Financial Monitoring Service and supervisors. The trainings organized by the IMF in Azerbaijan covered such topics as asset tracing, asset recovery, implementation of international standards to the national AML/CFT legislation, case studies, analytical tools used in tactical analysis, risk-based approach, etc. At present, the IMF continues to provide technical assistance within the project on improving national AML/CFT legislation.

World Bank/UNODC - The World Bank also provided its technical assistance to the supervisors and law enforcement agencies. The World Bank and UNODC organized a joint regional workshop for supervisory authorities and law enforcement agencies in November 2010. Another initiative by the World Bank and UNODC was the involvement of Financial Monitoring Service staff in the regional training organized in Astana, Kazakhstan in January 2011. The UNODC provided professional support to the Financial Monitoring Service in the installation of goAML application.

US Department of Treasury – Within the training plan with the US DoT OTA, its experts delivered trainings to the staff of the Financial Monitoring Service in financial analysis and international cooperation in 2011. According to the training plan, in February 2012, the OTA will organize the training for national AML/CFT stakeholders.

OSCE - In November and December 2010, the OSCE organized two seminars for the Financial Monitoring Service staff and reporting entities. Furthermore, in June 2011, the OSCE arranged a training event for the reporting entities.

Egmont Group - The Financial Monitoring Service became the member of the Egmont Group in July 2011 during the 19th Plenary of the organization. Taking into account the importance of information exchange in AML/CFT field, the Financial Monitoring Service within a month connected to the Egmont Secure Web (ESW) system to ensure quick and effective FIU-to-FIU information exchange. The Financial Monitoring Service staff participated in Tactical Analysis course of the World Bank/Egmont Group in 2010 and acted as co-trainer in this course in 2011.

SECO - The SECO also participated in the initiatives of the Financial Monitoring Service concerning the AML/CFT capacity building. In February 2011, the SECO participated as one of the co-organizers of the First Regional AML/CFT Conference in Baku. At present, the Financial Monitoring Service and SECO have been discussing the possibility of further technical assistance to the Financial Monitoring Service in 2012.

5. Plan and timeline for addressing the remaining deficiencies

The Azerbaijani authorities have paid careful attention to the recommendations of the MONEYVAL Committee from the desk review process *(September 2010)* and made efforts to ensure the implementation of those recommendations to the national AML/CFT regime. To completely align the AML/CFT legislation of the Republic of Azerbaijan to the FATF standards, two new draft laws were developed, which envisage all remaining shortcomings in the AML/CFT system of Republic of Azerbaijan.

The first draft law "On amendments to Criminal Code of the Republic of Azerbaijan" *(See Annex)* developed by the *Ad Hoc Group* covers corporate criminal liability and confiscation procedure. This draft law has already been introduced to the Parliament of the Republic of Azerbaijan after being agreed with all appropriate state agencies.

At present, the Azerbaijani authorities and the IMF implement the project on improving national AML/CFT legislation and within this project, the second draft law "On changes and amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism" was drawn up *(See Annex).* Currently, Azerbaijani authorities wait for the approval of revised FATF Recommendations early next year in order to cover new tendencies and standards. It is highly expected that domestic review of the draft law by national AML/CFT stakeholders will start in February 2012.

With the adoption of the draft law "On amendments to Criminal Code of the Republic of Azerbaijan", the identified deficiencies in the Recommendations 2, 3, 38 and Special Recommendation II under the Desk Review process will be addressed. At the same time, the second Draft Law thoroughly covers all other deficiencies identified by MONEYVAL Committee with regard to Recommendations 1, 33 and Special Recommendations I, III, VIII and IX in the said process. Taking into consideration MONEYVAL recommendations, these future amendments will ensure the complete implementation of the FATF standards to the national legislation.

6. Results

1) The national AML/CFT legal framework has been aligned with the FATF standards;
2) International cooperation was effectively expanded;
3) The capacity of national AML/CFT stakeholders to combat money laundering and terrorist financing was improved by providing number of trainings;
4) The Financial Monitoring Service became fully-fledged member of the Egmont Group;
5) The analytical capacity was increased through the deployment of the goAML system;
6) Statistics increased:

- The number of STRs increased twice in 2011 in comparison with 2010 and reached a total of 24 000 *(number of red-flag-based STRs reached 350).*
- Quality of reports increased *(number of rejected reports decreased from 20 % (2010) to 1.2 % (2011)).*
- 48 AML/CFT-related on-site inspections were conducted by supervisors;
- 20 AML/CFT-related off-site inspections were conducted by supervisors;
- 8 sanctions were applied with regard to reporting entities;
- 19 disclosures were disseminated to law enforcement agencies;
- 1 criminal case was opened based on FIU dissemination;
- 9 criminal cases were initiated on money laundering *(2 sentence issued in respect of 4 persons, 2 cases on trial, 5 cases under investigation, about 239 000 Euros confiscated and 726 000 Euros seized);*

Requests were sent to foreign FIUs:

FinCEN	**1**
Financial Monitoring Unit of Pakistan	**1**
FINTRAC	**1**
State Committee for Financial Monitoring of Ukraine	**1**
Total:	**4**

Requests for information were received by foreign FIUs and duly responded:

Financial Monitoring Service of Georgia	**1**
State Committee for Financial Monitoring of Ukraine	**3**
Centre for Combating Economic Crimes and Corruption of the Republic of Moldova	**1**
Financial Analytical Unit of the Ministry of Finance of Czech Republic	**2**
Financial Intelligence Unit of Luxemburg	**2**
Total:	**9**

Financial Monitoring Service sent 60 internal requests:

LEAs	**12**
Ministry of Interior	**9**
State Real Estate Register	**2**
Central Bank	**1**
State Commission for Securities	**1**
Ministry of Taxes	**1**
State Border Service	**1**
Reporting entities	**33**
Total:	**60**

Financial Monitoring Service received 7 internal requests:

MNS	**1**
Ministry of Interior	**3**
GPO	**2**
State Customs Committee	**1**
Total:	**7**

2.2. Core recommendations

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

Recommendation 1 (Money Laundering offence)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*To establish offences of "insider trading" and "market manipulation".*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	By the Draft Law offences of "insider trading" and "market manipulation" will be established in the Criminal Code as follows: **Article 202–2. Insider trading** **202–2.1.** Use by an insider of service information that was entrusted to or acquired by him when performing his/her professional duties in his own interests or transfer of such information to a third party for carrying out transactions— shall be punished by the fine from three thousand up to five thousand manats or imprisonment for the term from four up to eight years with confiscation of property. **202–2.2.** The same deeds: **202–2.2.1.** when committed by the person, who have been convicted earlier for this crime; **202–2.2.2.** when committed by the group of persons in a preliminary conspiracy or organized group— shall be punished by the fine from five up to seven thousand manats or imprisonment for the term from six up to ten years with confiscation of property. **Article 203–1. Market manipulation** **203–1.1.** Artificial change of the rates of financial services markets by the participants of financial services markets via transactions with financial instruments by preliminary arranged and intentional acts, which could cause instability of financial services markets— shall be punished by the fine from five up to seven thousand manats or imprisonment for the term from four up to eight years with the confiscation of property. **203-1.2.** The same deeds: **203-1.2.1.** when committed by the person, who has been convicted earlier for this crime; **203-1.2.2.** when committed by an organized group; **203-1.2.3.** when committed using mass media— shall be punished by the fine from six up to eight thousand manats or imprisonment for the term from six up to ten years with confiscation of property. Article 212 "Illegal use of official information" of the Code on Administrative Infringements establishes administrative liability for use by insider in his own interests of official information or transfer of such information to third persons for settlement of transactions in the form of administrative fine in amount of 25 to 30 manats for natural persons; and in the amount of 50 to 70 manats for legal persons.
Measures taken to implement the recommendations	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the

since the adoption of the first progress report	legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced relevant amendments to the Criminal Code as well. By this Law enacted on March 17, 2010 market manipulation (article 203-1) and insider trading (article 202-2) have been classified as criminal offences. Those articles were enacted in the version given during the adoption of the first progress report. Under the provisions of Criminal Code, the insider trading and market manipulation offences shall be referred as the serious crimes with the mandatory confiscation of property.
Recommendation of the MONEYVAL Report	*To widen the offence of "financing of terrorism" to cover all relevant issues as predicate offences to money laundering.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Draft Law provides for the new definition of "terrorist financing" offence in order to align it with the United Nations International Convention for the Suppression of the Financing of Terrorism and FATF Special Recommendation II: **Article 214–1. Terrorist financing** Provision or collection funds or other property by any means, directly or indirectly, unlawfully and willfully, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organisation or by an individual terrorist, or in order to carry out an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 216, 219, 219-1, 277, 278, 279, 280 and 282 of the Criminal Code of the Republic of Azerbaijan, as well as the financial or other contribution to a natural or legal person, group of persons or an organization to support the commission such kind of crimes— shall be punished by imprisonment for the term from ten up to twelve years with the confiscation of property. **Note:** **1.** In this article «funds or other property» means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit. **2.** Terrorist financing offence shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act. **3.** Any person also commits a crime if that person contributes (such contribution shall be intentional and shall either be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime as set forth in this article; or be made in the knowledge of the intention of the group to commit a crime as set forth in this article) to the commission of one or more crimes as set forth in this article by a group of persons acting with a common purpose. The AML/CFT Law and Law "On Suppression of Terrorism" will be amended in the same way.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new definition of the terrorist financing offence to the Criminal Code. Enacted version of Article 214-1pertain below:

	«**Article 214–1. Terrorist financing** Willful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organization or carrying out by a person or by a group (organization, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organization— shall be punished by imprisonment for the term from ten up to twelve years with the confiscation of property. **Note:** 1. Terrorist financing offence shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act. 2. The person who has committed act, provided by the article 214-1 of this Code shall be released from a criminal liability if he/she had warned authorities or in different way promoted prevention of commitment of such act and if in his/her actions there were no attributes of structure of other crime». In addition, Article 1 of the Law of the Republic of Azerbaijan «On Combating Terrorism» has been amended by the new definition of funds or other property: «**funds or other property** – means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders.»
Recommendation of the MONEYVAL Report	*Legislation should be amended to provide clear definitions for the following concepts: "financial transactions", "other transactions", "money funds" or "property"*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The definitions of "criminally obtained funds or other property" and "transactions with funds or other property" are stipulated in the AML/CFT Law as follows: **Article 1.0.1. criminally obtained funds or other property** – funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan. **Article 1.0.3. transactions with funds or other property** – transactions aimed at acquisition, exercising, change or termination of civil rights to the funds or other property as a result of transactions with them. The definition of "property" is defined in the article 135 of Civil Code as physical objects (movable or immovable, corporeal or incorporeal, tangible or intangible), legal documents evidencing the title to such physical objects, funds and securities of every kind. The definition of "deal" is defined in the article 324 of Civil Code as a unilateral, bilateral or multilateral will aimed at acquisition, change or termination of civil relationship. The Draft Law provides for the new definition of "funds or other property" in the case of "terrorist financing" offence stipulated in the Criminal Code and Law "On Suppression of Terrorism" as assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and

	letters of credit. The new definition was taken directly from the wide definition in the United Nations International Convention for the Suppression of the Financing of Terrorism.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*To make the necessary amendments to article 193-1 of the Criminal Code to bring it into line with the provisions of the Vienna and Palermo Conventions. The evaluators strongly advise to use the language of the Conventions.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Draft Law provides for the new definition of "money laundering" in Criminal Code. The new definition reflects all elements of the UN 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention against Transnational Organized Crime. Based on the Draft, article 193–1 will be set forth in Criminal Code as follows: **Article 193–1. Legalization of criminally obtained funds or other property** **193–1.1.** Legalization of criminally obtained funds or other property, that is the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of any crime to evade the legal consequences of his or her action, as well as the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is the proceeds of crime— shall be punished by a fine at a rate from 2000 up to 5000 manats or imprisonment from six up to nine years with confiscation of property with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to three years or without it. **193–1.2.** The same acts, committed: **193–1.2.1.** by group of persons in a preliminary conspiracy; **193–1.2.2.** repeatedly; **193–1.2.3.** by a person using his/her official position— shall be punished by imprisonment from eight up to eleven years with confiscation of property, with deprivation of the right to engage in certain activities and to hold certain post up to three years or without it. **193–1.3.** The acts provided for by articles 193–1.1 or 193–1.2 of this Code, committed: **193–1.3.1.** by organized group or criminal community (criminal organization); **193–1.3.2.** in large amount— shall be punished by imprisonment from ten up to twelve years with confiscation of property with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to three years or without it. **Note:** In the article 193–1.3.2 of this Code the "large amount" shall mean the amount exceeding 45 000 manats.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new definition of the money laundering offence to the Criminal Code.

	Under the provisions of Criminal Code, the money laundering offence (Article 193-1) shall be referred as the serious crime with the mandatory confiscation of property. Currently the physical elements of this offence appropriately corresponds to the Vienna and Palermo conventions: • the conversion or transfer of property for the purpose of concealing or disguising the illicit origin of the property are covered – article 193-1.1.1; • the conversion or transfer for the purpose of helping another to evade the consequences of his/her action is covered – article 193-1.1.1; • the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to funds or other property, knowing that such funds or other property is the proceeds of crime is covered – article 193-1.1.2; • the acquisition and possession is covered – article 194.
Recommendation of the MONEYVAL Report	*To criminalise clearly and explicitly the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	See item above.
Measures taken to implement the recommendations since the adoption of the first progress report	By the Article 193-1.1.1 of the Criminal Code (please see information above) the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action, has been criminalized.
Recommendation of the MONEYVAL Report	*To criminalise clearly the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	See item above.
Measures taken to implement the recommendations since the adoption of the first progress report	By the Article 193-1.1.2 of the Criminal Code (please see information above) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime, has been criminalized.
Recommendation of the MONEYVAL Report	*To criminalise clearly the acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime.*
Measures reported as of 7 December 2009 to implement the Recommendation of	In order to implement this recommendation and based on the Draft Law, article 194 will be set forth in Criminal Code as follows (the language of the Vienna and Palermo Conventions had been used in this case): **Article 194. Acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime**

the report	**194.1.** Beforehand not promised acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime— shall be punished by the fine up to five thousand manats or restriction of liberty for the term up to three years or with the fine up to one thousand manats, imprisonment for the term from four up to eight years with confiscation of property. **194.2.** The acts provided for by article 194.1 of the present Code, committed: **194.2.1.** by group of persons in a preliminary conspiracy or organized group; **194.2.2.** by an official person with use of his/her service position; **194.2.3.** by person, who have been convicted earlier for this crime; **194.2.4.** in the large amount— shall be punished by imprisonment for the term from six up to ten years with confiscation of property.
Measures taken to implement the recommendations since the adoption of the first progress report	By Article 194 of the Criminal Code the acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime, has been criminalized. The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has amended Article 194 of the Criminal Code. «**Article 194. Acquisition, possession, use or disposition of funds or other property, knowing, at the time of receipt, that such funds or other property is the proceeds of crime** **194.1.** Beforehand not promised acquisition, possession or use of funds or other property in significant amount, knowing, at the time of receipt, that such funds or other property is the proceeds of crime, or disposition of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose not to conceal or disguise the illicit origin of the funds or other property— shall be punished by the fine from one thousand up to three thousand manats or restriction of liberty for the term up to three years or with the imprisonment for the term up to four years with confiscation of property. **194.2.** The acts provided for by article 194.1 of the present Code, committed: **194.2.1.** by group of persons in a preliminary conspiracy or organized group; **194.2.2.** by an official person with use of his/her service position; **194.2.3.** by person, who have been convicted earlier for this crime; **194.2.4.** in the large amount— shall be punished by imprisonment for the term from three up to seven years with confiscation of property.» In Article 194.1 of the Criminal Code «significant amount» means the sum from one thousand up to seven thousand manats, in Article 194.2.4 of the Criminal Code «large amount» means the sum exceeding seven thousand manats.
Recommendation of the MONEYVAL Report	*To criminalise conspiracy in order to cover agreements to commit basic money laundering by others not involved in organised crime.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As it has been already explained to the experts in the course of the Third Round of Mutual Evaluation, there are sufficient legal provisions in the Criminal Code that criminalise conspiracy in order to cover agreements to commit basic money laundering by others not involved in organised crime. In accordance with article 34.1 a crime shall be deemed to be committed by a group of persons if two or more perpetrators have jointly participated in its commission without a preliminary conspiracy. This article is universal and applies to all types of

	criminal offences. Therefore, the commission of a ML offence by two or more people in agreement shall be subject to commission of this offence in conspiracy. Furthermore, article 34 sets forth the criminal law provision on the liability of members of various types of organized groups, including criminal organization. This article also applies to all types of criminal offences. Article 193-1 of the Criminal Code is not an exception to this rule. The prosecution of the ML offence committed by a group of persons shall be based on the charges under Section 34 and 193-1 of the Criminal Code. The role of a person in the group charged with the commission of this offence is important in terms of the punishment. The organizers of the offence shall be subject to higher sentence in comparison to mere executor of the offence.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*To clarify the Criminal Code to make it clear that Azerbaijan has jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Concerning the clarification of jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen, please be informed as follows. Based on the article 12 (*Implementation of the criminal law concerning the persons who have committed a crime out of border of the Republic of Azerbaijan*) of the Criminal Code: • Foreign citizen committed a crime outside of jurisdiction of the Republic of Azerbaijan, shall be instituted to criminal liability under the Criminal Code when: **1.** if the crime targeted against the citizens or interests of the Republic of Azerbaijan; **2.** in the cases stipulated by international instruments to which the Republic of Azerbaijan is a party, if these persons were not condemned in the foreign state. • Foreign citizen committed a crime against the peace and mankind's, war crimes, terrorism, financing of terrorism, stealing of an air ship, capture of hostages, torture, a sea piracy, illegal circulation of narcotics and psychotropic substances, manufacturing or sale of false money, attack on persons or the organizations using the international protection, the crimes connected to nuclear materials, and also other crimes, punishment for which stipulated in international instruments to which the Republic of Azerbaijan is a party, shall be instituted to criminal liability and punishment under the Criminal Code, irrespective of a place of committing a crime. • At condemnation by courts of the Republic of Azerbaijan of the foreign citizen, punishment shall not exceed the top limit of the sanction provided by the law of the foreign state on which territory the crime was committed. In accordance with the article 2 of the AML/CFT Law it shall apply to the activities related to legalization of the criminally obtained funds or other property and the financing of terrorism outside the jurisdiction of the Republic of Azerbaijan in accordance with the international instruments to which the Republic of Azerbaijan is a party.
Measures taken to implement the recommendations since the adoption	This issue has already been clarified in the first progress report.

of the first progress report	
Recommendation of the MONEYVAL Report	*Azerbaijan prosecutors should test the provisions they have to prosecute money laundering as a "stand alone" crime and, where necessary, invite the courts to draw necessary inferences.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The criminal prosecution, which among others covered the criminal charge for money laundering was investigated for the first time, since the passage of the Criminal Law (Amendment) Act 2006 introducing the criminal liability for this type of offence, in the Anticorruption Department under the Prosecutor General of the Republic of Azerbaijan in April - September 2009. The case is pending the trial at the time of drafting the Progress Report. The money laundering charge is coupled in the indictment with the charges for other corruption offences. The Investigation and Prosecution are awaiting the results of the trial to draw appropriate inferences on the tactics of the investigation and instituting 'stand alone' indictment in the prospective.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*Azerbaijan is strongly advised to introduce a provision in its legislation clarifying that the absence of a judicial finding of guilt in respect of the predicate offence should not preclude money laundering investigations and prosecutions. This should be coupled with a provision, which clearly indicates that the existence of the underlying predicate offence (or, indeed, the intentional element of the money laundering offence) can be established in a money laundering case by objective facts and circumstances.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the Azerbaijani Legal Doctrine, all articles of the Criminal Code may serve as a basis for criminal prosecution on their own. Article 193-1 of the Criminal Code criminalizes money laundering. Criminal prosecution of the money laundering offence does not require the successful prosecution of corruption offences. Therefore the absence of a judicial finding of guilt in respect of the predicate offence does not preclude money laundering investigations and prosecutions. The criminal prosecution of the money laundering offence shall be founded solely on the proving of the elements of this particular offence. Moreover, the possibility of the investigation of the ML as a separate criminal offence is substantiated by the provisions of AML/CFT Law. According to article 19.2, Financial Monitoring Service shall not suspend transaction, which gives raise to sufficient suspicions about the legalization of the property and other proceeds of crime and terrorism financing, for more than 72 hours. Article 19.3 provides, Financial Monitoring Service shall immediately produce the decision on the suspension of a suspicious transaction with the supporting documentation to the body commissioned with the criminal prosecution (investigation) of money laundering and terrorism financing.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.

Recommendation of the MONEYVAL Report	*There needs to be a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements. This should be accompanied by training and awareness-raising in respect of police officers, prosecutors and judges.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Action Plan for the implementation of the National Strategy For Increasing Transparency and Anticorruption 2007-2011 (the second national anticorruption strategy) envisages the organization of the joint trainings for law-enforcement officers, prosecutors and judges in the field of anticorruption and money laundering. In order to implement this task, the Ad Hoc group has been established from among the representatives of the training centres of the law enforcement agencies and the Chairman from the Anticorruption Department. The Ad Hoc group is charged with the development of the training curricula. Investigation of the money laundering offences was the subject of the series of training organized according to the plan of trainings run by the US Embassy and US Department of Justice in 2008 and 2009. The ML was also the subject of trainings organized in 2007 by the Anticorruption Department in cooperation with the US DoJ. The materials of the trainings in 2007 were processed and compiled into the Manual for the Investigation of Corruption Offences, with investigation of money laundering as a separate component. Investigation of money laundering has been included in the EU sponsored Twinning Project "Support of the Anticorruption Department with the Prosecutor General of the Republic of Azerbaijan". Within the Twinning project the Anticorruption Department with the Prosecutor General of the Republic of Azerbaijan will work out the Manual for the investigation of money-laundering offences in cooperation with the Special Investigation Service (STT) and General Prosecutor's Office of the Republic of Lithuania.
Measures taken to implement the recommendations since the adoption of the first progress report	Within the framework of the Action Plan for the implementation of the National Strategy For Increasing Transparency and Anticorruption 2007-2011, the relevant states agencies are being continued to organize trainings for judges, investigators, prosecutors. Furthermore, joint Training Plan was approved with the USAID for the purpose of arranging trainings for judges and law enforcement agencies. On 12 April, 2010 one day training course under the title of "monitoring process" was organized at the Training Centre of the Prosecutor's Office for prosecutors, judges and investigators by the attendance of 40 persons. Moreover, training course on "Actual issues in the prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was attended by 40 persons as prosecutors, investigators and judges at the Training Centre of the Prosecutor's Office on May 3-5, 2010. Training on "AML/CFT Law: international standards – theory and practice" was organized at the Justice Academy within the Ministry of Justice of the Republic of Azerbaijan by the attendance of 30 judges on 02 June of 2010. On March and April 2011, the International Centre for Asset Recovery of the Basel Institute of Governance organized Money Laundering and Asset Tracing training for judges, investigators, prosecutors and Financial Monitoring Service by the attendance of 35 persons.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant	

initiatives	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*The Azerbaijani authorities should introduce comprehensive AML/CFT legislation with a "risk based" approach.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism" provides for a "risk based" approach.
Measures taken to implement the recommendations since the adoption of the first progress report	Alongside with the AML/CFT Law, the Regulation "On Establishment of Internal Control Systems" introduces a "risk-based approach" performing enhanced and simplified customer due diligence measures for different categories of customer, business relationships, transactions and products. The scope of enhanced due diligence measures are set forth not only in the AML/CFT Law, but also in aforementioned Regulation. Item 6 of the this Regulation determines that, each reporting entity should establish the rules and procedures that allow detecting all types of risks related to customer, business relationships, transactions and products. Moreover, the reporting entities may determine additional risk types for identifying and assessing the risks related to money laundering or terrorism financing along with risk types specified by this Regulation. In relation to simplified customer due diligence measures, as the continuation policy of "risk based" approach, the draft Regulation "On Simplified Customer Due Diligence measures" has been prepared and currently under the consideration of the relevant state authorities. This regulation defines the minimum standards of simplified due diligence issues by specifying the low risk situations. Furthermore, there is no exemption from full customer due diligence taking place when there is a suspicion of money laundering or terrorism financing.
Recommendation of the MONEYVAL Report	*It is strongly advised that the asterisked criteria in R.5 be placed into AML/CFT legislation (the asterisked criteria are set out directly beneath).*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The most of the asterisked criteria in R.5 were implemented in the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism".
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has amended the AML/CFT Law. By this all asterisked criteria in R.5 have been implemented to Article 9 of the AML/CFT Law.
Recommendation of the MONEYVAL Report	*Financial institutions should not be permitted to keep anonymous accounts or accounts in fictitious names. Where numbered accounts exist, financial institutions should be required to maintain them in such a way that full compliance can be*

	achieved with the FATF Recommendations. For example, the financial institution should properly identify the customer in accordance with these criteria, and the customer identification records should be available to the AML/CFT compliance officer, other appropriate staff and competent authorities.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In the Republic of Azerbaijan, only banks based on the bank license obtained from the Central Bank shall be engaged in opening and maintenance of accounts of natural and legal persons, including correspondent accounts of banks (Law «On Banks», Civil Code, Regulation of Central Bank «On opening, maintenance and closing of accounts in banks»). That is why, only banks are covered with the legal prohibition on anonymous accounts. In connection with implementation of the AML/CFT Law, article 42 of the Law «On Banks» was amended in July 24, 2009. Currently, no anonymous accounts, including anonymous deposit accounts can be opened, as well as no anonymous certificate of deposit can be issued. As to FATF Methodology, references to "accounts" should be read as including other similar business relationships between financial institutions and their customers. With this in mind, by the Draft Law is proposed to add article 9.1 with below content to AML/CFT Law: "9.1. Monitoring entities are not permitted to keep anonymous accounts or accounts in fictitious names. Monitoring entities are prohibited from establishing of anonymous business relationships, opening of anonymous accounts, anonymous deposit accounts, as well as issuing anonymous deposit certificates." <u>Securities sector</u> Monitoring entities in the securities sector are required to carry out proper customer identification customer identification according to the: a. Regulations on carrying out broker activity in securities market b. Regulations on carrying out professional management of securities in securities market c. "Instructions on measures against the money laundering and terrorist financing in the securities market"("instructions", hereinafter) that were sent to the monitoring entities in the securities sector after the adoption of AML/CFT Law
Measures taken to implement the recommendations since the adoption of the first progress report	Essential criteria 5.1 has been implemented to Article 9.1 of the AML/CFT Law based on which, monitoring entities are not permitted to keep anonymous accounts or accounts in fictitious names, or anonymous deposit accounts, as well as to issue the anonymous deposit certificates. In addition, the national legislation doesn't provide any provision for existence of numbered or anonymous accounts.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to undertake customer due diligence (CDD) measures when:* *a) establishing business relations;* *b) carrying out occasional transactions above the applicable designated threshold (USD/€ 15,000). This also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked;* *c) carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;* *d) there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to elsewhere under the FATF Recommendations; or* *e) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.*

Measures reported as of 7 December 2009 to implement the Recommendation of the report	The customer due diligence measures is stipulated in the article 9 of the AML/CFT Law. Currently the monitoring entities shall identify their customers and beneficial owners, when: • before establishing business relations; • before carrying out occasional transactions above the applicable designated threshold; • before carrying out wire transfers (regardless of their amount). What concerns criteria 5.2d and 5.2e, in addition to performing normal due diligence measures for identification of customers and beneficial owners, the monitoring entities shall perform enhanced due diligence measures when there is a suspicion of money laundering or terrorist financing regardless of any exemptions or thresholds, and when have doubts about the veracity or adequacy of previously obtained customer identification data. Anyway, by the draft Law it is proposed to amend article 9.1 of the AML/CFT Law and after that criteria 5.2d and 5.2e will be subject of normal due diligence measures. Securities sector According to the Instructions on AML/CFT measures, monitoring entities in the securities sector (brokers, asset managers, investment funds) shall identify their customers: • before establishing business relations; • before carrying out occasional transactions above the applicable designated threshold; • before carrying out wire transfers (regardless of their amount). In addition, according to the article 2.1 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" all financial intermediaries in the securities sector should undertake ongoing customer due diligence on transactions with cash. Also, financial intermediaries should carry ongoing customer due diligence and notify SCS when they have a suspicion of money laundering or terrorist financing. Based on article 13.1 of the Law "On insurance Activity", insurers, reinsurers and insurance intermediaries in the circumstances prescribed and in the order determined by the AML/CFT Law, must take measures for identification and verification of identified information, as well as keep the requirements of documentation and maintaining of the information."
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 9.2 of the AML/CFT Law, monitoring entities shall take CDD measures in the following cases: - before establishing business relations (9.2.1); - before carrying out occasional transactions above the applicable designated threshold in the amount of 15.000 manats; this is also includes situations where the transaction is carried out in a single operation or in several operations that appear to be linked (9.2.2); - before carrying out occasional transactions that are wire transfers regardless of the amount (9.2.3); - when there is a suspicion of money laundering or terrorist financing regardless of any exemptions or thresholds (9.2.4); - when there are doubts about the veracity or adequacy of previously obtained customer identification data (9.2.5).

Recommendation of the MONEYVAL Report	*Financial institutions should be required to identify the customer (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and verify that customer's identity using reliable, independent source documents, data or information (identification data).*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The definition of a "customer" is stipulated in the article 1.0.11 of the AML/CFT Law as follows: "customer – any natural or legal person using the services of the monitoring entities or other persons involved in monitoring the persons that concern the transactions with the funds or other property." Article 9.1 of the AML/CFT Law obliged monitoring entities to identify their customers and beneficial owners. Identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Identification of a natural person shall be carried out on the basis of his ID document. Identification of a natural person engaged in the entrepreneurship activity without forming a legal person shall be carried out on the basis of his/her ID document and a certificate issued by the relevant tax agency. Articles 9.8 and 9.9 of the AML/CFT Law obliged monitoring entities to verify the identification data of their customers and beneficial owners using reliable, independent sources. The measures applying for verification of a legal person are the following: • comparing the information submitted by a legal person with information included into the state register of legal persons; • obtaining the information on activity of legal person from mass-media, internet or official publication; • comparing the latest submitted information with previously received information. The measures applying for verification of a natural person are the following: • confirming the date of birth from birth certificate document, passport, driving license or other official documents; • confirming the permanent address from an utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract. Examples of the types of customer information that shall obtained, and the identification data that should be used to verify that information were taken directly from the General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking. <u>Securities sector</u> According to the Instructions on AML/CFT measures natural persons are identified by ID document. Legal persons are identified by notarized copy of their charter and state registration certificate. In addition, according to the article 5.2 of the "Regulations on carrying out broker activity in securities market" and article 4.2 of "Regulations on carrying out professional management of securities in securities market", legal persons are identified by certificate issued by the relevant tax agency. According to the Instructions on AML/CFT measures, the following measures apply for verification of legal persons: • comparing the information submitted by a legal person with information included into the state register of legal persons; • obtaining the information on activity of legal person from mass-media, internet or official publication; • comparing the latest submitted information with previously received information.

	The measures applying for verification of the natural persons are the following: • confirming the date of birth from birth certificate document, passport, driving license or other official documents • confirming the permanent address from an utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract.
Measures taken to implement the recommendations since the adoption of the first progress report	Essential criteria 5.3 has been implemented to Articles 9.2 and 9.8 of the AML/CFT Law. In accordance with Article 9.2, of the AML/CFT Law, monitoring entities shall identify the customers and beneficial owners (whether permanent or occasional, and whether natural or legal persons or legal arrangements) and on the basis of Article 9.8 shall verify the identification data of their customers and beneficial owners using reliable and independent sources.
Recommendation of the MONEYVAL Report	*For customers that are legal persons or legal arrangements, the financial institution should be required to verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with article 9.6 the AML/CFT Law representative authorized to act on behalf of a customer shall submit the documents evidencing competence, as well as other relevant identification documents depending on the customer being a natural or a legal person. For customers that are legal persons the monitoring entities shall obtain power of attorney, charter of the legal person and state registration certificate of the legal person. Based on the article 9.8 of the AML/CFT Law the monitoring entities shall verify the identification data of their customers (natural or legal person) and beneficial owners using reliable, independent sources. The measures applying for verification of a natural person are the following: • confirming the date of birth from birth certificate document, passport, driving license or other official documents; • confirming the permanent address from an utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract. Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law: **Amended article 9.4.** Identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Monitoring entities shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. Monitoring entities are required to verify the legal status of the legal person, by obtaining proof of incorporation (establishment or existence), and obtain information concerning the customer's name, the names of trustees (for trusts), legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person. <u>Securities sector</u> According to the articles 5.1 and 5.2 of the "Regulations on carrying out broker activity in securities market" and 4.1 and 4.2 of "Regulations on carrying out professional management of securities in securities market" representative authorized to act on behalf of a customer shall submit power attorney. According to the article 5.4 of the "Regulations on carrying out broker activity in securities market" and the article 4.3 of the of "Regulations on carrying out professional management of securities in securities market" broker and asset manager should

	identify and verify information reflected on power of attorney by the ID document of both parties. In addition, according to the appendix 2 (questionnaire of the client) of the "Regulations on carrying out broker activity in securities market" measures applying for identification and verification of person authorised to sign the orders of customer that is legal person, are signature sample of the authorized person and of the director of a legal person as well as official stamp of the legal person. According to the Instructions on AML/CFT measures charter of the legal person should be submitted as well.
Measures taken to implement the recommendations since the adoption of the first progress report	Article 9.4 of the AML/CFT Law stipulates that identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Monitoring entities shall verify that any person purporting to act on behalf of the customer is so authorized, and identify and verify the identity of that person. Monitoring entities are required to verify the legal status of the legal person, by obtaining proof of incorporation (establishment or existence), and obtain information concerning the customer's name, legal form, address, directors (for legal persons), and provisions regulating the power to bind the legal person.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to identify the beneficial owner, and take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The definition of a "beneficial owner" is stipulated in the article 1.0.12 of the AML/CFT Law as follows: "**beneficial owner** – 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 arrangements." The article 9 AML/CFT Law set out mandatory provisions in regard to the monitoring entities concerning identification (monitoring entities shall identify their customers and beneficial owners) and verification (monitoring entities shall verify the identification data of their customers and beneficial owners using reliable, independent sources) procedures. Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law: **Amended article 9.8.** The monitoring entities, in cases stipulated in article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement). <u>Securities sector</u> According to the Instructions on AML/CFT measures, beneficial owners shall also be identified and verified. According to the article 5.2.5 of the "Regulations on carrying out broker activity in securities market" measures applying for identification of beneficial owner are certificate issued by the relevant tax agency, state statistical code and address.

Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 9.8 of the AML/CFT Law, the monitoring entities, in cases stipulated in Article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in Articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).
Recommendation of the MONEYVAL Report	**For all customers, the financial institution should determine whether the customer is acting on behalf of another person, and should then take reasonable steps to obtain sufficient identification data to verify the identity of that other person.**
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with article 9.6 the AML/CFT Law representative authorized to act on behalf of a customer shall submit the documents evidencing competence, as well as other relevant identification documents depending on the customer being a natural or a legal person: power of attorney + ID documents of a natural person, or; power of attorney + ID documents of a natural person + certificate issued by the relevant tax agency, or; power of attorney + charter of the legal person + state registration certificate of the legal person. Based on the article 9.8 of the AML/CFT Law the monitoring entities shall verify the identification data of their customers (natural or legal person) and beneficial owners using reliable, independent sources. The measures applying for verification of a natural person are the following: • confirming the date of birth from birth certificate document, passport, driving license or other official documents; • confirming the permanent address from an utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract. The measures applying for verification of a legal person are the following: • comparing the information submitted by a legal person with information included into the state register of legal persons; • obtaining the information on activity of legal person from mass-media, internet or official publication; • comparing the latest submitted information with previously received information. <u>Securities sector.</u> According to the article 5.1.3., 5.2.4 and 5.4 of the "Regulations on carrying out broker activity in securities market" and articles 4.1, 4.2 and 4.3 of "Regulations on carrying out professional management of securities in securities market" measures applying for identification and verification of customers acting on behalf of another person are power of attorney and ID of both persons.
Measures taken to implement the recommendations since the adoption of the first progress	This issue has already been clarified in the first progress report.

report	
Recommendation of the MONEYVAL Report	*For customers that are legal persons or legal arrangements, the financial institution should be required to take reasonable measures to determine who are the natural persons that ultimately own or control the customer.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As it is defined in the article 9.3 of the AML/CFT Law identification of a legal person shall be carried out on the basis of the notarized copy of its statute and certificate on state registration. In accordance with the Civil Code, persons that ultimately own a legal person are listed in the statute of the legal person. In the same time the article 1.0.12 of the AML/CFT Law provides for a definition of beneficial owner covering natural person(s) who ultimately owns or controls a customer as well. So, article 9 of the Law defines mandatory requirements to monitoring entities identify their customers and beneficial owners and to verify the identification data of their customers and beneficial owners using reliable, independent sources. Additionally, as one of the directions of the enhanced due diligence measures, monitoring entities are required to determine the names of the shareholders and total amount of their shares. Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law: **Amended article 9.8.** The monitoring entities, in cases stipulated in article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who is the natural person that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement). <u>Securities sector.</u> According to the "Instructions on measures against the money laundering and terrorist financing in the securities market" learning the names of the shareholders and their shares, in case if the customer is a legal person is mentioned as an enhanced due diligence measure applying to the legal person.
Measures taken to implement the recommendations since the adoption of the first progress report	Following the amendments adopted on March 5, 2010, Article 9.8 of the AML/CFT Law defines that for customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).
Recommendation of the MONEYVAL Report	*Financial institutions should be required to conduct ongoing due diligence on the business relationship.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The monitoring entities shall conduct ongoing due diligence measures on the customer's business relationship and scrutiny of transactions undertaken throughout the course of that relationship (article 9.11 of the AML/CFT). <u>Securities sector.</u> According to the article 2.1 of the "Regulations **On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" all** financial intermediaries in the securities sector

	should undertake ongoing customer due diligence on: • transactions with cash • transactions above the 20,000 AZN threshold Financial intermediaries should carry ongoing customer due diligence and notify SCS when they have a suspicion of money laundering or terrorist financing.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with Article 9.12 of AML/CFT Law, monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence shall include: - scrutiny of transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds (9.12.1); - ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships (9.12.2).
Recommendation of the MONEYVAL Report	*The concept of verification and identification should be further established. The Azerbaijani authorities should take steps to apply an enhanced verification process in appropriate cases. Financial institutions should then determine an internal procedure for approval from senior management for categories of clients, products, services and transactions considered as higher risk of money laundering and of terrorism financing.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently the procedure of verification and identification is established in the AML/CFT Law (article 9.12). For identification of customers and beneficial owners, the monitoring entities shall perform enhanced due diligence measures under the circumstances listed below and shall inform the Financial Monitoring Service about that: • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • concerning any transaction with the funds or other property associated with the citizens of the country which do not or insufficiently apply international standards against ML/TF, with the persons registered or that, who has a residency or permanent business in this country, with the persons who has a bank account in banks registered in this country; • concerning any transactions from bank accounts of politically exposed persons of foreign country; • transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. • in cases when there are doubts about the veracity or adequacy of previously obtained identification data on customer or beneficial owner; • in cases when there are suspicions or reasonable grounds to suspect that customer does not act on his/her behalf or represent a third person. The enhanced due diligence measures performed by the monitoring entities are the following: • verification of accounts and business relationships or other transactions carried out with other means, clarification of the purpose and nature of the transactions;

	• learning the names of the shareholders and their shares, in case if the customer is a legal person; • obtaining from other reliable sources and comparing more precise information about the customers, beneficial owner, and if possible, about the sources of funds or other property.
Measures taken to implement the recommendations since the adoption of the first progress report	Enhanced CDD measures have been explicitly defined in the amended Article 9.13 of the AML/CFT Law. According to said article, "alongside with the requirements on identification and verification stipulated in the Article 9 of this Law monitoring entities shall perform enhanced due diligence for higher risk categories of customer, business relationship or transaction under the circumstances listed below: - transactions with non-resident customers; - transactions with legal persons entrusted to manage money resources, securities and other property; companies that have nominee shareholders or shares in bearer form; - transactions with correspondent accounts of foreign banks; - in cases specified by the article 7.2 of the AML/CFT Law. According to Article 9.14 the enhanced CDD measures performed by the monitoring entities are the following: - verification of accounts and business relationships or other transactions carried out with other means, clarification of the purpose and nature of the transactions; - learning the names of the shareholders and their shares, in case if the customer is a legal person; - obtaining from other reliable sources and comparing more precise information about the customers, beneficial owner, and if possible, about the sources of funds or other property. AML/CFT legislation has differentiated two circumstances when it is required to have senior management approval for conducting transactions. The senior management approval for conducting transactions with higher risk customers has been concerned in the article 9-1.2 of the AML/CFT Law and the item 7.12 of the Regulation "On Establishment of Internal Control Systems". According to the Article 9-1.2 of the AML/CFT Law monitoring entities are required to obtain senior management approval for establishing business relationships with a politically exposed person of a foreign country. Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a politically exposed person of a foreign country, monitoring entities should be required to obtain senior management written approval to continue the business relationship. Also, following to Item 7.12 of the said Regulation, "establishing of new correspondent relationship shall be based on the approval of the senior level management of the monitoring subject.
Recommendation of the MONEYVAL Report	*(As the documents which can be used for verification or identification are not sufficiently determined) financial institutions should be advised to use not only the documents as currently prescribed by law but also to use other reliable, independent source documents, data or information for the verification of the customer's identity.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The definition of a "customer" is stipulated in the article 1.0.11 of the AML/CFT Law as follows: "customer – any natural or legal person using the services of the monitoring entities or other persons involved in monitoring the persons that concern the transactions with the funds or other property." Article 9.1 of the AML/CFT Law obliged monitoring entities to identify their

	customers and beneficial owners. Identification of a legal person shall be carried out on the basis of the notarized copy of their charter and state registration certificate of the legal person. Identification of a natural person shall be carried out on the basis of his ID document. Identification of a natural person engaged in the entrepreneurship activity without forming a legal person shall be carried out on the basis of his/her ID document and a certificate issued by the relevant tax agency. Articles 9.8 and 9.9 of the AML/CFT Law obliged monitoring entities to verify the identification data of their customers and beneficial owners using reliable, independent sources. The measures applying for verification of a legal person are the following: • comparing the information submitted by a legal person with information included into the state register of legal persons; • obtaining the information on activity of legal person from mass-media, internet or official publication; • comparing the latest submitted information with previously received information. The measures applying for verification of a natural person are the following: • confirming the date of birth from birth certificate document, passport, driving license or other official documents; • confirming the permanent address from an utility bill or based on extract from state registry of immovable property confirming the state registration right of ownership, billet, lease or rent contract. Examples of the types of customer information that shall obtained, and the identification data that should be used to verify that information were taken directly from the General Guide to Account Opening and Customer Identification issued by the Basel Committee's Working Group on Cross Border Banking.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, items 5.3 and 5.4 of the Regulation "On Establishment of Internal Control Systems" stipulates that for verification of identification data obtained about the customer and beneficial owner, the monitoring subject may apply one or more measures set forth in articles 9.9 and 9.10 of the AML/CFT Law for the verification of information. Təqdim olunmuş məlumatların verifikasiyası üçün bir qayda olaraq həqiqiliyi şübhə doğurmayan, müstəqil (məlumatların və sənədlərin müştəridən kənar digər mənbələrdən əldə edilməsi) mənbələrdən məlumatlar əldə edilFor verification of the submitted data, as a rule, information should be obtained from independent sources that do not cause doubts (obtaining information and documents from other sources, not from the customer). Within the internal control system the monitoring subject may form an electronic database on documents. For this purpose, one or a number of those documents are obtained from the customer and copied and stored in electronic data carriers. Monitorinq subyekti müştəri və benefisiar barəsində əldə olunmuş eyniləşdirmə məlumatlarının verifikasiyası üçün elektron məlumat bazasından istifadə edə bilərlər.The monitoring subjects may use electronic database for verification of identification data obtained about the customer and beneficial owner.
Recommendation of the MONEYVAL Report	*Azerbaijani legislation should provide a definition of "beneficial owner", on the basis of the glossary of the FATF Methodology.*
Measures reported as of 7 December 2009 to implement the	"Beneficial owner" definition is stipulated in the article 1.0.12 of the AML/CFT Law on the basis of the glossary of the FATF Methodology as follows: "beneficial owner – natural person(s) who ultimately owns or controls a customer and/or the

Recommendation of the report	person on whose behalf a transaction is being conducted; it also incorporates those persons who exercise ultimate effective control over a legal person or arrangements.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Taking into account this Recommendation by the Draft Law it is proposed to amend AML/CFT Law with article 9.11: **Amended article 9.11.** Monitoring entities shall obtain information on the purpose and intended nature of the business relationship.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 9.11 of the AML/CFT Law, monitoring entities shall obtain information on the purpose and intended nature of the business relationship.
Recommendation of the MONEYVAL Report	*The scrutiny of transactions and the updating of identification data acquired during the CDD process should be undertaken as an ongoing process of due diligence on the business relationship. This requirement should be set out by the AML Law, in order to ensure that the transactions being conducted are consistent with the financial institutions' knowledge of the client.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Taking into account this Recommendation by the Draft Law it is proposed to amend AML/CFT Law with article 9.12: **Amended article 9.12.** Monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence shall include the following: **9.12.1.** scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds; **9.12.2.** ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 9.12 of the AML/CFT Law, monitoring entities shall conduct ongoing due diligence on the business relationship. Ongoing due diligence shall include the following: - scrutiny of transactions undertaken throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, and the source of funds (9.12.1); - ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships (9.12.2).
Recommendation of the MONEYVAL Report	*It should be made clear to financial institutions that if they are unable to satisfactorily complete CDD measures, (before account opening or commencing*

	business relations or where the business relationship has commenced, when doubts about the veracity or adequacy of previously obtained data arise) they should consider making an STR.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently in accordance with the article 9.14 of the AML/CFT Law, where it is impossible to identify the parties of transactions in order as defined by this Law or whether refused from submitting identification information on the customer or beneficial owner, the monitoring entities shall not perform the relevant transaction. Taking into account this Recommendation by the Draft Law it is proposed to amend relevant article of the AML/CFT Law: "Where it is impossible to identify the parties of transactions in order as defined by this Law or whether refused from submitting identification information on the customer or beneficial owner, the monitoring entities shall not open the account, commence business relations or perform the transaction, and in accordance with article 11 of this Law shall inform the FMO about that."
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with Article 9.15 of the AML/CFT Law, where the monitoring entity is unable to identify and verify the parties of transactions in order as defined by the Law or whether refused from submitting identification information on the customer or beneficial owner, or the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data, the monitoring entity shall not open the account, commence business relations or perform the transaction, and in accordance with Article 11 of the Law shall inform the Financial Monitoring Service about that. In addition, taking into account the MONEYVAL recommendation made in desk-based review in 2010, abovementioned obligation has been extended in Item 5.9 of the Regulation "On Establishment of Internal Control Systems". Hence, if the monitoring entity is unable to conduct identification and verification of the customer and beneficial owner identity using reliable independent source documents, data or information (identification data) as defined by the Law or obtain information on the purpose and intended nature of the business relationships of the customer and beneficial owner with them, the monitoring entity shall not perform the transaction, open the account, commence business relationship, and if it is unable to carry out the mentioned identification and verification measures after the establishment of business relationship, it shall terminate the business relationship and to consider making a suspicious transaction report to the Financial Monitoring Service.
Recommendation of the MONEYVAL Report	*Financial institutions should be required by enforceable means to identify all existing clients (on the basis of materiality and risk) and to conduct due diligence on such existing relationships at appropriate times, in order to acquire all missing data and information.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Taking into account this Recommendation by the Draft Law it is proposed to amend AML/CFT Law with article 9.16: **Amended article 9.16.** Monitoring entities shall apply CDD requirements to customers existing until the entrance into force of this Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.
Measures taken to implement the recommendations since the adoption of the first progress report	Following to Article 9.16 of the AML/CFT Law, monitoring entities shall apply CDD requirements to customers existing until the entrance into force of this Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.
(Other) changes	According to the Law "On changes and amendments to some legislative acts of the

since the last evaluation	Republic of Azerbaijan in connection with implementation of the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism", amendments were done to several legislative acts of the Republic of Azerbaijan, including the following ones: • Amended article 25-1 of the Law "On Investment Funds" requires that investment fund shall report to the Financial Monitoring Service information on transactions with funds or other property subject to monitoring for the purposes of prevention of ML/TF, as well as prepare and apply the internal control system. The investment fund shall observe the requirements of the AML/CFT Law concerning the identification of customers, beneficial owners or authorized representative, and verification of this identification information, documenting, filing and archiving the information. • Amended articles 302.8–1, 1078–29.9 and 1078–31.6 of the Civil Code obliged pawnshops, brokers and persons engaged in the professional management of securities to carry out measures as defined by the relevant legislation for the purposes of prevention of ML/TF. • Amended article 29.4 of the Law "On Non–Governmental Organisations (public associations and funds)" requires that NGOs shall carry out measures as defined by the relevant legislation for the purposes of prevention of ML/TF. • Amended article 42-1 of the Law "On Banks" obliged credit institutions to report to the Financial Monitoring Service information on transactions with funds or other property subject to monitoring for the purposes of prevention of ML/TF, prepare and apply the internal control system, as well as carry out other measures as defined by the laws of the Republic of Azerbaijan and the international instruments to which the Republic of Azerbaijan is a party. Credit institutions shall observe the requirements of the AML/CFT Law concerning the identification of customers, beneficial owners or authorized representative, and verification of this identification information, documenting, filing and archiving the information. No anonymous accounts, including anonymous deposit accounts can be opened, as well as no anonymous certificate of deposit can be issued. • Amended article 10.3 of the Law "On Lottery" stipulated that lottery organizer shall carry out measures as defined by the relevant legislation for the purposes of prevention of ML/TF. • According to the amended article 13.5 of the Law "On Post", National Post Operator shall report to the Financial Monitoring Service information on transactions with funds or other property subject to monitoring for the purposes of prevention of ML/TF, prepare and apply the internal control system, as well as carry out other measures as defined by the laws of the Republic of Azerbaijan and the international instruments to which the Republic of Azerbaijan is a party. National Post Operator shall observe the requirements of the AML/CFT Law concerning the identification of customers, beneficial owners or authorized representative, and verification of this identification information, documenting, filing and archiving the information. • According to the amended article 13 of the Law "On Insurance Activity", insurers, re-insurers, insurance intermediaries shall report to the Financial Monitoring Service information on transactions with funds or other property subject to monitoring for the purposes of prevention of ML/TF, prepare and apply the internal control system, as well as carry out other measures as defined by the laws of the Republic of Azerbaijan and the international instruments to which the

	Republic of Azerbaijan is a party. The insurers, re-insurers, insurance intermediaries shall observe the requirements of the AML/CFT Law concerning the identification of customers, beneficial owners or authorized representative, and verification of this identification information, documenting, filing and archiving the information. • Amended article 5 of the Law "On Freedom of Conscience" obliged charities to carry out measures as defined by the relevant legislation for the purposes of prevention of ML/TF.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[2]	
Recommendation of the MONEYVAL Report	*It is strongly recommended that the Azerbaijan authorities make all DNFBP, as defined by FATF, subject to AML/CFT obligations. It is also advised that tax advisors, lottery organisers and auditors are covered. Azerbaijan should fully implement Recommendation 5 and make these measures applicable to DNFBP.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently by the article 5 of the AML/CFT Law as DNFBP (other persons involved in monitoring) are established: • notaries; • lawyers; • auditors; • other persons providing legal services. The institutions of "tax advisors", "external accountants" are not applicable for the Republic of Azerbaijan. Casino activity and gaming is prohibited on the territory of the Republic of Azerbaijan on the basis of the Decree of the President of the Republic of Azerbaijan N° 730 of 27 January 1998. Lottery organizers and the persons providing intermediary services on the buying and selling of real estate qualified by the AML/CFT Law as monitoring entities. Lottery games are undertaken by "Azerlottery" OJSC, whose shares are 100% owned by the Government. In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the identification and verification of customers and beneficial owners shall apply to DNFBP (other persons involved in monitoring) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons. DNFBP (other persons involved in monitoring) that submitted information to the

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

	Financial Monitoring Service shall not disclose it. The provisions of the article 5.1 of the AML/CFT Law shall not apply to the information that is considered as professional secrecy or legal professional privilege.
(Other) changes since the last evaluation	According to the Law "On changes and amendments to some legislative acts of the Republic of Azerbaijan in connection with implementation of the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism", amendments were done to several legislative acts of the Republic of Azerbaijan, including the following ones: • Amended article 13 of the Law "On Auditing Services" obliged auditors to observe the requirements of the AML/CFT Law concerning the identification and verification of customers, beneficial owners or authorized representative, documenting, filing, archiving and the requirement of reporting of information indicated in article 7.2 of this Law, prepare and apply the internal control system and implement other measures as defined by the relevant legislation of the Republic of Azerbaijan. • According to the amended article 42-1 Law "On Notaries", notaries shall observe the requirements of the AML/CFT Law concerning the identification and verification of customers, beneficial owners or authorized representative, documenting, filing, archiving and the requirement of reporting of information indicated in article 7.2 of this Law, and implement other measures as defined by the relevant legislation of the Republic of Azerbaijan. • Based on amended article 16 of the Law "On Advocates and Advocate Activities", lawyers shall observe the requirements of the AML/CFT Law.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*A clear obligation to keep records of account files and business correspondence should be introduced for all financial institutions.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Article 10 of the AML/CFT Law establishes mandatory obligation to keep records of account files and business correspondence. Based on the article 10 the monitoring entities shall preserve the identification documents envisaged by the article 9 of the AML/CFT Law and documents on the transactions with the funds or other property in the information carriers or in the electronic format within the timeframes indicated below, if no longer period is envisaged by the legislation:

	• identification documents of the customer, beneficial owner or authorized representative – at least for 5 (five) years after the customer's account is closed or after termination of legal relations with the customer; • documents on the transactions with the funds or other property conducted by the customer (account files, business correspondence and other relevant documents) and the information prepared in accordance with article 11 of this Law – at least for 5 (five) years following completion of the transaction. <u>Securities sector</u> According to the article 2.4 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" all financial intermediaries in the securities sector are required to keep records of account files and business correspondence at least for 5 (five) years. According to article 12.1 of the "Rules for making records by broker and dealer in the securities market" professional participants should keep internal record documents and record books at least for 10 years. According to the article 8.5 on "Standards of depository activity", information related to the depositary accounting and reflected on a paper and electronic data shall be kept by depositary during 15 (fifteen) years.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 10 of the AML/CFT Law, the monitoring entities shall maintain the documents on CDD measures envisaged by the article 9 of the Law, documents on the transactions with the funds or other property and documents envisaged by articles 9–1 and 9–2 of the Law, in the information carriers or in the electronic format within the timeframes indicated below, if no longer period is envisaged by the legislation: - documents on due diligence measures of the customer, beneficial owner or authorized representative – at least for 5 (five) years after the customer's account is closed or after termination of legal relations with the customer; - documents on the transactions with the funds or other property conducted by the customer (account files, business correspondence and other relevant documents) and the information prepared in accordance with the article 11 of the Law – at least for 5 (five) years following completion of the transaction.
Recommendation of the MONEYVAL Report	*All documents relating to customer identification data must be retained for a minimum period of 5 years and made readily available to all relevant authorities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with article 10 of the AML/CFT Law the identification documents envisaged by the article 9 of the AML/CFT Law and documents on the transactions with the funds or other property shall be submitted by monitoring entities to the Financial Monitoring Service in case of necessity. See also ibid. Article 123.2 of the Law "On Insurance Activity" amended in June 30/2009, requires that insurers and insurance intermediaries should preserve the documents related to the operations carried out by them as well as information on such operations contained in the electronic information carriers within the term at least 5 years after the cancelation of legal relationship with clients or other contract parties, and identification documents of the client, beneficiary or competent representative prescribed in the article 13 of this Law within the term determined by the legislation (this term is also determined 5 years according to the article 10 of the AML/CFT Law) and should submit them to the competent state authority in case of necessity.
Measures taken to	Pursuant to Article 10.3 of the AML/CFT Law, monitoring entities are required to

implement the recommendations since the adoption of the first progress report	ensure that all customer and transaction records and information mentioned in Article 10.1 of the Law are available on a timely basis to the supervision authorities and Financial Monitoring Service upon appropriate request. In addition, the Regulation "On Establishment of Internal Control Systems" contains the obligation to keep records of the account files and business correspondence for at least five years following the termination of an account or business relationship.
Recommendation of the MONEYVAL Report	*A provision to ensure that the mandatory record-keeping period may be extended in specific cases upon request of an authority should be included in the legislation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	By the wording *"if no longer period is envisaged by the legislation"* in the article 10 of the AML/CFT Law it is implied that the mandatory period may be extended upon a decision of an authority. <u>Securities sector</u> According to the article 2.4 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" all financial intermediaries in the securities sector are required to keep records of account files and business correspondence <u>at least</u> for 5 (five) years. Which basically means that, upon request of the SCS record keeping period may be extended in the specific cases.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 10.3 of the AML/CFT Law, the timeframe stipulated in Article 10.1 of the Law may be prolonged if requested by supervision authorities or Financial Monitoring Service in specific cases upon proper authority.
Recommendation of the MONEYVAL Report	*No formal provision requiring that customer transaction records to be made available on a timely basis to domestic competent authorities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with article 10 of the AML/CFT Law the identification documents envisaged by the article 9 of the AML/CFT Law and documents on the transactions with the funds or other property shall be submitted by monitoring entities to the Financial Monitoring Service in case of necessity. As to other supervision authorities, customer transaction records shall be provided to supervision authorities in performance of their duties. To state authorities and law-enforcement agencies as well, such information can be provided under the valid court order related with resolution of claim, arrest, confiscation of property for compensation of client liabilities and property in the bank's depository. <u>Securities sector</u> Article 9.3 of the Statute of the State Committee for Securities (SCS) allows SCS to receive customer transaction records on a timely basis from the financial institutions in the securities sector Article 123.2 of the Law "On Insurance Activity" amended in June 30/2009, requires that insurers, reinsurers and insurance intermediaries should submit the preserved documents to the competent state authority in case of necessity.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Article 10.2 of the AML/CFT Law, monitoring entities are required to ensure all customer and transaction records and information mentioned in the Article 10.1 of the Law are available on a timely basis to the supervision authorities and Financial Monitoring Service upon appropriate request.
Recommendation of	*No provision as yet in secondary legislation defining the record keeping documents*

the MONEYVAL Report	*to be retained and the length of retention in the insurance sector*.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Insurers, reinsurers, insurance intermediaries are defined in the article 4 of the AML/CFT Law as monitoring entities. So, article 10 of the Law shall apply also to them. Article 123.2 of the Law "On Insurance Activity" amended in June 30/2009, requires that insurers, reinsurers and insurance intermediaries should preserve the documents related to the operations carried out by them as well as information on such operations contained in the electronic information carriers within the term at least 5 years after the cancelation of legal relationship with clients or other contract parties, and identification documents of the client, beneficiary or competent representative prescribed in the article 13 of this Law within the term determined by the legislation (this term is also determined 5 years according to the article 10 of AML/CFT Law) and should submit them to the competent state authority in case of necessity.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Based on Item 11.4 of the Regulation "On Establishment of Internal Control Systems", the information and documents below regarding observing the requirements of the AML/CFT Law shall be recorded and stored by the monitoring subject: - identification and verification documents of the customer, his beneficial owner or authorized representative as shown in article 9 of the Law, as well as account files and business correspondence; - documents concerning transactions conducted by the customer with funds and other property (withdrawals from its account, bases for conduct of transactions, etc.); - information and documents obtained concerning the transactions carried out by foreign PEPs; - all the information and documents obtained concerning unusual transactions as well as written analysis reports prepared by the monitoring subject in this regard; - information and documents submitted to the Financial Monitoring Service on current and suspicious transactions as well as information and documents obtained from analysis conducted to determine whether any transaction or business relationship is suspicious; - written inquires made by the Financial Monitoring Service and the supervision authority and the replies to these inquiries; - correspondence and documents sent to the supervision authority concerning supervision measures carried out regarding the observance of requirements of the Law. If the legislation does not provide for longer storage period of the information and documents considered in Item 11.4 of the Regulation, it shall be stored through recording in paper or electronic data carriers for at least five years after closing of the account and termination of business relationship with the customer. The documents are stored in centralized archive in accordance with the requirements for storage of archive documents.
Recommendation 10 (Record keeping)	

II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*Azerbaijan should fully implement Recommendation 10 and make their measures applicable to DNFBP.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the documenting, filing, archiving of information shall apply to DNFBP (notaries, lawyers, auditors, other persons providing legal services) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Azerbaijan as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities in law or regulation. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning the financing of terrorism.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the article 7.2 of the AML/CFT Law, monitoring entities shall make suspicious transaction report (STR) to Financial Monitoring Service on funds or other property, transactions with them and the attempts to carry out transactions regardless of their amount involving the following features: • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • on any transaction with the funds or other property associated with the citizens of the country which do not or insufficiently apply international standards against ML/TF, with the persons registered or that, who has a residency or permanent business in this country, with the persons who has a bank account in banks registered in this country;

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

	• on any transactions from bank accounts of politically exposed persons of foreign country; • on transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information: • type of transaction; • date of execution of transaction; • amount of executed transaction; • necessary information for the identification of legal and natural persons conducting the transaction; • information about the beneficial owner; • information on the nature, as well as the information describing a chronological history of the transaction; • the grounds stipulating the suspiciousness of transaction. The STR shall be submitted before the execution of the transaction. Where non–execution of a transaction is impossible or where it is known that non–execution of the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities shall immediately inform Financial Monitoring Service. The information submitted to Financial Monitoring Service shall not be disclosed. In accordance with the Criminal Code: **Article 316–2. Disclosure of information about the measures to be taken against the legalization of criminally obtained funds or other property and the financing of terrorism** **316–2.1.** Except the cases prescribed by the Law, disclosure the measures to be taken against legalization of criminally obtained funds or other property by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 1 000 manats up to 3 000 manats, or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. **316–2.2.** Except the cases prescribed by the Law, disclosure the measures to be taken against financing of terrorism by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 2 000 manats up to 4 000 manats, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Though the Financial Monitoring Service started receiving paper based STRs in 2009, the launching of automated reporting system was the prior target of its activity. So the new electronic reporting system (AzAML) had been implemented since September 2010. This system enables reporting entities to send reports via reporting portal on the web-page of the Financial Monitoring Service – **www.fiu.az**, as well as Financial Monitoring Service specialists to check and process mentioned reports in a timely and efficient manner. In February 2011 the agreement was signed between the UNODC and Financial

	Monitoring Service for the deployment of the goAML analytical system. After purchasing the goAML, a special Working Group was organised within the Financial Monitoring Service and Action Plan on implementation of the goAML was adopted in March 2011. In October 2011, the goAML system was deployed and all reporting entities were registered within the test environment. For the time being, reporting entities use goAML in parallel with AzAML for sending reports and starting from January 1, 2012 the goAML will be launched in real regime, by replacing AzAML. This new system, not only gives the Financial Monitoring Service efficient data processing and data mining instruments, as well as tactical and strategic analysis tolls, but also enables reporting entities to automate their internal control systems and reporting process.
Recommendation of the MONEYVAL Report	*All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The mandatory requirement to make STR is referred to: • credit institutions; • insurers, reinsurers, insurance intermediaries; • brokers, who professionally participate in the securities market and those, who are engaged in the professional management of securities; • credit institutions providing leasing services; • institutions and other organizations providing post services that are engaged in transfers of the funds; • pawnshops; • investment funds; • legal persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals; • non–governmental or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds; • the lottery organizer; • legal persons providing intermediary services on the buying and selling of real estate.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with the amendments to the AML/CFT Law made on March 5, 2010, the mandatory requirement to make STR is also referred to: • natural persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals; • natural persons providing intermediary services on the buying and selling of real estate. In previous version of the AML/CFT Law, only legal persons were involved into the STR submission process.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant	

initiatives	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*Recommendation 13 is not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the reporting of information indicated in article 7.2 shall apply to DNFBP (notaries, lawyers, auditors, other persons providing legal services) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators strongly recommend that financing of terrorist organisations and individual terrorists be explicitly criminalised.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Extract from the Draft Law (article 214–1 of Criminal Code): "….Provision or collection funds or other property by any means, directly or indirectly, unlawfully and willfully, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organisation or by an individual terrorist,….".
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new definition of the terrorist financing offence to the Criminal Code. Enacted version of Article 214-1pertain below:

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

	«**Article 214–1. Terrorist financing** Willful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in order to finance the preparation, organization or carrying out by a person or by a group (organization, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organization— shall be punished by imprisonment for the term from ten up to twelve years with the confiscation of property. **Note:** 1. Terrorist financing offence shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act. 2. The person who has committed act, provided by the article 214-1 of this Code shall be released from a criminal liability if he/she had warned authorities or in different way promoted prevention of commitment of such act and if in his/her actions there were no attributes of structure of other crime».
Recommendation of the MONEYVAL Report	*Referring to the meaning of the terms "money resources" and "other property" the evaluators were unable to find definitions of these concepts. Furthermore no definition was found for the term "money". It is not clear if the concept "money resources" refers without any doubt to cash, money in the bank accounts or financial deposits and if the property includes all physical objects and property rights. It is also not clear if the concept covers all types of negotiable instruments and bank accounts. Because of that, the evaluators consider that future clarification is required to cover all these concepts.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In this article «funds or other property» means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
Measures taken to implement the recommendations since the adoption of the first progress report	The definition of «funds or other property» in terms of SRII was embedded to Article 1 of the Law of the Republic of Azerbaijan «On Combating Terrorism»: «**funds or other property** – means assets of every kind, from a legitimate or illegitimate source, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders.»
Recommendation of the MONEYVAL Report	*The legislation does not provide a definition of "funds" in relation to terrorism financing. It should be ensured that "funds" fully covers the concept, as defined in the Terrorist Financing Convention.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see item above.
Measures taken to implement the recommendations since the adoption	Please see information above.

of the first progress report	
Recommendation of the MONEYVAL Report	*The evaluators are not in a position to comment with certainty on whether Article 214-1 covers legitimate funds or not. For clarity, the financing of terrorism provision should explicitly extend to any funds, whether they come from legitimate or illegitimate sources.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The new definition of funds extends to any funds, whether they come from legitimate or illegitimate sources.
Measures taken to implement the recommendations since the adoption of the first progress report	The new definition of funds extends to any funds, whether they come from legitimate or illegitimate sources.
Recommendation of the MONEYVAL Report	*The legislation should also provide that the terrorist financing offence should not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Item 2 of the Note to article 214–1 of Criminal Code provides that terrorist financing offence shall not require that the funds were actually used to carry out or attempt a terrorist act or be linked to a specific terrorist act.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
Recommendation of the MONEYVAL Report	*The legislation does not address the issue whether the intentional element can be inferred from objective facts and circumstances, and the issue has not been tested in practice. It would be prudent to explicitly provide for this.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	With the ratification of the Palermo Convention, national legislation has accepted that the criminal intent, knowledge or purpose can be inferred from objective factual circumstances. Nevertheless, in practice the intentional element of the offence of money laundering may be allowed to be inferred from factual circumstances by virtue of article 124 of the Code of Criminal Procedure of the Republic of Azerbaijan. Therefore it shall be relied upon both direct and circumstantial evidence to prove their case in any criminal prosecution. Knowledge or intent may be proved by direct evidence or may be inferred from the surrounding circumstances, and from objective factual circumstances, such as time and place of the crime and motive of the perpetrator. In accordance with article 124 of the Code of Criminal Procedure reliable evidence (information, documents, other items) obtained by the court or the parties to criminal proceedings shall be considered as prosecution evidence. Such evidence shall be obtained in accordance with the requirements of the Code of Criminal Procedure, and shall be produced in order to show whether or not the act was a criminal one, whether or not the act committed contains the features of offence and other circumstances essential to determining the charge correctly. If there is no

	doubt as to the accuracy and source of the information, documents and other items and as to the circumstances in which they were obtained, they may be accepted as reliable evidence.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*As in the analysis and recommendations in respect of Recommendation 2, the evaluators similarly recommend Azerbaijan to consider extending the offence of financing of terrorism to legal entities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Criminal Code of the Republic of Azerbaijan does not recognize legal persons as subjects of a crime, as directly stated in article 19 of the Criminal Code, under which to criminal liability shall be subjected person, who has mental capacity, committed a crime and reached appropriate age, settled by the Criminal Code. Nevertheless, Azerbaijani legislation establishes effective sanctions against legal persons for offenses related with money laundering or terrorist financing. In particular, article 348-3 of the Code of Administrative Infringements stipulates an administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons. Liquidation of legal persons implicated in terrorist activities, including terrorist financing, is envisaged in the Law of the Republic of Azerbaijan dated 18 June 1999 No. 687-IQ "On Suppression Terrorism". The possibility of court-ordered liquidation of a non-profit institution engaged in unlawful activity is envisaged in article 59.2.3 of the Civil Code and article 31 of the Law of the Republic of Azerbaijan dated 13 June 2000 No. 894-IQ "On non-governmental organizations (public associations and funds)".
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Nevertheless, taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" was developed in order to introduce the provisions on corporate criminal liability. The draft Law has been already submitted to the Parliament for hearing and adoption.
(Other) changes since the last evaluation	For the overall implementation of FATF SR II, as well as to align definition of "terrorist financing" with the UN International Convention for the Suppression of the Financing of Terrorism, by the Draft Law it is proposed to amend Criminal Code, AML/CFT Law and the Law "On Suppression of Terrorism" as follows: **Article 214–1. Terrorist financing** Provision or collection funds or other property by any means, directly or indirectly, unlawfully and willfully, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organisation or by an individual terrorist, or in order to carry out an
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" was developed in order to cover all offences indicated in the Annex of the UN TF Convention and include the relevant articles of the Criminal Code relating to nuclear safety to the scope of predicative offences of terrorism financing. The amendments were indicated with bold fonts – "willful provision or collection funds or other property by any means, in full or in part, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used in

	order to finance the preparation, organization or carrying out by a person or by a group (organization, community) of persons of an act which constitutes a crime within the scope and as defined in the articles 102, 214, 215, 219, 219-1, **226 (illegal handling with radioactive materials), 227 (plunder or extortion of radioactive materials),** 277, 278, 279, 280, 282 of the Criminal Code of the Republic of Azerbaijan, or by an individual terrorist or by a terrorist organization."

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend that Azerbaijan as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning the financing of terrorism and should cover all predicate offences. All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the article 7.2 of the AML/CFT Law, monitoring entities shall make suspicious transaction report (STR) to Financial Monitoring Service on funds or other property, transactions with them and the attempts to carry out transactions regardless of their amount involving the following features: • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • on any transaction with the funds or other property associated with the citizens of the country which do not or insufficiently apply international standards against ML/TF, with the persons registered or that, who has a residency or permanent business in this country, with the persons who has a bank account in banks registered in this country; • on any transactions from bank accounts of politically exposed persons of foreign country; • on transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information: • type of transaction; • date of execution of transaction; • amount of executed transaction; • necessary information for the identification of legal and natural persons conducting the transaction; • information about the beneficial owner; • information on the nature, as well as the information describing a chronological history of the transaction; • the grounds stipulating the suspiciousness of transaction. The STR shall be submitted before the execution of the transaction. Where non–execution of a transaction is impossible or where it is known that non–execution of the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities shall immediately inform

	Financial Monitoring Service. The information submitted to Financial Monitoring Service shall not be disclosed. In accordance with the Criminal Code: **Article 316–2. Disclosure of information about the measures to be taken against the legalization of criminally obtained funds or other property and the financing of terrorism** **316–2.1.** Except the cases prescribed by the Law, disclosure the measures to be taken against legalization of criminally obtained funds or other property by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 1 000 manats up to 3 000 manats, or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. **316–2.2.** Except the cases prescribed by the Law, disclosure the measures to be taken against financing of terrorism by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 2 000 manats up to 4 000 manats, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. The mandatory requirement to make STR is referred to: • credit institutions; • insurers, reinsurers, insurance intermediaries; • brokers, who professionally participate in the securities market and those, who are engaged in the professional management of securities; • credit institutions providing leasing services; • institutions and other organizations providing post services that are engaged in transfers of the funds; • pawnshops; • investment funds; • legal persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals; • non–governmental or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds; • the lottery organizer; • legal persons providing intermediary services on the buying and selling of real estate.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Though the Financial Monitoring Service started receiving paper based STRs in 2009, the launching of automated reporting system was the prior target of its activity. So the new electronic reporting system (AzAML) had been implemented since September 2010. This system enables reporting entities to send reports via reporting portal on the web-page of the Financial Monitoring Service – **www.fiu.az**, as well as Financial Monitoring Service specialists to check and process mentioned reports in a timely and efficient manner. In February 2011 the agreement was signed between the UNODC and Financial Monitoring Service for the deployment of the goAML analytical system. After purchasing the goAML, a special Working Group was organised within the Financial Monitoring Service and Action Plan on implementation of the goAML

	was adopted in March 2011. In October 2011, the goAML system was deployed and all reporting entities were registered within the test environment. For the time being, reporting entities use goAML in parallel with AzAML for sending reports and starting from January 1, 2012 the goAML will be launched in real regime, by replacing AzAML. This new system, not only gives the Financial Monitoring Service efficient data processing and data mining instruments, as well as tactical and strategic analysis tolls, but also enables reporting entities to automate their Internal Control Systems and reporting process.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	In accordance with the amendments to the AML/CFT Law made on March 5, 2010, the mandatory requirement to make STR is also referred to: • natural persons engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones and precious metals; • natural persons providing intermediary services on the buying and selling of real estate. In previous version of the AML/CFT Law, only legal persons were involved into the STR submission process.
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	*Recommendation 13 (15 and 21) are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the reporting of information indicated in article 7.2 shall apply to DNFBP (notaries, lawyers, auditors, other persons providing legal services) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

2.3. Other Recommendations

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

Recommendation 2 (Money laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The law of Azerbaijan has not established criminal liability for legal persons or civil or administrative liability for money laundering by legal persons. Legislation should be amended to bring liability of legal persons into line with modern international standards.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Ad Hoc group, composed of the law enforcement practitioners, university professors and judges of the Supreme Court have developed the Criminal Law (Amendment) Bill, which foresees fundamental amendment of the existing Criminal Code. The review of the existing Criminal Code was conducted in cooperation with the experts the Council of Europe. The criminal liability of a legal person is among the novelties envisaged by the Bill. It is currently under consideration in the committee of the national Parliament. Concerning the introduction of criminal liability for legal persons please be informed as follows. Criminal Code of the Republic of Azerbaijan does not recognize legal persons as subjects of a crime, as directly stated in article 19 of the Criminal Code, under which to criminal liability shall be subjected person, who has mental capacity, committed a crime and reached appropriate age, settled by the Criminal Code. This provision reflects one of the fundamental principles of criminal legislation – the principle of personal liability of a person. Nevertheless, Azerbaijani legislation establishes effective sanctions against legal persons for offenses related with money laundering or terrorist financing. In particular, article 348-3 of the Code of Administrative Infringements stipulates an administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons. Under article 6.3 of the AML/CFT Law, institutions operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license. Liquidation of legal persons implicated in terrorist activities, including terrorist financing, is envisaged in the Law of the Republic of Azerbaijan dated 18 June 1999 No. 687-IQ "On Suppression Terrorism". The possibility of court-ordered liquidation of a non-profit institution engaged in unlawful activity is envisaged in article 59.2.3 of the Civil Code and article 31 of the Law of the Republic of Azerbaijan dated 13 June 2000 No. 894-IQ "On non-governmental organizations (public associations and funds)". Finally, article 59.2.3 of the Civil Code of the Republic of Azerbaijan stipulates that a legal person may be liquidated by court decision if it engages in activities prohibited under legislation, or commits repeated or grave violations of the legislation.
Measures taken to implement the recommendations	This issue has already been clarified in the first progress report. Nevertheless, taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to Criminal Code of the

since the adoption of the first progress report	Republic of Azerbaijan" was developed in order to introduce the provisions on corporate criminal liability. The draft Law has been already submitted to the Parliament for hearing and adoption. The relevant extracts from the draft Law which envisages criminal liability of legal person indicated below (amendments are highlighted): **Article 12. Implementation of the criminal law concerning the persons who have committed a crime out of border of the Republic of Azerbaijan** 12.1. Citizens and **legal persons** of the Republic of Azerbaijan and persons constantly living on the territory of Republic of Azerbaijan without the citizenship, who have committed crime (action or inaction) out of border of the Republic of Azerbaijan, shall be instituted to the criminal liability under the present Code, if this action is recognized as a crime in the Republic of Azerbaijan and in the state on the territory of which it was committed, and if these persons were not condemned in the foreign state. 12.1-1. Citizens of the Republic of Azerbaijan, persons constantly living on the territory of the Republic of Azerbaijan without the citizenship and **foreign legal persons**, who have committed crime (action or inaction) out of border of the Republic of Azerbaijan and not been sentenced for that, shall be subject to criminal liability under the present Code. 12.2. Foreigners, persons without the citizenship and **foreign legal persons**, committed a crime outside of limits of the Republic of Azerbaijan, shall be instituted to criminal proceedings under the present Code, in cases, if the crime shall be directed against the citizens of the Republic of Azerbaijan , interests of the Republic of Azerbaijan , and also in the cases, stipulated by international agreements to which the Republic of Azerbaijan is a party, if these persons were not condemned in the foreign state. **Article 19. Subject of a crime** 19.1. The person who has reached age of 16, to time of committing a crime shall be subjected to the criminal liability under the Code. *19.2. The legal person shall be subject to criminal liability in cases stipulated by this Code, for offences committed by the official of the legal person, or the natural person acting as its body or operating individually for its benefits or interests, as well as his/her participation, aiding and abetting in committing such an offence.* *19.3. The official of the legal person, mentioned in the Article 19.2 of the present Code, is the natural person having authority on representing the legal person under the regulations, statutes and other documents of constitution, making decisions on its behalf or conducting internal supervision.* *19.4. The legal person shall be subject to criminal liability for offences due to lacking management and supervision conducted by the official of legal person, committed on his interest by the employer of the legal person.* *19.5. The institution of a criminal liability in respect of a legal person doesn't exclude the criminal liability of a natural person, who was the perpetrator, aider or abettor of that offence. Impossibility of conviction of a natural person, who has committed a crime on the grounds stipulated by the Code, doesn't exclude the criminal liability of a legal person.* *19.6. Legal persons shall be subject to criminal liability for offences stipulated in Articles 144-1, 144-2, 193-1, 194, 202-2, 203-1, 214, 214-1, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256.1, 256.2, 257, 258.1, 258.2, 259, 260.2, 261, 312, 312-1.2-ci, 316-2 of this Code.* *Article 42. Types of punishments* 42.1. Followings are the types of punishments stipulated fot natural persons:…..

	42.2. Followings are the types of punishments stipulated for legal persons: *42.2.1. fine;* *42.2.2. deprivation of the legal person's right to engage in the certain activity;* *42.2.3. termination of a legal person;* Article 44. Fine 44.1. The fine is a monetary payment appointed by court in certain circumstances and amounts, provided by the present Code. *44.3. The fine relating to legal entity is appointed at a rate up to 500000 manats, in view of graveness of the crime and a financial and property condition of the legal person. The fine appointed to the legal person cannot exceed the half amount of property of legal person.* *44.3. The fine as an auxiliary punishment can be appointed by courts only in the cases provided by appropriate articles of the Special part of the present Code.* *44.4. The person, who deliberately elude from payment of the fine, fine can be replaced with other punishments stipulated in the same article.* *Article 46-1. Deprivation of the legal person's right to engage in the certain activity* *46-1.1. Deprivation of the legal person's right to engage in the certain activity includes the restriction of concluding certain acts, issuing of stocks and other securities, getting subsidies, allowances or other privileges from the state or being engaged in other type of activity.* *46-1.1. Deprivation of the legal person's right to engage in the certain activity includes the restriction of its activity connected with public offence, which the legal person was subject to criminal liability for.* *46-1.2. Deprivation of the legal person's right to engage in the certain activity shall be determined as general punishment type for the period of from one to five years, and as additional punishment type for the period of from one to three years.* *46-1.3. Taking into account the public danger character and level of committed crime, if the court decides that the remaining of the right of getting engaged in certain activity is impossible, legal person shall be subject to the penalty of deprivation of the legal person's right to engage in the certain activity in cases not stipulated in the Special Part of this Code.* *Article 57-1. Termination of legal person* *57-1.1. Termination of legal person punishment type, is the elimination of legal person's existence and activity for commitment of a crime by legal person, without passing its rights and obligations to other persons.* *57-1.2. Termination of legal person shall be implemented in cases when the legal person had been established for the commitment of a crime, which was deliberately committed by it or the legal person deliberately infringed its purposes envisaged in the statute.* *57-1.3. State (municipality) institutions or state (municipality) owned legal persons, political parties and trade unions are not subject to the punishment type of termination of legal person.*»
Recommendation of the MONEYVAL Report	*The practice to allow the intentional element of the money laundering offence to be inferred from factual circumstances is untested in practice. The intentional element would benefit from being reflected in the legislation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	With the ratification of the Palermo Convention, national legislation has accepted that the criminal intent, knowledge or purpose can be inferred from objective factual circumstances. Nevertheless, in practice the intentional element of the offence of money laundering may be allowed to be inferred from factual circumstances by virtue of article 124 of the Code of Criminal Procedure of the Republic of Azerbaijan. Therefore it shall be relied upon both direct and circumstantial evidence

	to prove their case in any criminal prosecution. Knowledge or intent may be proved by direct evidence or may be inferred from the surrounding circumstances, and from objective factual circumstances, such as time and place of the crime and motive of the perpetrator. In accordance with article 124 of the Code of Criminal Procedure reliable evidence (information, documents, other items) obtained by the court or the parties to criminal proceedings shall be considered as prosecution evidence. Such evidence shall be obtained in accordance with the requirements of the Code of Criminal Procedure, and shall be produced in order to show whether or not the act was a criminal one, whether or not the act committed contains the features of offence and other circumstances essential to determining the charge correctly. If there is no doubt as to the accuracy and source of the information, documents and other items and as to the circumstances in which they were obtained, they may be accepted as reliable evidence.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, due to Article 223 of the Criminal Procedural Code, the grounds for preferring charges shall be the totality of the prima facie evidence that the person concerned has committed an offence. Where there is a relevant evidence, to prefer charges against the person concerned the investigator shall give a reasoned decision where the place and time of the offence, the method and result of its commission, the degree of guilt, the motive for committing the offence and the nature of the charge with substantiating evidence shall be stated. In accordance with Article 139 of the Criminal Procedure Coded during prosecution the following may be determined only on the basis of evidence: the facts and circumstances of the criminal act; the link of the suspect or accused person with the criminal act; the criminal elements of the article provided for in the Criminal Code; the guilt of the person in committing the act provided for in criminal law. On the base of these evidences, investigative bodies should file criminal case to the court with indictment. Pursuant to Article 289.3 of the Criminal Procedure Code, the place, time, means, motives, results, evidence proving the guilt of the accused and other important particulars of the offence shall be stated in the part of the indictment setting out the facts and reasons. Pursuant to Article 353.2.1 of the Criminal Procedure Code, the statement of the facts and reasons in a judgment convicting the accused shall include the description of the criminal act considered by the court to be proven, stating the place, time and method of commission of the offence, the nature of the charge, the motives and the results of the offence committed. Furthermore, the adequacy of property with income, criminal background of the condemned person should be taken into consideration during the criminal proceeding.
Recommendation of the MONEYVAL Report	*No investigations, indictments or court decisions. There needs to be a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements. This should be accompanied by training and awareness-raising in respect of police officers, prosecutors and judges particularly on how money laundering investigations and prosecutions have been successfully achieved in other European jurisdictions.*
Measures reported as of 7 December 2009 to implement the Recommendation of	Evidentiary requirements of criminal prosecution are an indispensable element of all trainings, including the training covering money laundering. Traditionally acting as the coordinator of the law enforcement activity, the General Prosecutor's Office takes the complex approach while coordinating and arranging the trainings. Such approach aims to put together all the constituent elements of handling a criminal

the report	offence, gathering the law enforcement agents charged with criminal intelligence and detection activities, investigators charged with the pre-trial investigation of a criminal case, prosecutors supervising the intelligence activity and pre-trial investigation, as well as prosecutors appearing in court along with the judges trying the case. The superior prosecutors and judges of the Court of Appeal, usually involved as the trainers (lecturers) usually provide their expertise on the requirements of the evidence in a criminal case, e.g. which evidence shall stand in court and which will not. The experts from the United States have been involved in the trainings arranged for the Azerbaijani law enforcement agents, prosecutors and judges on a more frequent basis. However, the Twinning project with the Anticorruption Department envisages the channelling of the European expertise to the investigators and prosecutors of this Department, which is seen as the main investigation authority of the ML offences.
Measures taken to implement the recommendations since the adoption of the first progress report	During the period of 2009–2011, 9 criminal cases were instituted on money laundering offence (Article 193–1 of the Criminal Code): ✓ 2 of them resulted with the conviction sentences of the court, where 4 persons in total were subject to deprivation of liberty and proceeds in amount of EUR 239.000 were confiscated. Predicates for ML offence were: i) Fraud (Article 178), ii) Embezzlement (Article 179), iii) Evasion from payment of taxes (Article 213), iv) Passive bribery (Article 311) and v) Forgery (Article 313); ✓ 2 of abovementioned cases are under the court prosecution at the moment (Articles 179, 308, 313). There are 2 persons figuring in these cases and proceeds in amount of about EUR 726.000 are under the seizure; ✓ 5 of the cases are under the investigation by the Anti-Corruption Department under the Prosecutor General. There are 5 persons figuring in these cases.
(Other) changes since the last evaluation	Extract from the Code of Administrative Infringements: **Article 348–3. Violation of the legislation on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism** **348–3.0.** Violation of the legislation on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism, that is: **348–3.0.1.** non–observance of the requirements to identify and verify the customer, beneficial owner or authorized representative, or to document the information by the monitoring entities and other persons involved in monitoring; **348–3.0.2.** non–compliance by the monitoring entities and other persons involved in monitoring with the requirements to preserve the identification documents and documents on the transactions with the funds or other property; **348–3.0.3.** failure to apply or incomplete applying of the internal control system by the monitoring entities and other persons involved in monitoring, which are legal persons; **348–3.0.4.** failure to carry out in time or incomplete execution by the monitoring entities and other persons involved in monitoring of the written instructions of the Financial Monitoring Organ or supervision authorities given in order and cases stipulated by the Law; **348–3.0.5.** violation of the requirements of the non–execution of a transaction or submission the information stipulated by the Law, by the monitoring entities and other persons involved in monitoring— entails imposition on official persons of fine at a rate from 800 manats up to 1,500 manats, on legal persons of fine at a rate from 8,000 manats up to 15,000 manats.
(Other) changes	

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

Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Legislation should clearly state that "property" covers both direct and indirect proceeds of crime.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The definition of "criminally obtained funds or other property" is stipulated in the AML/CFT Law as follows: **Article 1.0.1. criminally obtained funds or other property** – funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offence provided by the Criminal Code of the Republic of Azerbaijan. Criminal legislation does not provide for division of proceeds into direct and indirect. The analysis shows that the criminal law confiscation covers only direct proceeds of crime. But in practice, the criminal conviction of a person gives way to application of civil proceedings aimed at sequestration of illegal indirect proceeds of a crime.
Measures taken to implement the recommendations since the adoption of the first progress report	Taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" was developed in order to introduce the provisions on confiscation. The draft Law has been already submitted to the Parliament for hearing and adoption. Pursuant to the draft Law, the confiscation will be removed as a sanction from Criminal Code and make applicable to all crimes if there is proceeds of crime were generated. The confiscation will extend to all direct and indirect funds and other properties, instrumentalities used in, instrumentalities intended for use in, to property that is derived directly or indirectly from proceeds of crime, including income, profits or other benefits from the proceeds of crime, all kind of properties directed to terrorism as well as intermingled properties. The relevant extracts from the draft Law which envisages confiscation provisions indicated below (amendments are highlighted): ***Article 99-1. Special confiscation*** ***99-1.1. Special confiscation is the mandatory and non-repayable withdrawal of following property by the state on the basis of court decision:*** ***99-1.1.1. item involved in crime, instrumentalities used in and instrumentalities intended for use in commitment of crime by legal or natural person subject to criminal liability (except property which shall be returned to its);*** ***99-1.1.2. property obtained by criminal activity and proceeds of crime committed by legal or natural person subject to criminal liability (except property which shall be returned to its);*** ***99-1.1.3. other property or part of it, which was fully or partially transferred by means of concluding civil-law acts;*** ***99-1.1.4. intermingled property fully or partially mixed with proceeds of crime,***

	not exceeding the value of mixed legal property; ***99-1.1.5. property intended or used for financing of terrorism, illegal armed units or groups or criminal organizations.*** ***99-1.2. Funds or property envisaged in the Article 99-1.1 of this Code, shall be confiscated regardless this property is owned or not owned by accused person or any third person.*** ***99-1.2. Property envisaged in the Article 99-1.1 of this Code, which was alienated by legal or natural person subject to criminal liability shall be confiscated, if the person purchased this property had been informed or should understand that this property had been obtained by criminal means.*** ***Article 99-2. Value confiscation*** ***In cases when confiscation of property obtained by criminal means is not possible since that property is used, alienated or because of some other reason, funds or other property equivalent the value of that property owned by subject of a crime shall be confiscated.*** ***Article 99-3. Reimbursement of damage caused by crime using confiscated property*** ***When considering the issue of confiscation, the caused damage to owner of property as a result of crime shall be reimbursed first, and after that the rest of property shall be withdrawn by the state.***
Recommendation of the MONEYVAL Report	*Confiscation should be legally available in respect of all predicate offences to money laundering (as defined in the Glossary to the FATF Recommendations) not only where the offences are committed in their aggravated forms, but also where they are committed in their basic forms.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In the existing form, the confiscation shall be applied as a measure of punishment only in respect of the criminal actions, which meet the description of the appropriate section of the Criminal Code 2000. In case if the confiscation is not directly prescribed by the section of the Criminal Code, it may not be applied. The concept of the confiscation is currently under review; with the dominant position being to introduce into the Criminal Code a legal provision allowing application of the confiscation measure in respect of the proceeds of all crimes provided by the Criminal Code. In order to broad range of offences susceptible to confiscation domestically and align provisional measures with the FATF Recommendation 3 it is proposed to amend sanctions of all designated categories of crimes with confiscation (available for the basic and aggravating forms of the crime).
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to the draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" confiscation will be legally available in respect of all predicate offences to money laundering whether the offences are committed in their aggravated or basic forms.
Recommendation of the MONEYVAL Report	*Confiscation of criminal proceeds should be made clearly mandatory in respect of some of the major proceeds-generating offences, like drug and human trafficking.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Under the articles 144-1 and 234 of the Criminal Code of the Republic of Azerbaijan the confiscation of criminal proceeds shall be mandatory implemented in respect of human and drug trafficking.
Measures taken to	Articles 144-1 (human trafficking) and 234 (drug trafficking) of the Criminal Code

implement the recommendations since the adoption of the first progress report	stipulate mandatory confiscation of property as a sanction.
Recommendation of the MONEYVAL Report	*In respect of certain serious proceeds-generating offences, consideration should be given to reversing the burden of proof after conviction for the criminal offence, when the court is considering the lawful origin of property in the hands of the convicted person.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	It is expected to deal with this issue in the framework of trainings, including the training covering money laundering.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
Recommendation of the MONEYVAL Report	*The provision for asset sharing in corruption cases should be extended to cover confiscation in all cases.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	To this matter it is proposed to amend the "Rules of Allocating Part of Confiscated Property to the Improvement of Material-Technical maintenance of Law Enforcement and Other Agencies" endorsed by the Decree of the President of the Republic of Azerbaijan dated 16th October 2006.
Measures taken to implement the recommendations since the adoption of the first progress report	The chapter 33 of the Criminal Code dealing with the corruption crimes provides for mandatory confiscation of property as a sanction.
Recommendation of the MONEYVAL Report	*There should be clear power to confiscate laundered property in a stand alone ML offence.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	ML is covered by the separate article of the Criminal Code and therefore may stand as the sole basis for criminal indictment and confiscation. Under the article 193-1 of the Criminal Code confiscation of criminal proceeds shall be mandatory implemented in relation to the legalization of money proceeds or other property obtained through criminal acts. **Article 193-1. Legalization of criminally obtained funds or other property** **193-1.1.** Legalization of criminally obtained funds or other property, that is giving legal status to such funds or other property knowing that they have been acquired by criminal way, as well as accomplishment of financial transactions or other deals by using the funds or other property for the purposes of concealing of the real sources of their acquisition— shall be punished by a fine at a rate from 2000 up to 5000 manats or imprisonment from two up to five years **with confiscation of property** with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to

	three years or without it. 193-1.2. The same acts, committed: 193-2.1. by group of persons in a preliminary conspiracy; 193-1.2.2. repeatedly; 193-1.2.3. by a person using his/her official position— shall be punished by imprisonment from five years up to eight years **with confiscation of property**, with deprivation of the right to engage in certain activities and to hold certain post up to three years or without it. 193-1.3. The acts provided for by articles 193-1.1 or 193-1.2 of this Code, committed: 193-1.3.1. by organized group or criminal community (criminal organization); 193-1.3.2. in large amount— shall be punished by imprisonment from seven up to twelve years **with confiscation of property** with deprivation of the right to hold the certain post or to engage in the certain activity for the term up to three years or without it.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was drawn up in consultation with the IMF. The draft Law among others creates effective freezing mechanism within Recommendation 3 (please see Annexes). Discussions regarding this draft Law are still ongoing and to finalize this process Azerbaijani authorities wait for the approval of revised FATF Recommendations early next year in order to cover new tendencies and standards.

Recommendation 6 (Politically exposed persons)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*With regard to PEPs, measures should be put in place that require financial institutions to:* *(a) determine if the client or the potential client is - according to the FATF definition – a PEP;* *(b) obtain senior management approval for establishing a business relation with a PEP;* *(c) conduct higher CDD and enhanced ongoing due diligence on the source of the funds deposited/invested or transferred through the financial institutions by the PEP.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The AML/CFT Law in the article 1.0.14. provides for the definition of politically exposed persons (as defined in the Glossary to the FATF Recommendations): "**politically exposed persons of foreign country** – individuals who are or have been entrusted with prominent public functions in a foreign country (Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials), as well as their family members or close associates. In accordance with the article 7.2.3 of the AML/CFT Law any transactions from bank accounts of politically exposed persons of foreign country shall be subject to

	monitoring regardless of their amount, that is making STR to the Financial Monitoring Service.
(Other) changes since the last evaluation	For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows: **Article 9–1. Politically exposed persons of foreign countries** **9–1.1.** Monitoring entities are required, in addition to performing the CDD measures required under article 9 of this Law, to put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person of a foreign country. **9–1.2.** Monitoring entities are required to obtain senior management approval for establishing business relationships with a politically exposed person of a foreign country. **9–1.3.** Where a customer has been accepted and the customer or beneficial owner is subsequently found to be, or subsequently becomes a politically exposed person of a foreign country, monitoring entities should be required to obtain senior management written approval to continue the business relationship. **9–1.4.** Monitoring entities are required to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as politically exposed person of foreign countries. <u>Securities sector</u> According to the article 2.2.10 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" transactions carried out by political parties, their leaders and representatives may provide reasonable ground for suspicion and they should be subject to ongoing due diligence and reported to the SCS.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced relevant amendments on PEPs to the AML/CFT Law as well. The Article 9–1 (Politically exposed persons of foreign countries) was enacted in the version given during the adoption of the first progress report. In addition, for the implementation of essential criteria 6.4, Regulation "On Establishment of Internal Control Systems" requires monitoring entities to conduct enhanced ongoing monitoring where they are in a business relationship with PEP. Item 7.3 of the Regulation determines the availability of checking information obtained through open sources or special electronic databases such as World Check, Factiva. In order to determine whether a potential customer is a PEP of a foreign state, reporting entity shall require a potential customer to fill out Annex 1 of the said Regulation.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 7 (Correspondent banking)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*In relation to cross-border correspondent banking and services, financial institutions should be required to:* *(a) obtain further information on the reputation of the respondent counterparts from publicly available information;* *(b) assess the adequacy of the existing AML/CFT controls in a respondent bank;* *(c) document the respective AML/CFT responsibilities of each institution;* *(d) obtain guarantees that counterpart organizations apply the normal CDD measures to all customers that have client access to the accounts of the correspondent institutions and that it is able to provide relevant customer identification data on request.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the amended Central Bank Regulation "On opening, maintenance and closing of accounts in banks", correspondent accounts are opened for local and foreign banks to conduct these banks' and their customers' banking transactions. AML/CFT measures implemented based on this Regulation in relation to opening correspondent accounts of foreign banks shall be applied in the same way when opening correspondent accounts of local banks. Based on item 6.4 foreign banks are required to submit, inter alia, the following documents for opening correspondent accounts in national (Manat) and foreign currency: 6.4. Foreign banks shall be required to submit the following information and documents for opening correspondent accounts foreign currency: • application; • copy of the statute or any other document certifying the legal status of the bank, as well as copy of the document on permission for banking activities issued by the authority of the state where the bank was registered (a copy legalized in the order specified by legislation and notarized translation into Azerbaijani language); • annual report or statement on the audit results for the last financial year; • balance for the last month; • sample signatures of authorized persons or sample signatures of those who have the right of disposal over the account and properly legalized scheme of the stamp; • special permission issued by authorized body (central bank or other authorized body) of the state of registration (legalized in the order specified by legislation and copy of notarized translation into Azerbaijani language); • sufficient information about a respondent foreign bank to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action; • information on non-establishment of business relationships or non-execution of any transactions through a shell bank by the respondent foreign bank. Mentioned information and documents shall be submitted by the foreign bank, as well as can be acquired from reliable sources (Media, Internet, official publishing) by the local bank. The adequacy of the AML/CFT supervision measures applied to the foreign banks abroad shall also be assessed by the local banks. Where a correspondent relationship involves the maintenance of "payable-through accounts", banks shall be satisfied that:

	• respondent foreign bank has performed all the normal CDD obligations on those of its customers that have direct access to the accounts of the correspondent bank; • respondent foreign bank is able to provide the customer identification data specified in the Regulation upon request to the correspondent financial institution. A written analytical report on the AML/CFT measures taken for opening of a correspondent bank account by a foreign bank shall be drawn up on the basis of the submitted documents and acquired information. The report is submitted to the senior official (the member of the Board of Directors) of the bank, which is authorized to document an appropriate account. Before establishing new correspondent relationships approval from senior management shall be obtained. The agreement on the foreign correspondent bank account shall come into force only after the signature of the senior official (the member of the Board of Directors) bank. By the agreement on the correspondent account of a foreign bank the respective AML/CFT responsibilities of each institution shall be documented (item 7-1.1). Bank shall refuse to conclude the bank account agreement in the cases, inter alia, when: • there are reasonable grounds to suspect that the account will be used for the purposes of money laundering or financing of terrorism; • it is determined that the AML/CFT internal regulations of the foreign bank, customer due diligence measures concerning those who use the correspondent (payable-through) accounts, the identification of beneficial owners and/or the implementation of the internal control system are inadequate or when it is determined that the business relationships established or transactions executed through the account by virtue of a shell bank.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, the Regulation «On requirements to establishment of the internal control system by monitoring entities and other persons involved in monitoring which are legal persons for preventing the legalization of criminally obtained funds or other property and the financing of terrorism» was approved by the Ministry of Justice and Financial Monitoring Service in September 2010. According to the regulation, local banks shall apply enhanced due diligence conduct transactions envisaged as it is prescribed by the AML/CFT Law in relation to transactions conducted through correspondent accounts with foreign banks. When opening a correspondent account with a foreign bank, the foreign bank shall be required to fill in the self-evaluation survey table. A compliance officer of the local bank shall evaluate the self-evaluation survey and submit a written report on results to a senior manager of the bank (to the member of the Board of Directors). Establishing of new correspondent relationship shall be based on the approval of the senior level management of the monitoring subject.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Financial institutions should be required to have policies in place to prevent the misuse of technological developments for AML/CFT purposes, and to have policies in place to address specific risks associated with non face to face transactions.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows: **Article 12–1. Non-face to face business relationships and transactions** **12–1.1.** Monitoring entities are required to take such measures as may be needed to prevent the misuse of technological developments in schemes of the legalization of criminally obtained funds or other property and the financing of terrorism. **12–1.2.** Monitoring entities are required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions. These policies and procedures shall apply when establishing customer relationships and when conducting ongoing due diligence. **12–1.3.** Measures for managing the risks mentioned in the article 12-1.2 of this Law shall include specific and effective CDD procedures that apply to non-face to face customers.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new Article 12-1 to the AML/CFT Law relating to non-face to face business. The Article was enacted in the version given during the adoption of the first progress report. Based on Items 7.14 and 7.15 of the Regulation "On Establishment of Internal Control Systems", monitoring entity is required to have rules and procedures in place to address any specific risks of money laundering and terrorism financing when establishing or conducting non-face to face business relationships or transactions. Moreover, each reporting entity shall implement aforementioned rules and procedures when establishing non-face to face business relationships or conducting identification and verification of those customers by following the below mentioned measures: - to conduct verification measures to make sure about the veracity of the identity of the customer with whom the business relationship is established; - to conduct verification measures to make sure about the veracity of the actual address that the customer with whom the business relationship is established resides.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 11 (Unusual transactions)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*The essential criteria in FATF Recommendation 11 should be implemented by law, regulation or other enforceable means, as:* *(a) the financial institutions are not specifically required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose;* *(b) there is no obligation for the financial institutions to document the obtained information in writing and keep it available for relevant authorities and auditors.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows: **Article 9–2. Unusual transactions** **9–2.1.** Monitoring entities are required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. **9–2.2.** Monitoring entities are required to examine as far as possible the background and purpose of the transactions stipulated in the article 9-2.1 of this Law, and to set forth their findings in writing. Securities sector According to the article 2.2 of the "Regulations on measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" financial intermediaries should carry ongoing customer due diligence and notify SCS when they have a suspicion of money laundering or terrorist financing. The following cases may provide reasonable grounds for suspicion: • one or both of the counterparties reside in the country that does not satisfy the international standards on AML/CFT; • transactions that have no apparent or visible economic or lawful purpose; • when there is a suspicion that transactions are carried in several operations in order to escape the supervision mechanisms; • customer identification is not possible or the identification data do not include reliable information; • transactions are carried out by politically exposed persons or by official attorneys; • transactions are carried in different prices than the market prices; • transactions carried in large volumes on regular basis by power of attorneys for certain person; • transactions by NPOs, religious organizations and their representatives; • transactions by bearer shares; • transactions by people, their relatives and representatives that were previously involved in money laundering and terrorist financing.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a new article to the AML/CFT Law relating to unusual transaction. **Article 9–2. Unusual transactions** Monitoring entities are required to pay special attention to all complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose. Monitoring entities are required to examine as

	far as possible the background and purpose of the transactions stipulated in the article 9-2.1 of this Law, and to set forth their findings in writing.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 12 (DNFBP)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Azerbaijan should fully implement Recommendations 6, 8, 10 and 11 and make these measures applicable to DNFBP*.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the documenting, filing, archiving of information shall apply to DNFBP (notaries, lawyers, auditors, other persons providing legal services) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or management of legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see the updated information to Recommendations 6, 8, 10 and 11.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 14 (Protection and no tipping-off)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*The legislation should address the specific questions of disclosing the fact that an STR or related information is being reported to the FIU and provide for the protection from criminal or civil liability for financial institutions, their directors, officers and employees where they report suspicious transactions in good faith.*
Measures reported	FATF recommendation 14 is implemented in the article 14 of the AML/CFT Law:

as of 7 December 2009 to implement the Recommendation of the report	**Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring** Where the monitoring entities and other persons involved in monitoring, its personnel, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring to the FMO in order as defined by this Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as causing the material and moral damage emerged as a result of the disclosure of information.
Measures taken to implement the recommendations since the adoption of the first progress report	The Law of the Republic of Azerbaijan, #973-IIIQ, «On amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» (adopted by the Parliament of the Republic of Azerbaijan March 5, 2010) has introduced a minor change to Article 14 of the AML/CFT Law by adding the words "good faith" into it, which improved the provision.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*The Azerbaijani authorities should consider including in law, regulation or other enforceable means a requirement for financial institutions to develop programmes against money laundering and financing of terrorism.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the AML/CFT Law (article 12) the monitoring entities and other persons involved in monitoring, which are legal persons, shall establish and maintain internal control system against the legalization of criminally obtained funds or other property and the financing of terrorism. This system shall include, inter alia, the followings: • to establish the internal rules and procedures against the legalization of criminally obtained funds or other property and the financing of terrorism; • to establish the centralized internal archive, which shall make possible to identify and verify the customers, the persons acting on behalf of customers, the beneficial owners and the transactions; • to prepare the rules on the documentation and the confidentiality of information; • to ensure that employees are kept informed of new developments, including information on current techniques, methods and trends of the legalization of criminally obtained funds or other property and the financing of terrorism; • to define the criteria for detecting the transactions to be monitored taking into account features of the activity of the monitoring entities and other persons involved in monitoring; • to establish measures aimed at resolution of problems caused by the suspension of a transaction;

	• to establish the internal audit mechanism to test compliance of the application by monitoring entities and other persons involved in monitoring of the rules as stipulated by this Law; • to appoint in the monitoring entities and other persons involved in monitoring, which are legal persons of a person at the level of management or heads of structural units, who shall be responsible for controlling the implementation of internal rules and procedures on the activity against the legalization of criminally obtained funds or other property and the financing of terrorism, for carrying out the exchange of information with the FMO, as well as for preparing and submitting reports on the transactions, which are subject to monitoring; • to put in place screening procedures to ensure high standards when hiring employees depending on features of the activity, as well as the other mechanisms and rules for detecting and preventing any transactions, the nature of which is suspicious, and submission of the necessary information to the FMO in accordance with article 11 of this Law. The internal control system shall be developed in accordance with the requirements of the Financial Monitoring Service. <u>Securities sector</u> According to the article 2.5.1 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" financial intermediaries in the securities sector shall develop internal procedures and supervision program against money laundering and terrorist financing.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, the Regulation "On Establishment of Internal Control Systems" was enacted on September 30, 2010. All reporting entities under the AML/CFT Law are obliged to implement internal control system aimed at combating money laundering and financing terrorism.
Recommendation of the MONEYVAL Report	*A requirement for financial institutions to designate at least an AML/CFT compliance officer at the management level must be introduced in the legislation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on article 12.1.8 of the AML/CFT Law, within the framework of internal control system the monitoring entities and other persons involved in monitoring, which are legal persons, shall appoint a person at the level of management (including the management of structural units) who will be responsible for: • controlling the implementation of internal rules and procedures on the activity against the legalization of criminally obtained funds or other property and the financing of terrorism; • for carrying out the exchange of information with the Financial Monitoring Service, as well as for preparing and submitting reports on the transactions, which are subject to monitoring. A person defined in the article 12.1.8 of the AML/CFT Law shall report only to the senior management of the monitoring entities and other persons involved in monitoring, which are legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, Item 4.4 of the Regulation "On Establishment of Internal Control Systems" has introduced the designation of the AML/CFT compliance officer at the management level. Moreover, the Regulation "On Qualifications and Experience of Compliance

	Officers Responsible for the Establishment of Internal Control Systems of Monitoring Entities and Other Persons Involved in Monitoring, which are legal persons" was enacted on July 6, 2010.
Recommendation of the MONEYVAL Report	*Provision concerning timely access of the AML/CFT compliance officer and other appropriate staff to CDD and other relevant information has to be introduced.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Access of the AML/CFT compliance officer to CDD and other relevant information is implied by the article 12.1.8 of the AML/CFT Law (compliance officer is responsible for carrying out the exchange of information with the Financial Monitoring Service, as well as for preparing and submitting reports on the transactions, which are subject to monitoring).
Measures taken to implement the recommendations since the adoption of the first progress report	Provisions concerning timely access of the AML/CFT compliance officer and other appropriate staff to CDD and other relevant information were established by Regulation "On Establishment of Internal Control Systems". In accordance with Item 13.7 of the Regulation, a compliance officer and the other appropriate staff of the reporting entity shall have timely access to customer identification data and other CDD information, transaction records, and other relevant information pursuant to the AML/CFT Law.
Recommendation of the MONEYVAL Report	*Financial institutions should be required to include the necessity for internal audit to test compliance with the internal procedures and policies for AML/CFT.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on article 12.1.7 of the AML/CFT Law, within the framework of internal control system the monitoring entities and other persons involved in monitoring, which are legal persons, shall establish the internal audit mechanism to test compliance of the application of the AML/CFT Law by monitoring entities and other persons involved in monitoring. <u>Securities sector</u> According to the article 2.5.3 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" financial intermediaries in the securities sector shall carry out internal audit on regular basis.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Item 15 of the Regulation "On Establishment of Internal Control Systems" stipulates an obligation to the reporting entities to include internal audit mechanism as an element of AML/CFT Program. Moreover, the internal audit mechanism at the reporting entity aims at the timely detection of potential errors and deficiencies in the application of the regulations required by the AML/CFT Law and their prevention, as well as the reduction of the associated risks to minimum. Reporting entity's management carries the responsibility for conducting regular internal audit to test the effectiveness of the application of the regulations required by the Law.
Recommendation of the MONEYVAL Report	*A requirement for financial institutions to put in place screening procedures to ensure high standards when hiring staff needs to be addressed by the Azerbaijani legislation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In accordance with the article 12.1.9 of the AML/CFT Law, within the framework of internal control system the monitoring entities and other persons involved in monitoring, which are legal persons, shall put in place screening procedures to ensure high standards when hiring employees depending on features of the activity, as well as the other mechanisms and rules for detecting and preventing any transactions, the nature of which is suspicious, and submission of the necessary information to the Financial Monitoring Service.

	Securities sector According to the article 2.5.3 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" financial intermediaries in the securities sector shall have high screening standards when hiring staff needs. According to the Decree 174 of the Cabinet of the Ministers of the Republic of Azerbaijan in order to get a license at least 3 employees of the financial institutions in the securities sector shall pass SCS certification. Automated electronic certification exam organized by SCS include questions on AML/CFT legislation and regulations.
Measures taken to implement the recommendations since the adoption of the first progress report	A requirement for reporting entities to put in place screening procedures to ensure high standards when hiring staff is primarily determined in the Article 12.1.9 of the AML/CFT Law. At the same time, the Regulation "On Establishment of Internal Control Systems" requires each reporting entity to establish rules for hiring and checking mechanisms for employees in the field of AML/CFT within the internal control system. Each reporting entity shall determine the procedures for the hiring of staff needs on the basis of the peculiarities of the activities, demand for employee and existing risks of the reporting entity. Specific measures listed in Item 12.3 of the Regulation for each reporting entity for the prevention of hiring of persons connected with the money laundering or terrorism financing are the followings: - checking the knowledge of employees or candidates in AML/CFT; - checking the correctness of the information submitted by the candidates or employees; - obtaining information as to whether employees or candidates have been sentenced for committing crime; - obtaining references of candidates from their previous work places; - obtaining other information about the personal or professional qualities of the candidates or employees.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 16 (DNFBP)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Recommendations 14 – 15 and 21 are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	FATF recommendation 14 is implemented in the article 14 of the AML/CFT Law: **Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring** Where the monitoring entities and other persons involved in monitoring, its personnel, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring to the FMO in order as defined by this Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as

	causing the material and moral damage emerged as a result of the disclosure of information. FATF recommendation 15 is implemented in the article 12 of the AML/CFT Law. In accordance with this article, the monitoring entities and other persons involved in monitoring, which are legal persons, shall establish and maintain internal control system against the legalization of criminally obtained funds or other property and the financing of terrorism. This system shall include, inter alia, the followings: • to establish the internal rules and procedures against the legalization of criminally obtained funds or other property and the financing of terrorism; • to establish the centralized internal archive, which shall make possible to identify and verify the customers, the persons acting on behalf of customers, the beneficial owners and the transactions; • to prepare the rules on the documentation and the confidentiality of information; • to ensure that employees are kept informed of new developments, including information on current techniques, methods and trends of the legalization of criminally obtained funds or other property and the financing of terrorism; • to define the criteria for detecting the transactions to be monitored taking into account features of the activity of the monitoring entities and other persons involved in monitoring; • to establish measures aimed at resolution of problems caused by the suspension of a transaction; • to establish the internal audit mechanism to test compliance of the application by monitoring entities and other persons involved in monitoring of the rules as stipulated by this Law; • to appoint in the monitoring entities and other persons involved in monitoring, which are legal persons of a person at the level of management or heads of structural units, who shall be responsible for controlling the implementation of internal rules and procedures on the activity against the legalization of criminally obtained funds or other property and the financing of terrorism, for carrying out the exchange of information with the FMO, as well as for preparing and submitting reports on the transactions, which are subject to monitoring; • to put in place screening procedures to ensure high standards when hiring employees depending on features of the activity, as well as the other mechanisms and rules for detecting and preventing any transactions, the nature of which is suspicious, and submission of the necessary information to the FMO in accordance with article 11 of this Law. The internal control system shall be developed in accordance with the requirements of the Financial Monitoring Service.
Measures taken to implement the recommendations since the adoption of the first progress report	The updated information provided above in relation to Recommendations 14 and 15 is applicable to DNFBPs.
(Other) changes since the first progress report (e.g. draft laws,	

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

Recommendation 17 (Sanctions)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Azerbaijan should implement effective, proportionate and dissuasive sanctions to deal with natural or legal persons that fail to comply with national AML/CFT requirements.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Recommendation of the MONEYVAL Report has been implemented in the Criminal Code and Code of Administrative Infringements. **Extract from the Criminal Code:** **Article 316–2. Disclosure of information about the measures to be taken against the legalization of criminally obtained funds or other property and the financing of terrorism** **316–2.1.** Except the cases prescribed by the Law, disclosure the measures to be taken against legalization of criminally obtained funds or other property by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 1 000 manats up to 3 000 manats, or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. **316–2.2.** Except the cases prescribed by the Law, disclosure the measures to be taken against financing of terrorism by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 2 000 manats up to 4 000 manats, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. **Extract from the Code of Administrative Infringements:** **Article 348–3. Violation of the legislation on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism** **348–3.0.** Violation of the legislation on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism, that is: **348–3.0.1.** non–observance of the requirements to identify and verify the customer, beneficial owner or authorized representative, or to document the information by the monitoring entities and other persons involved in monitoring; **348–3.0.2.** non–compliance by the monitoring entities and other persons involved in monitoring with the requirements to preserve the identification documents and documents on the transactions with the funds or other property; **348–3.0.3.** failure to apply or incomplete applying of the internal control system by the monitoring entities and other persons involved in monitoring, which are legal persons; **348–3.0.4.** failure to carry out in time or incomplete execution by the monitoring entities and other persons involved in monitoring of the written instructions of the Financial Monitoring Service or supervision authorities given in order and cases stipulated by the Law; **348–3.0.5.** violation of the requirements of the non–execution of a transaction or submission the information stipulated by the Law, by the monitoring entities and

	other persons involved in monitoring— entails imposition on official persons of penalty at a rate from 800 manats up to 1,500 manats, on legal persons of penalty at a rate from 8,000 manats up to 15,000 manats.
Measures taken to implement the recommendations since the adoption of the first progress report	Taking into account the MONEYVAL recommendation made in desk-based review in 2010, the draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was drawn up in consultation with the IMF. The draft Law among others envisages amendments to the Code of Administrative Infringements. Pursuant to draft Law, the sanction in Article 348-3 of the Code of Administrative Infringements will be increased. The natural persons (officials as well) will be punished by fine from 3000 up to 5000 manats (previous was 800-1500 manats), legal entities from 35000 up to 50000 manats (previous was 8000-15000).
Recommendation of the MONEYVAL Report	*Sanctions should be available in relation not only to the legal persons that are financial institutions or businesses but also to their directors and senior management.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As it may be concluded from the article 348–3 of the Code of Administrative Infringements, the sanctions are available in relation not only to the legal persons but also to their official persons. Based on article 16 of the Code of Administrative Infringements, the official persons mean persons who carry out management at state and non-governmental organisations, institutions and enterprises, or persons who perform similar duties in view of special authority, also natural persons who perform such duties dealing with business activity without establishing a legal person.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*The range of sanctions available should be broad and proportionate to the severity of a situation. They should include the power to impose not only disciplinary, but also financial sanctions and the power to withdraw, restrict or suspend the financial institution's license for not observing AML/CFT requirements.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Financial sanctions for not observing AML/CFT requirements are envisaged by the article 348–3 of the Code of Administrative Infringements. Additionally, the article 6.4 of the AML/CFT Law provides that violation of the requirements of this Law by the financial institutions and DNFBP operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license in accordance with the legislation of the Republic of Azerbaijan or undertaking other measures provided by the legislation of the Republic of Azerbaijan. At the same time, where the Financial Monitoring Service within the frame of its competence will have information on non–compliance of the financial institutions and DNFBP with the requirements of this Law, it shall submit such information to the relevant supervision authorities for enforcement of administrative or stipulated by the national legislation other measures to these persons. Based on the Law of the Republic of Azerbaijan "On Banks" Central Bank may

	cancel banking license of the credit institution if management or current activity is not reliable with the requirements of the AML/CFT Law. Securities sector According to the article 9.7 of the Statute, SCS can impose disciplinary sanctions (warnings, mandatory directives) and financial sanctions (articles 208, 211, 215 of the administrative code) to the financial institutions in the securities sector. According to the article 5.1.2 of the Decree No.782 of the President of the Republic of Azerbaijan dated September 2, 2000 "On Granting Special Permissions (Licenses) for Some Types of Activities in the Republic of Azerbaijan" SCS can suspend the license of the financial institution. According to the article 5.4.3 of the abovementioned Decree and article 9.6 of the Statute, the SCS may revoke the license of the financial institutions in the securities sector.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*The authorities should provide supervisors with adequate powers of enforcement and sanction against the directors or senior management of financial institutions for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In concordance with the article 48.1.2 of the Law "On Banks" Central Bank may temporary suspend the senior management of the credit institution for failure to comply with the requirements of the AML/CFT Law. Central Bank, in cases stipulated under the Law "On Banks" may also apply following sanctions against banks: • administrative fines to the bank and bank senior management, as per Code of Administrative Infringements; • dismiss bank senior management from their positions. In case of application these sanction the dismissal of bank senior management from job position shall be implemented immediately under the decision of the competent management authority of the bank. Sanctions against banks and bank senior management are applied in case and in accordance with procedures stipulated under the Code of Administrative Infringements. Securities sector According to the article 8.2.10-1 of the Statute, State Committee for Securities is the authority for supervision of the monitoring entities regarding their compliance of the AML/CFT procedures. According to the articles 208, 211, 215 of the Administrative Code, the SCS can impose sanctions to a company as a legal person as well as its directors and senior management if they do not comply with the regulations (which includes regulations on AML/CFT) of SCS
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Also, in accordance with Article 48 of the Law of the Republic of Azerbaijan "On investment funds", the State Committee for Securities of the Republic of Azerbaijan is entitled to adopt normative acts in order to regulate activity of investment funds, their managements and their depositors; apply sanctions to the investment funds, senior managers and other persons who infringe the legislation; file a claim to the courts for the purpose of suspending the activities of investment funds, managers and other funds managers. The Regulation # 003 "On supervision over pawnshops and real estate agents on

	implementation of the AML/CFT Law" was approved by the Decision of the Financial Monitoring Service on July 6, 2010. In accordance with the Regulation, the Financial Monitoring Service has a power to give instruction to the obliged entity, make an agreement with the obliged entity and demand a letter of commitment from the obliged entity on elimination of infringements. This also includes directors or senior management of pawnshops and real estate agents.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Azerbaijan should review its laws, regulations and procedures and implement specific requirements covering the prohibition of the establishment or the continued operation of shell banks*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the Law "On Banks", any legal person wishing to exercise banking activities shall acquire a bank license from the Central Bank. In order to acquire a license the legal person must present all necessary documents that will certify its physical existence (with the information on an actual building which is fully equipped and secured, with identifiable personnel etc.) Banks shall be registered with and have a license issued by the Central Bank, and the Central Bank must affirm that the management of the bank is meeting "fit and proper" standards. The Central Bank supervises the licensing process for all credit institutions and has the sole authority to grant and revoke banking licenses. If the Central Bank determines that a bank provided false information during the licensing process, it can revoke a bank's operating license. Within the term of registration, bank shall organize the corporate management system (establish bodies in accordance with provisions of this Law, form the organization structure, be ready for implementation of information-technologies system, define the account and reporting policies, develop the internal procedures, determine the management and minimum staffing requirements), complete the measures of technical provisions and security. Such requirements as technical and security measures preclude any bank from being "shell". The banks are periodically supervised by the Central Bank. In case of any incompliance with such requirements Central Bank is entitled to sanction the bank to the extent of revocation of its license. According to the article 10.5, among the documents that are attached to final application for obtaining of banking license there shall be documents, verifying the formation of the corporate management system of the bank, including the management bodies, acceptance of technical provision and security measures. As it mentioned in the article 5.4 of the Law, foreign natural and legal persons (including foreign banks and bank holding companies), registered in offshore zones, the list of which is determined by the National Bank, shall not be the founders or shareholders of local banks, as well to establish local subsidiary banks, open local branches and representations.

	It is acknowledged by the evaluators that no bank currently authorized and operating in Azerbaijan has a characteristic of shell bank. On the other hand, it is alleged that there is "the lack of a clear prohibition to establish a shell bank". According to the FATF Recommendations "countries should not approve the establishment or accept the continued operation of shell banks". With this in mind, by the Draft Law it is proposed to amend the AML/CFT Law with article 9–3 of below content: **Article 9–3. Shell bank** **9–3.1.** Establishment or accept the continued operation of shell banks in the Republic of Azerbaijan is prohibited. **9–3.2.** Monitoring entities shall not enter into, or continue, correspondent banking relationships with shell banks. **9–3.3.** Monitoring entities are required to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. According to the amended Central Bank Regulation "On opening, maintenance and closing of accounts in banks", bank shall refuse to conclude the bank account agreement in the cases when it is determined that the business relationships were established or transactions were executed through the account by virtue of a shell bank.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, pursuant to Item 2.1.5 of the Regulation «On requirements to establishment of the internal control system by monitoring entities and other persons involved in monitoring which are legal persons for preventing the legalization of criminally obtained funds or other property and the financing of terrorism» «shell-bank» means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision (physical presence means meaningful mind and management located within a country, and the existence simply of a local agent or low level staff does not constitute physical presence) Local banks shall apply enhanced due diligence conduct transactions envisaged as it is prescribed by the AML/CFT Law in relation to transactions conducted through correspondent accounts with foreign banks.
Recommendation of the MONEYVAL Report	*Financial institutions should be prohibited from entering into or continuing correspondent banking relationships with shell banks.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the amended Central Bank Regulation "On opening, maintenance and closing of accounts in banks", bank shall refuse to conclude the bank account agreement in the cases when it is determined that the business relationships were established or transactions were executed through the account by virtue of a shell bank. That implies that banks in Azerbaijan are actually prohibited from entering into correspondent banking relationships with shell banks. Nowadays, no bank in Azerbaijan has correspondent banking relationships with shell banks.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.

Recommendation of the MONEYVAL Report	*There should be an obligation placed on financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	There are mandatory provision in the amended Central Bank Regulation "On opening, maintenance and closing of accounts in banks", that for opening correspondent accounts in local bank foreign banks shall be required to submit the information on non-establishment of business relationships or non-execution of any transactions through a shell bank (item 6.4.8).
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*It would be helpful if the NBA then considered periodically seeking assurances in writing from all their banks that they have no direct or indirect correspondent relationships with shell banks.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	During the on-site inspections the matter of whether the banks have any relationship with shell banks is always in focus. Additionally, with a view to implement the Recommendation of the MONEYVAL Report Central Bank address letters to local banks on a timely manner to be assure that banks are not in direct or indirect correspondent relationships with shell banks.
Measures taken to implement the recommendations since the adoption of the first progress report	During the on-site inspections the matter of whether the banks have any relationship with shell banks is always in focus. In addition, with a view to implement the MONEYVAL recommendation Central Bank addresses letters to local banks on a timely manner to be assure that banks are not in direct or indirect correspondent relationships with shell banks.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 20 (Other DNFBP and secure transaction techniques)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*In the domestic context of Azerbaijan, the Azerbaijani authorities should consider which other non-financial businesses or professions may be considered to be at risk of being misused for money laundering or terrorist financing.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In the article 4 of the AML/CFT Law besides others, pawnshops, NGOs and charities parts of activities of which consist of receiving, collecting, delivering or transferring the funds, and the lottery organizer are defined as the monitoring entities. The requirements of the Law concerning the identification and verification of customers and beneficial owners, documenting, filing, archiving and the requirement of reporting of information indicated in article 7 of the Law (CTR and STR) shall apply in the same manner to them.

	The supervision over the compliance of pawnshops, NGOs and charities with the requirements of the AML/CFT Law shall be carried out by the: • Financial Monitoring Service – in relation to pawnshops; • Ministry of Justice – in relation to NGOs; • State Committee for the Works with Religious Associations – in relation to charities.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, in order to reduce reliance on cash, Central Bank established large-value payment system, retail payment system, national card processing centre and centralized information system of mass payments. "State Programme on Development of National Payment System in the Republic of Azerbaijan" was affirmed by the Presidential Decree of December 9, 2004 taking into consideration enlargement of reforms held in the field of payment systems directing to regions, more active use of National Payment System opportunities, creation of digital payment area through whole country, necessity of increase of natural and legal persons access to financial services. The ATM network covers all territory of the Republic of Azerbaijan. The number of ATMs is increased twice and reached 2056. The total number of pos-terminals is increased for 40 % and reached 12204. The number of payment cards is increased for 10 % and reached 4460000. Moreover, pursuant to the Ordinance of the Government all social payments are made through payment cards. The number of payment cards covers 48 % of total population and 95 % of employed population of the Republic of Azerbaijan. Following the project with the World Bank post offices (total number of which is equal to 1540) currently provides broad-wide bank services particularly in the regions of the Republic of Azerbaijan, to reduce the level of cash transactions and to increase using of payment cards. In respect of not issuing very large denomination banknotes, Central Bank on the basis of Presidential Decree of February 07, 2005 "On Denomination of Banknotes", determined that 100 AZN is the largest denomination banknote within the Republic of Azerbaijan.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Recommendation 21 should be implemented by law, regulation or other enforceable means.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the article 7 of the AML/CFT Law Financial Monitoring Service will determine the list of countries which do not or insufficiently apply international standards against the legalization of criminally obtained funds or other property and the financing of terrorism. The relevant list shall be submitted by the Financial Monitoring Service to the

	supervision authorities and by the supervision authorities to financial institutions and DNFBP. After that financial institutions and DNFBP shall be required to give special attention to business relationships and transactions with natural and legal persons from those countries. Additionally business relationships and transactions with natural and legal persons from the relevant countries shall be subject to STR regardless of their amount. <u>Securities sector</u> According to the article 2.1.2 of the "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" financial intermediaries shall carry out ongoing due diligence on transactions amounting to more than 20 thousand manats carried by their customers (counterparts) if one or both counterparties of transaction lives, have a registry or banking account on the territory of the state that do not comply with the international standards on AML/CFT. According to the "Instructions on measures against the money laundering and terrorist financing in the securities market", any transaction with the funds or other property associated with the citizens of the countries (territory) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, or the countries that do not require disclosing identification information when conducting financial transactions determined by the Financial Monitoring Service.
(Other) changes since the last evaluation	For overall implementation of the FATF Recommendations 21 and 22, by the Draft Law it is proposed to amend the AML/CFT Law with article 7–1 of below content: **Article 7–1. Measures to be taken with respect to countries that do not or insufficiently comply with the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism** **7–1.1.** Monitoring entities should be required to give special attention to business relationships and transactions with natural and legal persons from or in countries which do not or insufficiently apply international standards against the legalization of criminally obtained funds or other property and the financing of terrorism. **7–1.2.** The list of countries stipulated in the article 7-1.1 of this Law and the list of countries which are suspected in support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, is determined by the FMO. The relevant list shall be submitted by the FMO to the supervision authorities and by the supervision authorities to monitoring entities and other persons involved in monitoring. **7–1.3.** If the transactions have no apparent economic or visible lawful purpose, the background and purpose of such transactions shall be examined, and written findings should be set forth. Written findings should be available to assist supervision authorities, FMO and other competent authorities. **7–1.4.** Where a country continues not to apply or insufficiently applies the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism, appropriate counter-measures shall be applied in relation to the business relationships and transactions with natural and legal persons of that country. **7–1.5.** Monitoring entities are required to ensure that their foreign branches and subsidiaries observe international standards against the legalization of criminally

	obtained funds or other property and the financing of terrorism consistent with home country requirements and the international standards, to the extent that host country laws and regulations permit. **7–1.6.** Monitoring entities are required to pay particular attention that the principle mentioned above is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism. **7–1.7.** Where the minimum requirements against the legalization of criminally obtained funds or other property and the financing of terrorism of the home and host countries differ, branches and subsidiaries in host countries shall apply the higher standard, to the extent that host country laws and regulations permit. Monitoring entities are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country laws, regulations or other measures.
Measures taken to implement the recommendations since the adoption of the first progress report	Following the amendments made to the AML/CFT Law in March 5, 2010, the mechanism of determining the List of NCCT was established. To that end, in June 25, 2010 «Regulation on determination of the list of countries (territories) that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal drug dealership and other psychotropic substances production or circulation thereof, or the countries (territories) that do not require disclosing identification information when conducting financial transactions» was approved by the Cabinet of Ministers and entered into force. Based on the AML/CFT Law List of NCCT shall be determined by the Financial Monitoring Service in cooperation with the Ministry of Foreign Affairs. On the basis of a Regulation the List of NCCT was drawn and is being regularly updated and published by the Financial Monitoring Service on its web-site. Nowadays there are 19 countries mentioned in the list. The Financial Monitoring Service provides all reporting entities (both financial institutions and DNFBPs) directly or via their supervision authorities (Article 7.3 of the AML/CFT Law) by the relevant List. In accordance with Article 7.4 of the AML/CFT Law, reporting entities are required to apply appropriate counter-measures in relation to the business relationships and transactions with natural and legal persons of the listed countries. Followings are the criteria for determining the List: Resolutions issued by UN, Council of Europe, OSCE or other international organization; public statement by FATF or FSRB; list of tax heavens by OECD or IMF, etc. For the first time the List of NCCT was determined on August 2010. Then in November 2010, as well as February and October 2011 this list was updated. Currently, pursuant to Article 7.2.2 of the AML/CFT Law, reporting entities must file an STR to the Financial Monitoring Service on any transaction connected to the List of high-risk countries. In accordance with Item 7 of the Regulation, reporting entities should examine the background and purpose of transactions with the countries envisaged in the list that have no apparent economic or visible lawful purpose and establish their findings in writing. These findings shall be available for the Financial Monitoring Service, supervision authorities and other competent

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

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*A requirement for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Azerbaijani legislation in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs should be included in local normative acts.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Branches are the structural divisions of the credit institutions and must follow the financial institutions' internal procedures. So that credit institutions are responsible for their branches' activities. According to the Rules of the NBA on Organizing Internal Control and Audit in Banks, banks should transfer the application of the banking policy, control mechanisms and internal procedures to their branches and subsidiaries. Alongside this, Regulations "On implementation of corporative management standards in banks" extend to all branches and subsidiaries of banks. Mentioned Regulations include establishment of information system on current financial status and operations of banks, organisation and implementation of strategically planning process, establishment of efficient organisational structure, implementation of financial planning process, existence of effective internal supervision and report systems etc.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with Article 7.5 of the AML/CFT Law, foreign branches and subsidiaries of monitoring entities having permanent business in the high-risk countries, shall comply with the requirements of the legislation of the Republic of Azerbaijan and international standards against the legalization of criminally obtained funds or other property and the financing of terrorism, to the extent that the legislation of the high-risk countries are permitted. Monitoring entities are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country legislation.
Recommendation of the MONEYVAL Report	*A requirement should be introduced for financial institutions to inform their Azerbaijani supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see item above.
(Other) changes since the last	For overall implementation of the FATF Recommendations 21 and 22, by the Draft

evaluation	Law it is proposed to amend the AML/CFT Law with article 7–1 of below content: **Article 7–1. Measures to be taken with respect to countries that do not or insufficiently comply with the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism** **7–1.1.** Monitoring entities should be required to give special attention to business relationships and transactions with natural and legal persons from or in countries which do not or insufficiently apply international standards against the legalization of criminally obtained funds or other property and the financing of terrorism. **7–1.2.** The list of countries stipulated in the article 7-1.1 of this Law and the list of countries which are suspected in support of the dangerous trends of transnational organized crime, armed separatism, extremism and mercenary, participation in illegal narcotic drug dealership and other psychotropic substances production or circulation thereof, is determined by the FMO. The relevant list shall be submitted by the FMO to the supervision authorities and by the supervision authorities to monitoring entities and other persons involved in monitoring. **7–1.3.** If the transactions have no apparent economic or visible lawful purpose, the background and purpose of such transactions shall be examined, and written findings should be set forth. Written findings should be available to assist supervision authorities, FMO and other competent authorities. **7–1.4.** Where a country continues not to apply or insufficiently applies the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism, appropriate counter-measures shall be applied in relation to the business relationships and transactions with natural and legal persons of that country. **7–1.5.** Monitoring entities are required to ensure that their foreign branches and subsidiaries observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism consistent with home country requirements and the international standards, to the extent that host country laws and regulations permit. **7–1.6.** Monitoring entities are required to pay particular attention that the principle mentioned above is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the international standards against the legalization of criminally obtained funds or other property and the financing of terrorism. **7–1.7.** Where the minimum requirements against the legalization of criminally obtained funds or other property and the financing of terrorism of the home and host countries differ, branches and subsidiaries in host countries shall apply the higher standard, to the extent that host country laws and regulations permit. Monitoring entities are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country laws, regulations or other measures.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with Article 7.5 of the AML/CFT Law, monitoring entities are required to inform their appropriate supervision authorities in written form, when a foreign branch or subsidiary is unable to observe international standards against the legalization of criminally obtained funds or other property and the financing of terrorism because this is prohibited by host country legislation. In addition, pursuant to the Regulation "On Establishment of Internal Control Systems", where the minimum AML/CFT requirements of the Republic of Azerbaijan and host countries differ, branches and subsidiaries of financial

	institutions in host countries are required to apply the higher standard, to the extent that host country legislation permit.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Competent authorities need designating for supervision for AML/CFT purposes [for all financial institutions]*.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the AML/CFT Law and Presidential Decree on its implementation the supervision over the compliance of financial institutions with the requirements of the AML/CFT Law shall be carried out by the: • Central Bank – for credit institutions and the ones providing leasing services; • State Committee for Securities – for brokers, who are the professional participants of the securities market, those who professionally operate in the management of securities, lottery organizers and investment funds; • Ministry of Finance – for insurers, reinsurers and insurance intermediaries, legal persons that engaged in buying and selling of precious stones, precious metals, as well as the jewelry or the other goods made of precious stones or precious metals; • Ministry of Communication Information Technologies – for the institutions providing post services; • Ministry of Justice – for the non–governmental organizations part of activities of which concerns receipt, collection, deliver or transfer of funds; • State Committee for the Works with Religious Associations – for the charities part of activities of which concerns receipt, collection, deliver or transfer of funds; • Financial Monitoring Service – for the pawnshops and legal persons providing intermediary services on the buying and selling of real estate. Violation of the requirements of the AML/CFT Law by the DNFBP operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license.
(Other) changes since the last evaluation	By the Decree of the President of the Republic of Azerbaijan from July 20/2009, # 130 "On amendments to some Decrees of the President of the Republic of Azerbaijan in connection with implementation of the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism", the Statutes of all supervision authorities were amended in accordance with the AML/CFT Law and FATF Recommendations.
Measures taken to implement the recommendations	This issue has already been clarified in the first progress report. In the meantime, On February 23, 2011 the Central Bank of the Republic of Azerbaijan adopted the Regulation #247 «On supervision over the activities on the

since the adoption of the first progress report	prevention of the legalization of criminally obtained funds or other property and the financing of terrorism in the banks». The State Commission on Securities had approved the Regulation "On the inspection of the activities of the securities market participants" (September 2011). In order to implement Article 6.5 of the AML/CFT Law, the Financial Monitoring Service as a regulatory body of pawnshops and natural or legal persons providing intermediary services on purchase and sale of real estate adopted its own supervision regulation – the Regulation "On supervision the observance of requirements of the AML/CFT Law by pawnshops and real estate agents». The Regulation was approved on July 5, 2010.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	The Central Bank conducted 25 complex onsite inspections with AML/CFT component in 2010. For the period of nine months of 2011 the number of onsite inspections with AML/CFT component is 21. Alongside this 2 thematic on-site inspections were conducted solely for AML/CFT supervisory issues. During 2010–2011, senior management of 2 banks was fined for non-compliance with the AML/CFT reporting requirements. The total sum of fines amount to EUR 3000. In 2011 the Financial Monitoring Service conducted 20 offsite inspections in respect of pawnshops and real estate agencies. 5 written warnings were issued by the Financial Monitoring Service in respect of pawnshops and real estate agencies.

Recommendation 24 (DNFBP - Regulation, supervision and monitoring)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*All the relevant categories of DNFBP should be included as obliged entities under the AML/CFT regime.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently by the article 5 of the AML/CFT Law as DNFBP (other persons involved in monitoring) are established: • notaries; • lawyers; • auditors; • other persons providing legal services. The institutions of "tax advisors", "external accountants" are not applicable for the Republic of Azerbaijan. Casino activity and gaming is prohibited on the territory of the Republic of Azerbaijan on the basis of the Decree of the President of the Republic of Azerbaijan N° 730 of 27 January 1998. Lottery organizers and the persons providing intermediary services on the buying and selling of real estate qualified by the AML/CFT Law as monitoring entities. Lottery games are undertaken by "Azerlottery" OJSC, whose shares are 100% owned by the Government. In accordance with the article 5.1, the requirements of the AML/CFT Law concerning the identification and verification of customers and beneficial owners shall apply to DNFBP (other persons involved in monitoring) when they prepare for or carry out transactions for their customers with respect to the following activities: • buying and selling of real estate; • managing of customer funds, securities or other property; • managing of customer bank and securities accounts; • creation, operation or management of legal persons, buying and selling of legal persons, organization of contributions for the creation, operation or

	management of legal persons. DNFBP (other persons involved in monitoring) that submitted information to the Financial Monitoring Service shall not disclose it. The provisions of the article 5.1 of the AML/CFT Law shall not apply to the information that is considered as professional secrecy or legal professional privilege.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*The relevant supervisory authorities should be designated and their powers should be defined in accordance with FATF recommendations, including powers to monitor and sanction DNFBP for deficiencies connected with AML/CFT.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the AML/CFT Law and Presidential Decree on its implementation the supervision over the compliance of DNFBP with the requirements of the AML/CFT Law shall be carried out by the: • Ministry of Justice – for the notaries and other persons providing legal services; • Bar of Lawyers of the Republic of Azerbaijan within the framework of competence – for the lawyers; • Chamber of Auditors of the Republic of Azerbaijan within the framework of competence – for the persons providing audit services. Violation of the requirements of the AML/CFT Law by the DNFBP operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license. Current legislation designated supervisory authorities with the relevant powers, including powers to monitor DNFBP and submit information on non–compliance with the requirements of the AML/CFT Law to courts for enforcement of administrative sanction to DNFBP.
(Other) changes since the last evaluation	By the Decree of the President of the Republic of Azerbaijan from July 20/2009, # 130 "On amendments to some Decrees of the President of the Republic of Azerbaijan in connection with implementation of the Law of the Republic of Azerbaijan "On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism", the Statutes of all supervision authorities were amended in accordance with the AML/CFT Law and FATF Recommendations.
Measures taken to implement the recommendations since the adoption of the first progress report	In August 2010 the Decree # 320 of the President of the Republic of Azerbaijan on «Amendments to some decrees of the President of the Republic of Azerbaijan with regard to the application of the law of the Republic of Azerbaijan «on amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» was signed and entered into force. According to the item 4 of the Decree, AML/CFT supervision over the activities of notaries shall be conducted by the Ministry of Justice, the AML/CFT supervision over the activities of other persons providing legal services shall be conducted by the Ministry of Taxes of the Republic of Azerbaijan.
(Other) changes since the first progress report (e.g. draft laws,	

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

Recommendation 25 (Guidelines and feedback)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Once a statutorily based STR system is in place the Azerbaijan authorities should consider the provision of adequate and appropriate feedback to reporting entities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The provisions of the FATF Recommendation 25 were implemented in the Statute of the Financial Monitoring Service. Based on item 10.15 of its Statute Financial Monitoring Service shall provide the financial institutions and DNFBP that are required by AML/CFT Law to submit information, with adequate and appropriate feedback.
Measures taken to implement the recommendations since the adoption of the first progress report	In order to implement Recommendation 25 and SR III.5, the Financial Monitoring Service on August 08, 2010 approved Regulation # 025 "On providing financial institutions and DNFBPs with adequate and appropriate feedback based on the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons, as well as FATF Best Practices paper entitled «Freezing of Terrorist Assets – International Best Practices». The Regulation includes both general feedback and case by case feedback procedures.
Recommendation of the MONEYVAL Report	*No guidelines issued on AML/CFT issues by other supervisory bodies than the NBA.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Supervision authorities in relation to financial institutions adopted internal Action Plans to facilitate the implementation of the AML/CFT Law by obliged entities. <u>Securities sector</u> Since may 09 2004 State Committee for Securities have adopted "Regulations On measures taken by capital market intermediaries for the suppression of money laundering and financing of terrorism in capital market" which were prepared in accordance with the UN Convention "On Suppression of the Financing of Terrorism" and CE Convention "On Laundering, Search, Seizure and Confiscation of the Proceeds from Crime"
Measures taken to implement the recommendations since the adoption of the first progress report	As a competent authority implementing the state policy in the AML/CFT area, the Financial Monitoring Service is powered by the AML/CFT Law and its Statute to publicly release periodic reports including statistics, typologies and trends, and provide the reporting entities with relevant legal instruments. To facilitate reporting entities in defining suspicious transactions, the Financial Monitoring Service issued Red-Flags Methodology and placed the document in its web-page – **www.fiu.az.** Following that, a number of trainings were organized by the Financial Monitoring Service, Central Bank, State Commission for Securities, Ministry of Finance, Ministry of Justice, Chamber of Auditors, etc. for reporting entities on appropriate using red-flags. The list of red flags on money laundering and financing terrorism continues to be updated as current circumstances change.
Recommendation of the MONEYVAL Report	*Guidance for DNFBP should be provided including any measures that these institutions could take to ensure that their AML/CFT measures are effective.*

Measures reported as of 7 December 2009 to implement the Recommendation of the report	By the Presidential Decree on implementation of the AML/CFT Law the supervision over the compliance of DNFBP with the requirements of the AML/CFT Law shall be carried out by the Ministry of Justice – for the notaries and other persons providing legal services; Bar of Lawyers – for the lawyers; and Chamber of Auditors – for the persons providing audit services. Supervision authorities adopted internal Action Plans to facilitate the implementation of the AML/CFT Law by DNFBPs.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 26 (The FIU)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*An FIU should be created as a matter of urgency. The FIU should be adequately structured, funded and staffed, and provided with sufficient technical and other resources to fully perform its functions.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on Presidential Decree dated February 23, 2009 and in order to provide implementation of the state policy in AML/CFT sphere, to improve the supervision system and to coordinate the activity of the relevant state authorities in this field the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan (FINANCIAL MONITORING SERVICE) has been established. The Financial Monitoring Service is guided in its activity by the Constitution of the Republic of Azerbaijan, international agreements to which the Republic of Azerbaijan is a party, the AML/CFT Law, its Statute and relevant international standards. The Director and Deputy Director of the newly established Service were appointed by the President of the Republic of Azerbaijan. Its Statute, structure, staff and the budget were also approved. Currently, more than 30 appointments have already been made. According to the Statute, Financial Monitoring Service: • is the state authority, which implements competences stipulated by the legislation and present Statute in the AML/CFT sphere (item 2); • may suspend the execution of transactions with funds or other property, takes imperative decisions and gives imperative orders in the relevant sphere (item 11.3); • receives, requests, collects the information (STR, CTR and other) from monitoring entities, other persons involved in monitoring, supervision and other state authorities, as well as uses databases of state authorities; • when within the framework of analysis detecting the elements of a crime in transaction, submits information on legalisation of criminally obtained funds or

	other property to the General Prosecutor Office, and information on the financing of terrorism to the Ministry of National Security and gets feedback from them (item 10.9); • is entitled, within the scope of its competence, to ensure relations of the Republic of Azerbaijan with foreign states and international organizations; to cooperate with relevant agencies of other states; in accordance with the legislation to conclude international instruments, as well as to apply for membership in the specialised international institutions (item 11.6); • possesses an independent balance sheet, state property being respectively under its disposal by law, accounts in banks, seal with the State Emblem of the Republic of Azerbaijan and its title engraved on it, respective stamps and letterheads (item 6). The Financial Monitoring Service operationally independent and functions under required budget framework to ensure operational efficiency as well as provide market-based salary and motivation system to ensure long-term operational and institutional sustainability. According to the approved Action Plan, the Financial Monitoring Service will be in a position to receive first STR and CTR in December of 2009. Immediately following the appointment of the FINANCIAL MONITORING SERVICE leadership, the development of an Action Plan to improve the Azerbaijani AML/CFT system taking into account recommendations contained in the Council of Europe MONEYVAL Committee Country Report has been initiated. The prepared Action Plan was coordinated with the MONEYVAL Secretariat. After final revision, the Action Plan was approved by the Director of the FINANCIAL MONITORING SERVICE and further implementation of the Action Plan was taken under special control. The Action Plan spanned three years. The measures will be implemented with the participation of all authorities involved in the AML/CFT system, including the Financial Monitoring Service, Central Bank, General Prosecutor's Office, Ministry of National Security, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Justice, State Customs Committee and State Committee for Securities. The Action Plan covered all aspects of the AML/CFT system and it included taking specific measures to: • improve legislation; • improve the activity of the FINANCIAL MONITORING SERVICE; • improve supervision over the sectors of FIs, non-financial professions, and non-profit organizations; • develop the system of personnel education and training for purposes of the AML/CFT purposes. In our opinion we managed to achieve a number of important results that contribute to the effectiveness and performance of the overall AML/CFT system as well as raise the level of compliance of its certain elements with the FATF Recommendations.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Though the Financial Monitoring Service started receiving paper based STRs in 2009, the launching of automated reporting system was the prior target of its activity. So the Financial Monitoring Service developed its own electronic reporting system (AzAML) and since September 2010 launched it. This system enables reporting entities to send reports via reporting portal on the web-page of the Financial Monitoring Service – www.fiu.az, as well as Financial Monitoring

	Service specialists to check and process mentioned reports in a timely and efficient manner. Alongside this, AzAML system provides the Financial Monitoring Service analysts with efficient tools for monitoring and analysing the received data. Improving its analytical capacity, in February 2011 the Financial Monitoring Service signed the agreement with the UNODC for the deployment of the goAML analytical system in Azerbaijan. After purchasing the goAML, a special Working Group was organised within the Financial Monitoring Service and Action Plan on implementation of the goAML was adopted in March 2011. In October 2011, the goAML system was deployed and all reporting entities were registered within the test environment. For the time being, reporting entities use goAML in parallel with AzAML for sending reports and starting from January 1, 2012 the goAML will be launched in real regime, by replacing AzAML. This new system, not only gives the Financial Monitoring Service efficient data processing and data mining instruments, as well as tactical and strategic analysis tolls, but also enables reporting entities to automate their internal control systems and reporting process.
Recommendation of the MONEYVAL Report	*The FIU should have access to relevant registers, and it should be authorised to disseminate financial information and other intelligence both to the national law enforcement authorities and to foreign FIUs.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the item 11.4 of the Statute Financial Monitoring Service have direct access on a timely basis to the databases of state authorities (financial, administrative and law enforcement) in accordance with the legislation of the Republic of Azerbaijan. According to article 17 of the AML/CFT Law and item 11 of the Statute, the Financial Monitoring Service is entitled to receive, collect and analyse the information from financial institutions, DNFBPs, supervision and other state authorities. The Financial Monitoring Service may request to submit relevant information and in this case, requested information shall be submitted. Financial Monitoring Service is authorised by AML/CFT Law and its Statute to disseminate information on legalization of criminally obtained funds or other property to the General Prosecutor Office, and information on financing of terrorism to the Ministry of National Security. Based on article 20 of the AML/CFT Law Financial Monitoring Service shall submit information on AML/CFT issues to the foreign competent authorities upon their requests or on its own initiative, as well as to request such information from the foreign competent authorities, exchange of information on committed crimes, execution of the court decisions and criminal prosecution in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is party. This information shall be submitted to the competent authority of the foreign state only if it does not contradict with the legislation of the Republic of Azerbaijan and does not affect its national interests or the submitted information forms a basis for a competent authority of the foreign state to initiate a criminal investigation or to send a relevant request. The information shall be submitted to the competent authority of the foreign state provided that the information will not be used for purposes not indicated in the request. The execution of requests in legal aid on issues of legalization of criminally obtained funds or other property and the financing of terrorism, also the recognition and execution of the court decisions of foreign states in that sphere shall be regulated in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party. In accordance with the legislation of the Republic of Azerbaijan and the

	international treaties to which the Republic of Azerbaijan is a party, the funds or other property confiscated on the territory of the Republic of Azerbaijan may be fully or partially delivered to the state where the court decision has been made.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. The new goAML system allows the Financial Monitoring Service to connect all stakeholders – supervision authorities, law-enforcement bodies, official registers. After finalizing all deployment issues, the Financial Monitoring Service will be able to send and receive requests to all appropriate state agencies and data bases, as well as conduct information exchange with the relevant authorities on electronic basis.
Recommendation of the MONEYVAL Report	*Together with the creation of an FIU the evaluators also recommend the introduction of a legal obligation for financial intermediaries to report suspicious transactions and activity to the FIU.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on the article 7.2 of the AML/CFT Law, financial institutions and DNFBP shall make suspicious transaction report (STR) to Financial Monitoring Service on funds or other property, transactions with them and the attempts to carry out transactions regardless of their amount involving the following features: • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • on any transaction with the funds or other property associated with the citizens of the country which do not or insufficiently apply international standards against ML/TF, with the persons registered or that, who has a residency or permanent business in this country, with the persons who has a bank account in banks registered in this country; • on any transactions from bank accounts of politically exposed persons of foreign country; • on transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information: • type of transaction; • date of execution of transaction; • amount of executed transaction; • necessary information for the identification of legal and natural persons conducting the transaction; • information about the beneficial owner; • information on the nature, as well as the information describing a chronological history of the transaction; • the grounds stipulating the suspiciousness of transaction. The STR shall be submitted before the execution of the transaction. Where non–execution of a transaction is impossible or where it is known that non–execution of the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities shall immediately inform Financial Monitoring Service.
Measures taken to implement the recommendations since the adoption	This issue has already been clarified in the first progress report.

of the first progress report	
Recommendation of the MONEYVAL Report	*The FIU should keep adequate statistics on received suspicious transaction reports as well as on requests for assistance.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In order to centralize statistical information, Ministry of National Security and General Prosecutor Office within the framework of their powers shall submit statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing of terrorism to Financial Monitoring Service (articles 13 and 18 of the AML/CFT Law). The information submission form is defined by the Financial Monitoring Service. Additionally, Financial Monitoring Service is authorized by the Statute to prepare relevant statistic reports in accordance within the scope of its activity.
Measures taken to implement the recommendations since the adoption of the first progress report	The Financial Monitoring Service keeps statistics on information received ans requests on assistance. This information is placed on the web-page of the Financial Monitoring Service – www.fiu.az/statistics/2010 and www.fiu.az/statistics/2011
Recommendation of the MONEYVAL Report	*Attention will need to be given to the number and training of staff when the FIU is fully established.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Preparation and support for implementation of internal and external training plans for the staff of FINANCIAL MONITORING SERVICE as well as AML/CFT stakeholders is one of the priorities in Financial Monitoring Service's Action Plan. The ongoing employee training programs do not prescribe any time limits and will be organized and implemented on a regular basis to the AML/CFT stakeholders whose duties demand knowledge of AML/CFT requirements as the raising awareness, increasing of knowledge and sharing best practice are essential conditions for solid foundation. Training must be provided by qualified experts having perfect knowledge of current ML/FT techniques, methods and trends as well as AML/CFT laws and regulations. Training requirements should have a different focus for new FINANCIAL MONITORING SERVICE staff, relevant supervision authorities, Financial Institutions, DNFBP as well as their compliance officers and should remind of their responsibilities and keep informed them of new developments.
(Other) changes since the last evaluation	As to the Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations: *26.1. Countries should establish an FIU that serves as a national centre for receiving (and if permitted, requesting), analysing, and disseminating disclosures of STR and other relevant information concerning suspected ML or FT activities. The FIU can be established either as an independent governmental authority or within an existing authority or authorities.* Based on Presidential Decree dated February 23, 2009 and in order to provide implementation of the state policy in AML/CFT sphere, to improve the supervision system and to coordinate the activity of the relevant state authorities in this field the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan has been established. As to the article 17 of the AML/CFT Law and its Statute, Financial Monitoring Service shall receive and request information from financial institutions, DNFBP, supervision authorities and other state authorities, analyze this information and disseminate the STR and other relevant information concerning suspected ML or FT

	activities to the General Prosecutor Office and Ministry of National Security. *26.2. The FIU should provide financial institutions and other reporting parties with guidance regarding the manner of reporting, including the specification of reporting forms, and the procedures that should be followed when reporting.* According to the article 11 of the AML/CFT Law and item 10.4 of the Statute, Financial Monitoring Service shall determine regulations of submission of information on CTR and STR stipulated by the AML/CFT Law. The reporting form and its specification, as well as the procedures that should be followed when reporting had been already defined in the article 11 of the AML/CFT Law. *26.4. The FIU, either directly or through another competent authority, should be authorised to obtain from reporting parties additional information needed to properly undertake its functions.* Based on the article 17 of the AML/CFT Law and item 11.5 of the Statute, Financial Monitoring Service may request financial institutions, DNFBP, supervision authorities and other state authorities to submit information defined in article 11 of this Law for the purposes of inquiry, also within the framework of analysis and its own authority Financial Monitoring Service may obtain from mentioned bodies or other state authorities additional information needed to properly undertake its functions. *26.6. The FIU should have sufficient operational independence and autonomy to ensure that it is free from undue influence or interference.* The Statute of the Financial Monitoring Service was approved by President of the Republic of Azerbaijan, so FINANCIAL MONITORING SERVICE is subordinated only to the Head of state. Financial Monitoring Service is headed by Director, and Director and his Deputy are appointed and dismissed by the President of the Republic of Azerbaijan (Statute, items 12 and 13). According to the Statute, Director: • manages the activity of the Financial Monitoring Service and organizes its current functioning (item 14.1); • every three months submits the report on the activity only to the President of the Republic of Azerbaijan (item 14.9). • appoints and released from the position Financial Monitoring Service staff (item 14.3); • gives imperative orders and decrees regarding the Financial Monitoring Service activity (item 14.5); • cancels unlawful orders and decisions of the Financial Monitoring Service officials (item 14.6); • without a power of attorney represents the FINANCIAL MONITORING SERVICE in relations with state authorities and other persons of the Republic of Azerbaijan and foreign countries; within competences organizes negotiations with relevant state authorities of foreign states and international organisations; participates in international negotiations, and signs international instruments in a manner defined by legislation (item 14.7). *26.7. Information held by the FIU should be securely protected and disseminated only in accordance with the law.* Based on the article 17.4 of the AML/CFT Law, information held by Financial Monitoring Service shall be securely protected and used solely for the goals of this Law; also the information protection system shall be created. According to the items 10.17 and 10.18, Financial Monitoring Service shall securely protects information obtained as a result of its activity, establishes the information

	protection system; as well as stores and protects archive documents. *26.8. The FIU should publicly release periodic reports, and such reports should include statistics, typologies and trends as well as information regarding its activities.* In accordance with its Statute, Financial Monitoring Service shall prepare relevant statistic reports in accordance within the scope of its activity; publicly release periodic reports including statistics, typologies and trends as well as information regarding its activities; provides the financial institutions and DNFBP that are required to submit information, with adequate and appropriate feedback (items 10.13–10.15). *26.9. Where a country has created an FIU, it should consider applying for membership in the Egmont Group.* By the item 11.6 of the Statute Financial Monitoring Service is entitled to apply for membership in the specialised international institutions. *26.10. Countries should have regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases (these documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIU).* Financial Monitoring Service is authorized to ensure relations of the Republic of Azerbaijan with international organizations, to cooperate with relevant agencies of other states and in accordance with the legislation to conclude international instruments (item 11.7 of the Statute). Additionally, Financial Monitoring Service is entitled to initiate joining of the Republic of Azerbaijan to international instruments regarding the issues connected with the scope of its activity. Paying special attention to the international cooperation, Financial Monitoring Service requested the Egmont Group of FIUs for the membership and submitted all relevant documents to this end. At present, mentioned application letter is under the consideration by the Egmont Outreach Working Group and the FINANCIAL MONITORING SERVICE is expecting for advises on further actions required in order to become an Egmont Group member.
Measures taken to implement the recommendations since the adoption of the first progress report	With a view of implementation of the criteria 26.8 of the Methodology, the Financial Monitoring Service developed its web-page – www.fiu.az. Mentioned web-page includes very broad information regarding AML/CFT regime of the Republic of Azerbaijan, as well as legislation, by-laws, guidance, on-line reporting portal, statistics and typologies. Alongside this, the Financial Monitoring Service releases annual reports with information regarding its activities, statistics, typologies and trends. The Annual Report for 2010, which is developed both in Azeri and in English languages can be downloaded from the following link: http://www.fiu.az/en/publications/reports The Financial Monitoring Service also releases its information bulletins, with useful information for reporting entities, stakeholders, and civil society. The purpose of this publication is to increase the public awareness level on AML/CFT issues. Three Information Bulletins were released by the Financial Monitoring Service up today. The first two releases of the Information Bulletins can be accessed from the following link: http://www.fiu.az/en/publications/information-bulletin. In general, staff of the Financial Monitoring Service had participated in 33 training events during 2010–2011. The training plans of the Financial Monitoring Service are placed at the following links: http://www.fiu.az/en/trainings/2010 and

	http://www.fiu.az/en/trainings/2011.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 27 (Law enforcement authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*One agency should be clearly tasked with the receipt and investigation of STRs when the draft law is passed. If the present arrangements are retained, all STRs should be copied to the General Prosecutor so that he can actively co-ordinate their investigation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As to the article 17 of the AML/CFT Law and its Statute, where Financial Monitoring Service within the framework of analysis determines that the executed transaction is related to legalization of criminally obtained funds or other property and financing terrorism, information on legalization of criminally obtained funds or other property shall be submitted to the General Prosecutor Office, and information on financing terrorism shall be submitted to the Ministry of National Security.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*All investigation bodies responsible for detection and investigation of proceeds-generating cases need to be sensitised to the importance of the financial aspects of these cases.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to article 38.1 of the Criminal Procedure Code, the detecting and investigating law enforcement officers, as well as the prosecutors, in case if they receive information on criminal action or detect the criminal action, shall take necessary measures to preserve the relevant evidence and conduct investigations of such action within their competence according to the requirements of the criminal procedure legislation. This legal provision prescribes the mandatory criminal prosecution of all offences detected by the law enforcement agents and prosecutors. In this regard, all investigation bodies responsible for detection and investigation of proceeds-generating cases are bound to investigate the financial aspects of the cases within the boundaries of their jurisdiction. In case if this falls out of their jurisdiction, they are bound to report the matter to the supervising prosecutor. It is the statutory power of the Prosecutor General of the Republic of Azerbaijan, to extract the investigation of the criminal case from the investigating authority, in case if such investigation falls out of its investigational jurisdiction, and to assign the investigation to the appropriate authority. Given such procedural safeguards, the investigation of the financial aspects of the case is not under jeopardy. However, the investigation of the financial aspects of the cases is subject to the system of checks. In the early years of independence, the law enforcement agencies had some negative practices of exceeding their powers in the context of mandatory

	examining of all aspects of the case, including the financial aspect. Therefore, the President of the Republic of Azerbaijan issued the Decree on Excluding the Obstacles to the Development of Entrepreneurship in 2002, later amended in 2006, which increased the supervision of the criminal investigation and introduced the necessity to justify investigation of the financial aspects by producing substantiating arguments.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*A concerted effort should be made now to raise awareness of the law enforcement community that money laundering is not just an adjunct to corruption cases, but that through money laundering investigations more success can be achieved in confiscation of the real indirect profits made by organised crime. To this end law enforcement and prosecutors need more training on evidential issues in money laundering cases, perhaps looking at how prosecutors in other jurisdictions tackle some of the difficult evidential issues in these cases.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The development, parliamentary debates and passing of the AML/CFT Act was at the focus of the public. A serious of measures, including press conferences, round tables and public discussions were held to advocate the Bill and to raise the awareness of the public in this regard, involving the civil society and foreign diplomatic representations, including the US Embassy. The establishment of the Financial Monitoring Service and arrangement of the series of trainings in cooperation with the US Embassy and within the framework of the AZPAC project of the Council of Europe, all of these measures are aimed at raising public awareness in respect of the money laundering as a dangerous crime. Money laundering was presented as a standalone phenomenon, not in the context of any other crimes.
Measures taken to implement the recommendations since the adoption of the first progress report	Different Training Programms were elaborated for law-enforcement agencies and prosecutors, judges in order to allow prosecutors and national security servants to get familiar with modern money-laundering and terrorist financing investigation techniques and methods. In addition to topics mentioned above, trainings include following issues: - Criminalization of Money Laundering; - Criminalization of Terrorist Financing; - Criminal-legal aspects of Money Laundering and Financing of Terrorism; - Specific investigation techniques, provisions of criminal procedural legislation; - Freezing, seizure and confiscation; - International practice of civil confiscation; - Mutual legal assistance, information exchange and extradition; - ML typologies. In accordance with adopted Training Programms, all trainings are conducted in collaboration with the IMF, World Bank and USAID experts.
Recommendation of the MONEYVAL Report	*An approach to autonomous money laundering urgently needs to be developed – one which does not call for a prior conviction for the predicate offence in money laundering cases.*
Measures reported as of 7 December	Since there is no obstacle for criminal prosecution of the stand alone offence of money laundering, this aspect has been introduced into the curricula of trainings of

2009 to implement the Recommendation of the report	the Anticorruption Department under the Prosecutor General within different frameworks for trainings.
Measures taken to implement the recommendations since the adoption of the first progress report	Within the framework of the Action Plan for the implementation of the National Strategy For Increasing Transparency and Anticorruption 2007-2011, the relevant states agencies are being continued to organize trainings for judges, investigators, prosecutors. Furthermore, joint Training Plan was approved with the USAID for the purpose of arranging trainings for judges and law enforcement agencies. On 12 April, 2010 one day training course under the title of "monitoring process" was organized at the Training Centre of the Prosecutor's Office for prosecutors, judges and investigators by the attendance of 40 persons. Moreover, training course on "Actual issues in the prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was attended by 40 persons as prosecutors, investigators and judges at the Training Centre of the Prosecutor's Office on May 3-5, 2010. Training on "AML/CFT Law: international standards – theory and practice" was organized at the Justice Academy within the Ministry of Justice of the Republic of Azerbaijan by the attendance of 30 judges on 02 June of 2010. On March and April 2011, the International Centre for Asset Recovery of the Basel Institute of Governance organized Money Laundering and Asset Tracing training for judges, investigators, prosecutors and Financial Monitoring Service by the attendance of 35 persons.
Recommendation of the MONEYVAL Report	*More should be done to train the major investigators in modern financial investigation techniques, which will uncover laundering cases.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Mentioned issues have been introduced into the curricula of trainings of the Anticorruption Department under the Prosecutor General within different frameworks for trainings.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
Recommendation of the MONEYVAL Report	*In major cases, where the prosecutor is asked by the Police to obtain a court decision concerning coercive measures, the prosecutor should proactively consider the classification of the case – whether the case should be considered not just as one where the predicate offence only is investigated, but it is recommended that he should advise investigators, in appropriate cases, to pursue the money laundering aspects.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to article 38.1 of the Criminal Procedure Code, the detecting and investigating law enforcement officers, as well as the prosecutors, in case if they receive information on criminal action or detect the criminal action, shall take necessary measures to preserve the relevant evidence and conduct investigations of such action within their competence according to the requirements of the criminal procedure legislation.
Measures taken to implement the	This issue has already been clarified in the first progress report.

recommendations since the adoption of the first progress report	
Recommendation of the MONEYVAL Report	*The mindset of law enforcement and prosecutors which concentrates only on the predicate offence, whether it is corruption, drug or human trafficking, without considering the money laundering aspects needs to be changed if any real success in this area is to be achieved now that the money laundering offence has been extended beyond the drugs predicate.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Since there is no obstacle for criminal prosecution of the stand alone offence of money laundering, this aspect has been introduced into the curricula of trainings of the Anticorruption Department under the Prosecutor General within different frameworks for trainings.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 29 (Supervisors)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should provide supervisors with adequate powers of enforcement and sanction against the directors or senior management of financial institutions for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Financial sanctions for failure to comply with AML/CFT requirements are envisaged by the article 348–3 of the Code of Administrative Infringements. Additionally, the article 6.4 of the AML/CFT Law provides that violation of the requirements of this Law by the financial institutions and DNFBP operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license in accordance with the legislation of the Republic of Azerbaijan or undertaking other measures provided by the legislation of the Republic of Azerbaijan. Currently, where the supervision authorities within the frame of their competence will have information on non–compliance of the financial institutions and DNFBP with the requirements of the AML/CFT Law, they shall submit such information to the court for enforcement of administrative fine. As it may be concluded from the article 348–3 of the Code of Administrative Infringements, the sanctions are available in relation not only to the legal persons but also to their official persons.

Measures taken to implement the recommendations since the adoption of the first progress report	In August 2010 the Decree # 320 of the President of the Republic of Azerbaijan on «Amendments to some decrees of the President of the Republic of Azerbaijan with regard to the application of the law of the Republic of Azerbaijan «on amendments to individual legislative acts of the Republic of Azerbaijan to enhance the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism» was signed and entered into force. By the Decree the supervision authorities were empowered to hear administrative infringement cases with regard to breach of AML/CFT legislation by appropriate reporting entities, and to implement enforcement and sanction against the directors or senior management. The Central Bank conducted 25 complex onsite inspections with AML/CFT component in 2010. For the period of nine months of 2011 the number of onsite inspections with AML/CFT component is 21. Alongside this 2 thematic on-site inspections were conducted solely for AML/CFT supervisory issues. During 2010 and 2011, senior management of 2 banks was fined for non-compliance with the AML/CFT reporting requirements. The total sum of fines amount to EUR 3000. In 2011 the Financial Monitoring Service conducted 20 offsite inspections in respect of pawnshops and real estate agencies. 5 written warnings were issued by the Financial Monitoring Service in respect of pawnshops and real estate agencies.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	In accordance with the request of Central Bank of Azerbaijan (CBA), on October 3–14, 2011 International Monetary Fund (IMF) carried out a technical assistance (TA) mission regarding the enhancement of current anti-money laundering/combating the financing of terrorism (AML/CFT) supervisory policies and procedures. General objective of TA project is to assist CBA in improving the methodology for risk-based AML/CFT supervision of banks, along with an off-site and on-site tools and instruments. Recently held mission was primarily focused on the off-site supervision, including the risk-based off-site supervisory tools and procedures. On the basis of the provided report and recommendations CBA will further continue targeting the AML/CFT supervisory policies.

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Reconsider resources for AML/CFT issues in all sectors and review and establish clear integrity standards for law enforcement and supervisors in the context of AML/CFT.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently this Recommendation is in the process implementation by various state authorities within the framework of their capacity.
Measures taken to implement the recommendations since the adoption of the first progress report	Different Training Programms were elaborated for law-enforcement agencies and prosecutors, judges in order to allow prosecutors and national security servants to get familiar with modern money-laundering and terrorist financing investigation techniques and methods. In addition to topics mentioned above, trainings include following issues: - Criminalization of Money Laundering; - Criminalization of Terrorist Financing; - Criminal-legal aspects of Money Laundering and Financing of Terrorism; - Specific investigation techniques, provisions of criminal procedural

	legislation; - Freezing, seizure and confiscation; - International practice of civil confiscation; - Mutual legal assistance, information exchange and extradition; - ML typologies. In accordance with adopted Training Programms, all trainings are conducted in collaboration with the IMF, World Bank and USAID experts.
Recommendation of the MONEYVAL Report	*More relevant AML/CFT training required for law enforcement, prosecutors and judges.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The Action Plan for the implementation of the National Strategy For Increasing Transparency and Anticorruption 2007-2011 (the second national anticorruption strategy) envisages the organization of the joint trainings for law-enforcement officers, prosecutors and judges in the field of anticorruption and money laundering. In order to implement this task, the Ad Hoc group has been established from among the representatives of the training centres of the law enforcement agencies and the chairman from the Anticorruption Department. The Ad Hoc group is charged with the development of the training curricula. Investigation of the money laundering offences was the subject of the series of training organized according to the plan of trainings run by the US Embassy and US Department of Justice in 2008 and 2009.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
Recommendation of the MONEYVAL Report	*Staff of all supervisory bodies should be required to maintain high professional standards and to keep professional secrets confidential and clear ethical rules should be developed.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Staffs of all supervisory authorities designated by the AML/CFT legislation are considered to be civil servants. Relations between state and civil servants in the area of civil service and issues related to the legal status of civil servants are regulated by Law of the Republic of Azerbaijan "On Civil Service". Article 18.0.8 of this Law requires from civil servants to keep confidential information revealed during performance of official duties and not demand such information excepting the cases anticipated by Law of the Republic of Azerbaijan "On Civil Service". The Statutes of all supervisory authorities contain mandatory provision to securely protect information obtained as a result of their activity. Additionally, article 18.0.12 of this Law requires from civil servants to observe the ethics conduct rules. For this matter, Law of the Republic of Azerbaijan "On rules of ethical conduct of civil servants" was adopted in 2007. Objective of this Law to determine the ethics conduct rules in relation to civil servants, as well as legal framework to comply with the ethics conduct rules. According to the article 17.3 of the mentioned Law civil servant shall not use the information obtained during his/her term of service for his/her private interests. Provisions of the Law "On rules of ethical conduct of civil servants". By article 17.4 of the AML/CFT Law Financial Monitoring Service is obliged to create an information protection system. Information held by Financial Monitoring Service shall be securely protected and used for the goals of the AML/CFT legislation.

Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, Regulation "On ethical behaviour of the employees of the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan" was approved by Order F-019 of the Financial Monitoring Service on June 1, 2010.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 31 (National co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*When the AML Law is passed, a working group at the policy level to monitor the effectiveness of its application and the effectiveness of the system overall would assist.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As it has been already explained to the experts in the course of the Third Round of Mutual Evaluation, there is sufficient procedure in place to monitor the effectiveness of the AML/CFT framework. A Task Force on Measures against Money Laundering and Financing of Terrorism was created in 2003 within the Government to coordinate interrelations between relevant state authorities. Its Statute was adopted by the Government as well. A Task Force consists of responsible representatives of all AML/CFT stakeholders and chaired by the Head of Delegation of the Republic of Azerbaijan to MONEYVAL. In accordance with its Statute, Experts Group meets every month. Along with this extra meetings may be held on the initiative of its chair or other members. The Experts Group has its own Secretariat which is responsible for activity of Group.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*At the working level it is advised that the newly-appointed FIU creates a working group or groups which reach out to the financial sector and relevant parts of the DNFBP to assist the process of embedding the new provisions into Azerbaijani practice.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	By item 11.9 of its Statute, Financial Monitoring Service is entitled with the power to establish interagency cooperation and consultative bodies, working groups, involves experts and specialists in its activity, and orders independent researches. With this in mind, *ad hoc* working group had been created for the purposes to assist to the financial sector and DNFBP in the process of embedding the new AML/CFT Law.
Measures taken to implement the recommendations since the adoption	This issue has already been clarified in the first progress report.

of the first progress report	
Recommendation of the MONEYVAL Report	*Similarly, the FIU will need to co-operate in a better way than the NBA is able to do at present with law enforcement to ensure that the FIU receives feedback on the cases it sends to law enforcement and is thus able to give feedback to the reporting entities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on items 10.9 and 10.10 of its Statute Financial Monitoring Service fulfils following functions in accordance with the scope of activity set forth by the Statute: • when during the analysis of reports or other data detecting the elements of a crime in transaction, submits information on legalisation of criminally obtained funds or other property to the General Prosecutor Office of the Republic of Azerbaijan, and information on the financing of terrorism to the Ministry of National Security of the Republic of Azerbaijan and gets feedback from them; • when obtaining information on non–compliance of financial institutions and DNFBPs with the requirements of the AML/CFT Law submits such information to the relevant supervision authorities for enforcement to these persons of administrative or stipulated by the national legislation other measures and gets feedback from them. In order to implement the provisions of the FATF Recommendation 25 Financial Monitoring Service shall provide the financial institutions and DNFBP that are required by AML/CFT Law to submit information, with adequate and appropriate feedback (item 10.15 of the Statute).
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. In addition, Memoranda of Understanding were signed between the Financial Monitoring Service and Department against Corruption under the General Prosecutor Office in February 2010 and between the Financial Monitoring Service and Ministry of National Security (MNS) in May 2010. Similar Memoranda were also concluded with the supervision authorities. According to the Memoranda, the GPO and the MNS are required to provide the Financial Monitoring Service with the feedback on the cases which were sent to them previously.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 32 (Statistics)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*More statistics need to be available to review performance of AML/CFT systems on a regular basis.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Under the AML/CFT Law (article 18) and in order to centralize statistical information, General Prosecutor Office and the Ministry of National Security within the framework of their powers shall submit statistical information on the offences related to the legalization of criminally obtained funds or other property and the financing terrorism to Financial Monitoring Service on semiannual basis.

	Regulation and a form of information submission will be defined by Financial Monitoring Service together the law enforcement authorities.
Measures taken to implement the recommendations since the adoption of the first progress report	The Regulation "On submission of statistics on criminal cases connected with money laundering or terrorism financing to the Financial Monitoring Service" was approved by the Ministry of Justice, Financial Monitoring Service, General Prosecutor Office and Ministry of National Security on February 9, 2011. The document is placed on the Financial Monitoring Service web-page – **http://www.fiu.az/en/legislation/by-laws**. Detailed statistics are provided in "Statistics" section of the current report.
Recommendation of the MONEYVAL Report	*Keep comprehensive statistics on ML investigations, prosecutions and convictions and on provisional measures and confiscations in ML cases and in other major proceeds generating cases.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see item above.
Measures taken to implement the recommendations since the adoption of the first progress report	The Regulation "On submission of statistics on criminal cases connected with money laundering or terrorism financing to the Financial Monitoring Service" which was approved by the Ministry of Justice, Financial Monitoring Service, General Prosecutor Office and Ministry of National Security on February 9, 2011 enables the authorities to keep full statistics on ML and TF investigations, prosecutions and convictions and on provisional measures and confiscations in ML or TF cases and in other major proceeds generating cases. Detailed statistics are provided in "Statistics" section of the current report.
Recommendation of the MONEYVAL Report	*Keep statistics on MLA and FIU to FIU cooperation when the FIU is established and keep statistics showing the range of international cooperation by the supervisory authorities with their counterparts.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Based on its Statute, Financial Monitoring Service shall prepare relevant statistic reports in accordance within the scope of its activity, and publicly release periodic reports including statistics, typologies and trends as well as other information in relation to its activity.
Measures taken to implement the recommendations since the adoption of the first progress report	During 2010 and 2011 the Financial Monitoring Service sent 4 requests to foreign FIUs, while the number of received international requests was 9.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	In 2010-2011 the Financial Monitoring Service sent 60 internal requests, including: - 33 requests to reporting entities, - 9 requests to Ministry of Interior, - 6 requests to GPO, - 6 requests to MNS, - 2 requests to State Real Estate Register, - 1 request to Central Bank, - 1 request to State Commission for Securities, - 1 request to Ministry of Taxes, - 1 request to State Border Service During mentioned period the Financial Monitoring Service received 7 internal

	requests, including: - 3 requests from Ministry of Interior - 2 requests from GPO - 1 request from State Customs Committee - 1 request from MNS.

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Commercial, corporate and other laws do not require adequate transparency concerning the beneficial ownership and control of legal persons.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In order to implement this Recommendation it is proposed to amend the Law of the Republic of Azerbaijan "On the state registration and state register of legal persons" with new provisions concerning the beneficial ownership and control of legal persons. After amendments it will be mandatory to provide information on beneficial owner for establishment of a legal person. Additionally, information on beneficial owner alongside with other data will be included state register of legal persons. Also it is proposed to implement essential criteria of Recommendation 5 into the article 9 of the AML/CFT Law: **Amended article 9.8.** The monitoring entities, in cases stipulated in article 9.2 of this Law, shall verify the identification data of their customers and beneficial owners using reliable, independent sources. For all customers, the monitoring entities should determine whether the customer is acting on behalf of another person, and should then obtain sufficient identification data stipulated in articles 9.4–9.6 of this Law to verify the identity of that other person. For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the customer, and to determine who are the natural persons that ultimately own or control the customer (this includes those persons who exercise ultimate effective control over a legal person or arrangement).
Measures taken to implement the recommendations since the adoption of the first progress report	In order to ensure the full transparency concerning the beneficial owner and control of legal persons, the several amendments are considered to be made to the Law on "State Registration and State Registry of Legal Entities" and the Civil Code of the Republic of Azerbaijan. Draft amendments consider: ✓ Registration of shares in a centralized manner in the depositary; ✓ De-materialization of bearer shares; ✓ Registration of beneficial owners of the legal persons; ✓ Ensuring of law enforcement and FIU access to the information regarding to beneficial owner and control of legal person; ✓ Setting out companies obligation to disclose information regarding their shareholders to the centralized registry at appropriate time; ✓ Setting out an obligation of nominal shareholders to disclose beneficial owners of held shares; ✓ Keeping up-to-date and accurate information in the registries. Also, please see attached file of amendments.
Recommendation of the MONEYVAL Report	*No full transparency of the shareholders of companies that have issued bearer shares and no specific measures taken to ensure that bearer shares are not misused for money laundering.*

Measures reported as of 7 December 2009 to implement the Recommendation of the report	According to the article 106-2.1 of the Civil Code, joint stock companies are required to perform the registry of the shareholders no later than 30 days after the registration of the joint stock company. According to the article 2.1 of the "Regulations on disclosure of information and conclusion of transactions with affiliated persons by the issuers of investment securities" companies shall disclose the information regarding the appointment of the members of the board, of the board of directors, executive board, as well information regarding their ownership of more than 10% in other legal persons.
Measures taken to implement the recommendations since the adoption of the first progress report	Please, see information above.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 35 (Conventions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Criminal legislation ratifying the Vienna and Palermo Conventions and the Terrorist Financing Convention should be further amended to fully ensure that the money laundering offence fully reflects the terms of the Conventions so far as is consistent with fundamental principles of domestic law, and that the terrorist financing offence is fully consistent with the 1999 Convention.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to FATF Recommendation 1.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to Recommendation 1 and SR II.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Azerbaijani authorities are recommended to consider a review of existing law and practice in this area to identify any features which may act as barriers to the development of practical co-operation of this type.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	In order to broad range of offences susceptible to confiscation domestically and align provisional measures with the FATF Recommendation 3 it is proposed to amend sanctions of all designated categories of crimes with confiscation (available for the basic and aggravating forms of the crime). Based on article 20 of the AML/CFT Law, state authorities of the Republic of Azerbaijan carrying out their activity in the field of combating the legalization of criminally obtained funds or other property and the financing terrorism, shall cooperate with the competent authorities of foreign states in this area, exchange of information on committed crimes, execution of the court decisions and criminal prosecution in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party. The execution of requests on legal assistance in relation to legalization of criminally obtained funds or other property and the financing terrorism, also the recognition and execution of the court decisions of foreign states in that sphere shall be regulated in accordance with the legislation of the Republic of Azerbaijan and the international treaties to which the Republic of Azerbaijan is a party. Funds or other property confiscated on the territory of the Republic of Azerbaijan may be fully or partially delivered to the state where the court decision has been made.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report. Under Article 521 of the Criminal Procedure Code, the courts of the Republic of Azerbaijan are required to deal with the enforcement of judgments or other final decisions given by the courts of foreign states in accordance with the provisions of this Code, criminal and other legislation of the Republic of Azerbaijan, and the international instruments to which the Republic of Azerbaijan is a party. MLA on confiscation and freezing is envisaged by the international instruments to which the Republic of Azerbaijan is a party. International instruments to which the Republic of Azerbaijan is one of the parties constitute an integral part of legislative system of the Republic of Azerbaijan, and are binding for all natural and legal persons.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Establish a FIU and apply to Egmont.*
Measures reported	Based on Presidential Decree dated February 23, 2009 and in order to provide

as of 7 December 2009 to implement the Recommendation of the report	implementation of the state policy in AML/CFT sphere, to improve the supervision system and to coordinate the activity of the relevant state authorities in this field the Financial Monitoring Service under the Central Bank of the Republic of Azerbaijan has been established. The Financial Monitoring Service is guided in its activity by the Constitution of the Republic of Azerbaijan, international agreements to which the Republic of Azerbaijan is a party, the AML/CFT Law, its Statute and relevant international standards. The Director and Deputy Director of the newly established Service were appointed by the President of the Republic of Azerbaijan. Its Statute, structure, staff and the budget were also approved. Financial Monitoring Service is authorized to ensure relations of the Republic of Azerbaijan with international organizations, to cooperate with relevant agencies of other states and in accordance with the legislation to conclude international instruments (item 11.7 of the Statute). Additionally, Financial Monitoring Service is entitled to initiate joining of the Republic of Azerbaijan to international instruments regarding the issues connected with the scope of its activity. Paying special attention to the international cooperation, Financial Monitoring Service requested the Egmont Group of FIUs for the membership and submitted all relevant documents to this end. At present, mentioned application letter is under the consideration by the Egmont Outreach Working Group and the financial monitoring service is expecting for advises on further actions required in order to become an Egmont Group member.
Measures taken to implement the recommendations since the adoption of the first progress report	Following its establishment in 2009, the Financial Monitoring Service applied for the membership of the Egmont Group. After the initial consideration of the application, the Financial Monitoring Service was invited as the observer FIU to the 18th Egmont Group plenary. Since, the Financial Monitoring Service participated in two Working Group meetings in 2010 and 2011 and clarified certain issues raised by the Egmont Group. During the 19th Plenary of the organization, the Financial Monitoring Service became the fully-fledged member of the Egmont Group of Financial Intelligence Units in July 2011. Taking into account the importance of information exchange in AML/CFT field, the Financial Monitoring Service within a month connected to the Egmont Secure Web (ESW) system to ensure quick and effective FIU-to-FIU cooperation. As of now, the Financial Monitoring Service has received one request for information from a foreign FIU via ESW and has duly responded to the request within 1-2 working days. Furthermore, following the admission to the Egmont Group, the Financial Monitoring Service has nominated three staff members to become members of Egmont Working Groups and all of them were approved as the members of Legal, Training and Outreach Working Groups.
Recommendation of the MONEYVAL Report	*Establish a firm legal basis for supervisory exchanges of information in TF (and ML) and establish more practice.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Implementation of this Recommendation is one of the priorities of the Financial Monitoring Service Action Plan. It is arranged to sign Memorandum of Understanding for exchange of information between supervisors as it is prescribed by the FATF Recommendation 40.

Measures taken to implement the recommendations since the adoption of the first progress report	In 2010, the Financial Monitoring Service signed Memoranda of Understanding with all supervisory authorities (Central Bank, Ministry of Justice, State Committee for Securities, Ministry of Finance, Ministry of Taxes, Ministry of Communication and Information Technologies, Chamber of Auditors, Bar Association, State Committee for Work with Religious Organizations) in order to ensure effective cooperation in AML/CFT field. Effective exchange of information forms a component of these Memoranda of Understanding. Also, please see comments in relation to Recommendation 32.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation I (Implement UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Criminal legislation ratifying the Terrorist Financing Convention should be further amended to fully ensure that the terrorist financing offence is fully consistent with the 1999 Convention.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to SR II.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to SR II.
Recommendation of the MONEYVAL Report	*It is recommended that Azerbaijani authorities reinforce their system for implementing UN SC Resolutions relating to prevention and suppression of financing terrorism (S/REC/1267 (1999) and S/REC/1373 (2001) by developing and implementing the necessary procedures and mechanisms.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to SR III.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to SR III.
Recommendation of the MONEYVAL	*The following issues still need to be addressed:* • *liability of legal persons is not covered;*

Report	• *awareness of some reporting entities with respect to their role in CTF mechanism;* • *a specific procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Concerning the introduction of criminal liability for legal persons please be informed as follows. Criminal Code of the Republic of Azerbaijan does not recognize legal persons as subjects of a crime, as directly stated in article 19 of the Criminal Code, under which to criminal liability shall be subjected person, who has mental capacity, committed a crime and reached appropriate age, settled by the Criminal Code. This provision reflects one of the fundamental principles of criminal legislation – the principle of personal liability of a person. Nevertheless, Azerbaijani legislation establishes effective sanctions against legal persons for offenses related with money laundering or terrorist financing. In particular, article 348-3 of the Code of Administrative Infringements stipulates an administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons. Under article 6.3 of the AML/CFT Law, institutions operating under a license, which are in breach of this Law, are subject to a sanction of revocation (annulling) of the license. Liquidation of legal persons implicated in terrorist activities, including terrorist financing, is envisaged in the Law of the Republic of Azerbaijan dated 18 June 1999 No. 687-IQ "On Suppression Terrorism". The possibility of court-ordered liquidation of a non-profit institution engaged in unlawful activity is envisaged in article 59.2.3 of the Civil Code and article 31 of the Law of the Republic of Azerbaijan dated 13 June 2000 No. 894-IQ "On non-governmental organizations (public associations and funds)". Finally, article 59.2.3 of the Civil Code of the Republic of Azerbaijan stipulates that a legal person may be liquidated by court decision if it engages in activities prohibited under legislation, or commits repeated or grave violations of the legislation.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to Recommendations 2 and 25, SR III.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*A comprehensive and transparent legal structure now needs to be put in place which ensures that all the financial sector receives designations and understands its*

	obligations under UNSCR 1267 and 1373.
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Action Plan to improve the Azerbaijani AML/CFT system provides for a special item devoted to issue of bringing the national legislation on freezing of assets into line with the FATF Special Recommendation III and the other international instruments. Regulation shall be prepared and approved to this end, and after that legal framework will comply with the UNSCR 1267 and 1373 and FATF SR III.
Measures taken to implement the recommendations since the adoption of the first progress report	Regulation # 124 "On approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party" was adopted by the Cabinet of Ministers in June 25, 2010. Currently, the AML/CFT Law and Ordinance of the Cabinet of Ministers creates an overall legal and institutional framework which ensures that all reporting entities receive designations and understands its obligations under UNSCR 1267 and 1373. In addition, taking into account the MONEYVAL recommendations the draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was drawn up in consultation with the IMF. The draft Law among others creates effective freezing mechanism within SR III. Discussions regarding this draft Law are still ongoing and to finalize this process Azerbaijani authorities wait for the approval of revised FATF Recommendations early next year in order to cover new tendencies and standards.
Recommendation of the MONEYVAL Report	*There should be a mechanism for conversion into Azerbaijan Law of designations under UNSCR 1267 and in the context of UNSCR 1373. Specifically, there should be a clear national authority for designations under 1373 and for consideration of foreign requests for designations. This mechanism must assess without delay whether reasonable grounds or a reasonable basis exists to initiate in Azerbaijan a freezing action (and subsequent freezing of funds or other assets) in respect of persons designated by third countries.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	For the implementation of UNSCR 1267 (1999) a special Decree 470 of 15 July 2000 of the President of the Azerbaijan Republic was adopted. Civil Code provides for the arrest of money resources on accounts under the decision of the courts in cases stipulated by law. For the implementation of UNSCR 1373 (2001) Special Decrees 824 of 3 November 2001 and 920 of 11 May 2002 of the President of the Azerbaijan Republic were adopted. The Decree of 11 May 2002 includes a Plan and sets out the areas of responsibility for each Ministry and department and requires them to take action to implement the Plan. The two earlier decrees simply asked the relevant ministries and departments to make plans to implement the two UNSCRs. While in respect of UNSCR 1267, the United Nations Security Council 1267 Committee designates persons whose assets or funds are to be frozen, the evaluators were not advised of any competent authority for prompt designation of the persons and entities that should have their funds or other assets frozen, or which examines and, as appropriate, gives effect to the actions initiated under the freezing mechanisms of other jurisdictions in the context of UNSCR 1373.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Ordinance of Cabinet of Ministers #124, items 3 and 4: **Item 3.** General List shall consist of the Domestic List of natural or legal persons designated on the basis of a national legislation and international instruments to which the Republic of Azerbaijan is a party– Domestic List, and International List – International List) determined according to the Consolidated List of natural or legal persons designated by the United Nations Security Council Committee established

	pursuant to UNSCR S/RES/1267 on 15 October 1999 in accordance with the UNSCR S/RES/1267 on 15 October 1999, and in the context of the UNSCR S/RES/1373 on 28 September 2001. **Item 4.** General List shall be confirmed by the Financial Monitoring Service, published in the official newspaper, placed on the web–site of the Financial Monitoring Service, and according to the legislation on the prevention of the legalization of criminally obtained funds or other property and the financing of terrorism sent to the supervision authorities, as well as to FIs and DNFBPs either directly or through relevant supervision authorities. Moreover, items 6 and 12 of above mentioned Ordinance assert that: **Item 6.** Domestic List shall be determined by the Ministry of National Security either directly or under the reference of the General Prosecutor Office, Ministry of Internal Affairs, Ministry of Justice and State Border Service, and submitted without delay to the Financial Monitoring Service for confirmation. **Item 12.** International List shall be determined by the Ministry of Foreign Affairs (on the basis of Consolidated List designated by the Sanctions Committee), and submitted without delay to the Financial Monitoring Service for confirmation. Furthermore, pursuant to item 28 of this Ordinance: **Item 28.** According to national legal principles and international instruments to which the Republic of Azerbaijan is a party, the Financial Monitoring Service within the framework of its competence, is required to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions as well as to ensure the prompt determination, whether reasonable grounds or a reasonable basis exists to initiate a freezing action and the subsequent freezing of funds or other assets without delay. Draft amendments related to implementation of SRIII comprehensively regulates this issue: *19-1.1. The list of natural and legal persons subject to sanctions for connection to terrorist activities (hereinafter - the persons) is defined by appropriate executive authorities pursuant to the relevant United Nations Security Council Resolutions as well as legislation of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party, is approved, published, sent by financial monitoring organ to the relevant government authorities, monitoring entities and other persons involved in monitoring.* *19-1.2. The rules of listing and delisting of persons in the international and national list of the designated persons as well as the release of frozen assets were determined by the relevant executive authority (Financial Monitoring Service).* *19-1.5. Based on the request of the foreign state, the relevant executive authorities and the financial monitoring organ can take the decision to continue terrorist assets freezing measures initiated by the foreign state in the territory of the Republic of Azerbaijan. Such a decision is taken pursuant to the legislation of the Republic of Azerbaijan if there are sufficient grounds for freezing without delay of the assets of the persons indicated in the request.*
Recommendation of the MONEYVAL Report	*All designations under 1267 and 1373 should be communicated promptly to all parts of the financial sector.*
Measures reported as of 7 December 2009 to implement the Recommendation of	The United Nations lists are forwarded to the Ministry of Foreign Affairs, which then pursuant to Presidential Decree # 920 distributes the lists by way of the Government to the Ministry of National Security, Central Bank, Ministry of Finance, Customs Committee, and Ministry of the Interior, Ministry of Justice, the Prosecutor General, and the State Committee on Securities. Lists of other countries

the report	are also circulated in the same way.
Measures taken to implement the recommendations since the adoption of the first progress report	Pursuant to Item 4 of the Ordinance, General List shall be confirmed by the Financial Monitoring Service, published in the official newspaper, placed on the web–site of the Financial Monitoring Service, and based on Article 7.3 of the AML/CFT Law sent to the supervision authorities, as well as to reporting entities either directly or through relevant supervision authorities. By the articles 7.2.5 and 11.3 of the AML/CFT Law, reporting entities are obliged to freeze without delay terrorist funds or other assets of designated persons, and immediately make STR to the Financial Monitoring Service about it. Moreover, the draft Law envisages the sending of list of designated persons to all institutions and persons: "*19-1.1. The list of natural and legal persons subject to sanctions for connection to terrorist activities (hereinafter - the persons) is defined by appropriate executive authorities pursuant to the relevant United Nations Security Council Resolutions as well as legislation of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party, is approved, published, sent by financial monitoring organ to the relevant government authorities, monitoring entities and other persons involved in monitoring.*"
Recommendation of the MONEYVAL Report	*All parts of the financial sector which may hold targeted funds should be given clear guidance on the wide meaning of funds or other assets in the context of SR.III, as defined in Criterion III.4.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	This Recommendation will be implemented by way of trainings.
Measures taken to implement the recommendations since the adoption of the first progress report	The Financial Monitoring Service on the regular basis holds trainings (in total 3) for the reporting entities with the purposes of raising awareness in the area of the implementation of the relevant legislative instruments, as well as send circular letters to such targeted institutions with clear and comprehensive definition under the SR.III.
Recommendation of the MONEYVAL Report	*All of the financial sector needs to understand whether the system is administrative in the sense that they are positively required to take initial freezing actions themselves, or whether they should simply notify an authority of a match with a view to an application by the competent authorities for a freezing order from the courts.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently AML/CFT Law contains provisions on legal freezing mechanism. There are concrete requirements on the financial institutions and DNFBPs as to their duties on notification of competent state authorities.
Measures taken to implement the recommendations since the adoption of the first progress report	The reporting entities are aware on their obligations under the SR III framework. By the articles 7.2.5 and 11.3 of the AML/CFT Law, reporting entities are obliged to directly freeze without delay terrorist funds or other assets of designated persons, and immediately make STR to the Financial Monitoring Service about it.
Recommendation of the MONEYVAL Report	*There needs to be publicly known procedures for de-listing and unfreezing and for those inadvertently affected by freezing mechanisms.*
Measures reported	Special Regulation expected to be prepare within an Action Plan will cover this

as of 7 December 2009 to implement the Recommendation of the report	issue.
Measures taken to implement the recommendations since the adoption of the first progress report	The procedures for de-listing and unfreezing and for those inadvertently affected by freezing mechanisms are stipulated by the Regulation # 124 "On approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party", which was adopted by the Cabinet of Ministers in June 25, 2010. In addition, this issue was taken into consideration in the draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism": "*19-1.6. When the assets of the person were inadvertently frozen, these assets shall be promptly released once the initial application is made by the person or the mistake is corrected. The financial monitoring organ makes the decision on immediate release of frozen assets upon the application of the person whose assets were inadvertently frozen.*"
Recommendation of the MONEYVAL Report	*The Azerbaijan authorities may wish to consider the merits of a more administrative procedure for handling SR.III in its entirety, subject to proper safeguards (especially with regard to bona fide third Parties).*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	This Recommendation is one of targets of proposed Regulation.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue is covered by the Regulation # 124 "On approval of the General List of natural or legal persons designated on the basis of relevant United Nations Security Council Resolutions, as well as legislation of the Republic of Azerbaijan and international instruments on counter terrorist financing to which the Republic of Azerbaijan is a party", which was adopted by the Cabinet of Ministers in June 25, 2010. In addition, draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism" envisages: "*19-1.7. Designated persons, the persons whose assets were frozen as well as any other persons whose rights were violated as a result of the measures specified in Article 19-1.3 may apply to the courts of the Republic of Azerbaijan in order to protect their rights*."
Recommendation of the MONEYVAL Report	*All supervisors should be actively checking compliance with SR.III and sanctions should be available (to be applied by the supervisors) for non-compliance.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	There were not any cases of breach legislation concerning SR III, and possible sanctions hadn't been applied in practice.

Measures taken to implement the recommendations since the adoption of the first progress report	No additional information on this point.
Recommendation of the MONEYVAL Report	*Dedicated AML/CFT legislation is required that imposes duties on the regulated sector with sanctions in the event of non-compliance.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	AML/CFT Law contains provisions on legal freezing mechanism. There are concrete requirements on the financial institutions and DNFBPs as to their duties on notification of competent state authorities. Currently Ministry of Foreign Affairs and FIU are designating authorities for UNSCR 1267 and 1373. Under the circumstances listed below financial institutions and DNFBPs shall not execute the transactions for 2 business days and shall make STR to FIU (administrative freezing): • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • on any transaction with the funds or other property associated with the citizens of the country (territory) determined by the FIU, with the persons registered or that, who has a residency or permanent business in this country (territory), with the persons who has a bank account in banks registered in this country (territory); • on any transactions from bank accounts of politically exposed persons of foreign country; • on transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. Under the AML/CFT Law, Financial Monitoring Service based on the information obtained, shall within 2 business days take decision to suspend the execution of an STR. Execution of an STR shall suspended by Financial Monitoring Service for a 72 hours period. Where Financial Monitoring Service takes decision to suspend the execution of an STR the decision and relevant documents shall be immediately sent to the state authorities which are responsible for criminal prosecution on legalization of criminally obtained funds or other property (General Prosecutor Office) and the financing of terrorism (Ministry of National Security). Such freezing should take place without delay and without prior notice to the designated persons involved. The persons violating this requirement shall bear criminal liability. The Criminal Code of the Republic of Azerbaijan was amended by the article 316–2 with below content: **Article 316–2. Disclosure of information about the measures to be taken against the legalization of criminally obtained funds or other property and the financing of terrorism** **316–2.1.** Except the cases prescribed by the Law, disclosure the measures to be taken against legalization of criminally obtained funds or other property by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 1 000 manats up to 3 000 manats, or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years

	or without it. **316–2.2.** Except the cases prescribed by the Law, disclosure the measures to be taken against financing of terrorism by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 2 000 manats up to 4 000 manats, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	Taking into account the MONEYVAL recommendations, the draft Law "On amendments to some legislative acts of the Republic of Azerbaijan in the field of prevention of the legalization of criminally obtained funds or other property and financing of terrorism" was drawn up in consultation with the IMF. Discussions regarding this draft Law are still ongoing and to finalize this process Azerbaijani authorities wait for the approval of revised FATF Recommendations early next year in order to cover new tendencies and standards. The draft Law among others creates effective freezing mechanism within SR III which is going to be implemented into the AML/CFT Law: ***Article 19-1. Freezing the assets of natural and legal persons subject to sanctions for connection to terrorist activities*** *19-1.1. The list of natural and legal persons subject to sanctions for connection to terrorist activities (hereinafter - the persons) is defined by appropriate executive authorities pursuant to the relevant United Nations Security Council Resolutions as well as legislation of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan is a party, is approved, published, sent by financial monitoring organ to the relevant government authorities, monitoring entities and other persons involved in monitoring.* *19-1.2. The rules of listing and delisting of persons in the international and national list of the designated persons as well as the release of frozen assets were determined by the relevant executive authority.* *19-1.3. Assets of these persons must be frozen without any delay by any person in the territory of the Republic of Azerbaijan and the relevant executive authority and financial intelligence organ shall be immediately informed hereof.* *19-1.4. Except the cases specified in Article 19-1.6 of the Law, the assets of the persons are frozen indefinitely and the frozen assets are released immediately after the delisting of the person.* *19-1.5. Based on the request of the foreign state, the relevant executive authorities and the financial monitoring organ can take the decision to continue terrorist assets freezing measures initiated by the foreign state in the territory of the Republic of Azerbaijan. Such a decision is taken pursuant to the legislation of the Republic of Azerbaijan if there are sufficient grounds for freezing without delay of the assets of the persons indicated in the request.* *19-1.6. When the assets of the person were inadvertently frozen, these assets shall be promptly released once the initial application is made by the person or the mistake is corrected. The financial monitoring organ makes the decision on immediate release of frozen assets upon the application of the person whose assets*

	were inadvertently frozen. *19-1.7. Designated persons, the persons whose assets were frozen as well as any other persons whose rights were violated as a result of the measures specified in Article 19-1.3 may apply to the courts of the Republic of Azerbaijan in order to protect their rights.* *19-1.8. Use of frozen assets by the designated persons to cover necessary living and unexpected costs as well as taxes and duties is conducted pursuant to the procedures established by the relevant executive authority.*

Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Broaden the TF offence to avoid dual criminality problems (in mutual legal assistance).*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to SR II.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to SR II.
Recommendation of the MONEYVAL Report	*Broaden the TF offence to avoid potential dual criminality problems (extradition).*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to SR II.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to SR II.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation VI (AML requirements for money/value transfer services)
Rating: Partially compliant

Recommendation of the MONEYVAL Report	*The authorities should implement requirements in relation to Recommendations 4-11, 13-15 and 21-23 for the MVT service providers.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to these Recommendations above.
Measures taken to implement the recommendations since the adoption of the first progress report	In accordance with the Law "On Banks" the service for transmission of money shall be provided only by banks. Therefore, the risks that could occur in this sphere are addressed by the relevant requirements of the AML/CFT Law (Articles 16, 9, 9-1, 12-1, 10, 9-2, 7, 11, 14, 15), and other legislation. Also, please see comments in relation to those Recommendations above.
Recommendation of the MONEYVAL Report	*The sanctioning system for infringements of the existing legislative acts requiring court decisions via application of the supervisory authorities does not work in practice as no sanctions apart from NBA corrective measures for banks have been imposed so far. It should be amended to provide for an effective sanctioning regime.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see comments in relation to Recommendation 17.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see comments in relation to Recommendation 32.
Recommendation of the MONEYVAL Report	*The legislation should be amended in order 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 a bank.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Pursuant to article 10.1 of the Law "On Banks", administrators of banks, their branches, divisions, representations and local branches and representations of foreign banks shall be the persons having fit and proper characteristics. Administrators are the members of Controllers' Board, Audit Committee and Management Board of the Bank, as well as chief accountant of the bank (head of accounting service), employees of internal audit division, managers and chief accountants of branches, departments and representations of the bank. Persons having fit and proper characteristics — civilly impeccable natural person, who is thought to be fair and trustful for its social position and professional qualities, experience, business interests of whose let him be the owner of majority participation share in the bank, administrator, temporary administrator and liquidator. Civil impeccability for the owner of majority of participation share, and if it is the legal entity, for management of his executive authorities, as well as the management of subsidiary structures of the bank means the absence of criminal conviction for willfully committed crimes; for administrator, temporary administrator and liquidator — absence of conviction for a committed crime, absence for criminal records on serious and especially serious crimes against property or in the sphere of

	economic activity, absence of restrictions by the court order, for holding of the position or engagement in professional activities, absence of the fact on insolvency announcement by the court. Article 22 of the Law "On Banks" regulated the restriction of a significant or controlling interest in the charter capital of the bank. Based on this article Central Bank shall reject the issuance of permits in following cases: • if managers of executive authorities of legal person do not have fit and proper characteristics; • if the natural persons do not have fit and proper characteristics.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation VII (Wire transfer rules)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The information needed for domestic wire transfers should include also the originator's address and an obligation that the information included in wire transfers is meaningful and accurate should be included.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	As it has been already explained to the experts in the course of the Third Round of Mutual Evaluation, there are sufficient legal provisions concerning the originator's address and an obligation that the information included in wire transfers is meaningful and accurate, in the Regulation "On the Regime of Foreign Currency Transactions by Residents and Non-Residents in the Republic of Azerbaijan" approved by the Central Bank. According to item 4.4 of Regulation an application for wire transfer shall include the information stipulated in the ID documents of a natural person (first name, last name and surname; type, serial number of an identification document, as well as date of issue and the name of an issuer authority; the originator's address). Based on internal procedures, credit institutions may require submitting additional data. Where it is impossible to identify the parties of transaction in order as defined by the AML/CFT Law or whether refused from submitting identification information on the customer or beneficial owner, credit institutions shall not perform the relevant transaction. Additionally, under the provisions of the AML/CFT Law, credit institutions shall conduct CDD for customers and beneficial owners before carrying out wire transfers (regardless of their amount).
Measures taken to implement the recommendations since the adoption	This issue has already been clarified in the first progress report. In addition, pursuant to the Regulations "On cashier transactions and encashment of values by credit organizations in the Republic of Azerbaijan", following

of the first progress report	identification information shall be obtained in respect of both originator and beneficiary: i) Name, middle name and surname, ii) Address, iii) ID Document details. Mentioned information shall be checked for accuracy and included in the "Form on money transfers without an account" (please see Annexes) and sent with the transfer to the next FI in the payment chain.
Recommendation of the MONEYVAL Report	*The requirements for each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer must be added in the legislation.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	After the Third Round of Mutual Evaluation, special Regulation concerning wire transfers (reflected abovementioned issue as well) had been prepared and submitted for state registration. Provisions of FATF Methodology to SR VII and experience of countries having positive ratings on SR VII were broadly used.
Measures taken to implement the recommendations since the adoption of the first progress report	Please see information above.
Recommendation of the MONEYVAL Report	*The sanctions regime concerning SR VII must be made more effective in order to be applied in practice*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	There were not any cases of breach legislation concerning SR VII, and possible sanctions hadn't been applied in practice.
Measures taken to implement the recommendations since the adoption of the first progress report	There were not any cases of breach legislation concerning SR VII, and possible sanctions hadn't been applied in practice.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation VIII (Non-profit organisations)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	*Powers should be set out in the law and regulations to ensure that known terrorist organisations would be prohibited from establishing a legitimate NPO or to becoming part of it in a later stage.*
Measures reported as of 7 December 2009 to implement the	Article 11.3.2 of the Law of the Republic of Azerbaijan "On the state registration and state register of legal persons" is dealing with cases when prohibited to establish legal person.

Recommendation of the report	So, by the Draft Law it is proposed to amend article 11.3.2 of the Law in such a way that when the founder of a legal person is a terrorist organization it shall be prohibited to establish legal person.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*The Azerbaijani authorities should periodically review NPOs/NGOs with the object of assessing terrorist financing vulnerabilities.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently Ministry of Justice of the Republic of Azerbaijan carries out supervision functions over the compliance with the requirements of the AML/CFT Law in relation to the NGOs. In order to implement the MONEYVAL Recommendation, based on the Draft Law article 29.4 of the Law "On non-governmental organizations (public associations and funds)"shall be set forth as follows: "**29.4.** Financial activity of the Fund and the non–governmental organisation part of activity of which consists of receiving, collecting, delivering or transferring the funds, shall be subject to annual external audit by the auditor licensed for implementation of auditor activities. Audit is performed in accordance with legislation of the Republic of Azerbaijan. Mentioned non-governmental organizations that passed an audit inspection shall submit annual report and the opinion of the auditor to the relevant executive authority not later than the 1st of April annually. The form, content and the procedure of the submission of the reports is defined by the relevant executive authority. The submitted report is evaluated by the relevant executive authority in order to reveal the activities of non-governmental organs that contradict to the ones specified by the Statute of the non–governmental organisation, reveal the facts whether the non–governmental organisation is in a process of terrorist financing or any other criminal act. When the facts of legal breaches are revealed the measures prescribed by this Law shall be implemented. The non–governmental organisation shall carry out measures as defined by the relevant legislation for the purposes of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism."
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*A permanent independent audit should be carried out in order to ensure that funds are used for the stated purposes, to check if the funds have reached the intended beneficiary and to detect misdirection of the funds.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see item above. Also for further implementing of MONEYVAL Recommendations it is proposed to amend the Law "On non-governmental organizations (public associations and funds)" and add article 29.5 with below content: "**29.5.** Receiving of funds from foreign countries or transferring of funds to foreign countries by a non–governmental organisation shall be executed through a bank account of the non–governmental organisation.

	The non–governmental organisations shall maintain, for a period of at least 5 years, and make available to competent authorities and interested persons, as well as submit on the basis of a request, documents stipulated in the article 29.4 of this Law, records of domestic and international financial operations and other transactions, as well as information on the purpose and objectives of their stated activities and the identity of person who own, control or direct their activities, including founders, participants, members, assistants, official persons, beneficial owners, donors, branches and representative offices."
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*The NPOs/NGOs should be required to take preventive verification measures to ensure that their entities, as well as their partner organisations are not being penetrated or manipulated by terrorists or terrorist organisations. Such preventive measures should also include special training programs for the designated authorities which are in charge of supervising the NPOs/NGOs sector. Terrorist financing experts should work with NPOs/NGOs supervisory authorities to raise awareness on the problems faced and to alert these authorities to the specific characteristics of terrorist financing.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Currently, NPOs/NGOs shall implement all measures stipulated in the AML/CFT Law concerning the identification and verification of customers and beneficial owners, documenting, filing, archiving and the requirement of reporting of CTR and STR, and establishing the internal control system.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*A further review of the laws on NPOs/NGOs based on an assessment of the vulnerabilities and needs of the sector should be undertaken.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	All MONEYVAL Recommendations concerning SR VIII has been reflected in the Draft Law.
(Other) changes since the last evaluation	In order to implement MONEYVAL Recommendations it is proposed to amend the Law of the Republic of Azerbaijan "On non-governmental organizations (public associations and funds)": **1.** replace the words «on the use of its property the Fund» by the words «on financial means and expenditures Fund and the non-governmental organization one of the functions of which is acquiring, collecting and transferring funds» in article 29.3. **2.** article 29.4 shall be set forth as follows: **29.4.** Financial activity of the Fund and the non–governmental organisation part of activity of which consists of receiving, collecting, delivering or transferring the

	funds, shall be subject to annual external audit by the auditor licensed for implementation of auditor activities. Audit is performed in accordance with legislation of the Republic of Azerbaijan. Mentioned non-governmental organizations that passed an audit inspection shall submit annual report and the opinion of the auditor to the relevant executive authority not later than the 1st of April annually. The form, content and the procedure of the submission of the reports is defined by the relevant executive authority. The submitted report is evaluated by the relevant executive authority in order to reveal the activities of non-governmental organs that contradict to the ones specified by the Statute of the non–governmental organisation, reveal the facts whether the non–governmental organisation is in a process of terrorist financing or any other criminal act. When the facts of legal breaches are revealed the measures prescribed by Law shall be implemented. The non–governmental organisation shall carry out measures as defined by the relevant legislation for the purposes of prevention of the legalization of criminally obtained funds or other property and the financing of terrorism. **3.** add article 29.5 with below content: 29.5. Receiving of funds from foreign countries or transferring of funds to foreign countries by a non–governmental organisation shall be executed through a bank account of the non–governmental organisation. The non–governmental organisations shall maintain, for a period of at least 5 years, and make available to competent authorities and interested persons, as well as submit on the basis of a request, documents stipulated in the article 29.4 of this Law, records of domestic and international financial operations and other transactions, as well as information on the purpose and objectives of their stated activities and the identity of person who own, control or direct their activities, including founders, participants, members, assistants, official persons, beneficial owners, donors, branches and representative offices.
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation IX (Cross Border declaration and disclosure)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*There is a need for measures to strengthen the capacity of Customs to detect funds possibly linked with money laundering and financing of terrorism.*
Measures reported as of 7 December 2009 to implement	By the Draft Law it is proposed to amend the Law of the Republic of Azerbaijan "On Currency Regulation" and add article 14-1.2 with below content: "**14-1.2.** Where the relevant executive authority of the Republic of Azerbaijan

the Recommendation of the report	during its functions reveals the indications, traces or results of money laundering or financing of terrorism, in order to document all the information, necessary measures shall be undertaken, and the information on the legalization of criminally obtained funds or other property shall be submitted to the General Prosecutor Office, and the information on the financing of terrorism shall be submitted to the relevant executive authority."
Measures taken to implement the recommendations since the adoption of the first progress report	This issue has already been clarified in the first progress report.
Recommendation of the MONEYVAL Report	*Customs should be provided with indicators to detect money laundering and financing of terrorism and have clear power to detain persons such as cash couriers where money laundering or financing of terrorism is suspected, for sufficient time to question persons on money laundering and financing of terrorism, before handing them over to other authorities, as necessary.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	The State Customs Committee of the Republic of Azerbaijan in the process of implementing indicators to detect money laundering and financing terrorism. These indicators have been elaborated together with Financial Monitoring Service which is authorized by its Statute to determine the relevant indicators. As it has been already explained to the experts in the course of the Third Round of Mutual Evaluation, there are sufficient legal provisions in the Criminal Procedural Code that empowered State Customs Committee to conduct preliminary enquiry in any area dealing with customs activity. Under the Criminal Procedural Code customs authorities may detain persons including cases where money laundering or financing f terrorism is suspected, and to conduct preliminary enquiry for term up to ten days, before handing them over to other authorities, as necessary.
Measures taken to implement the recommendations since the adoption of the first progress report	Draft amendments related to implementation of SRIX comprehensively regulate this issue. According to new amending Article 8 of the AML/CFT Law the State Customs Committee of the Republic of Azerbaijan should inform the Financial Monitoring Service on the grounds specified in the articles 7.2.1 and 7.2.2 of this Law immediately. The detection criteria (special indicators) of the currency values that are suspicious for money laundering or terrorism financing specified in the Article 8.1 of this Law are determined by the relevant executive authority (see attached Annex).
Recommendation of the MONEYVAL Report	*The competence of Customs to investigate money laundering and financing of terrorism, which if discovered in the context of their work, should be reviewed. It would assist the national effort if they were empowered to conduct preliminary enquiries in this area at least before handing cases over to the General Prosecutor.*
Measures reported as of 7 December 2009 to implement the Recommendation of the report	Please see item above.
Measures taken to implement the recommendations since the adoption	

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

2.4. Specific Questions

Answers from the first progress report

1. Are all attempted suspicious transactions covered by the reporting obligation under AML/CFT law for all financial institutions?
Based on the article 7.2 of the AML/CFT Law, monitoring entities (financial institutions) shall make suspicious transaction report (STR) to Financial Monitoring Service on funds or other property, transactions with them and the attempts to carry out transactions regardless of their amount involving the following features: • in situations that cause suspicions or reasonable grounds for suspicions that funds or other property are the proceeds of a criminal activity or are related to terrorist financing; • on any transaction with the funds or other property associated with the citizens of the country which do not or insufficiently apply international standards against ML/TF, with the persons registered or that, who has a residency or permanent business in this country, with the persons who has a bank account in banks registered in this country; • on any transactions from bank accounts of politically exposed persons of foreign country; • on transfer of funds from anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan to the Republic of Azerbaijan, as well as transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan. STR shall contain the following information: • type of transaction; • date of execution of transaction; • amount of executed transaction; • necessary information for the identification of legal and natural persons conducting the transaction; • information about the beneficial owner; • information on the nature, as well as the information describing a chronological history of the transaction; • the grounds stipulating the suspiciousness of transaction. The STR shall be submitted before the execution of the transaction. Where non–execution of a transaction is impossible or where it is known that non–execution of the transaction may cause impediments for identification of the beneficial owner, after execution of the transaction the monitoring entities shall immediately inform Financial Monitoring Service. The information submitted to Financial Monitoring Service shall not be disclosed.
2. Please explain (for each financial institution operating in Azerbaijan) the legal and regulatory measures now in place to prevent criminals or their associates from holding or being beneficial owners of a significant or controlling interest or holding a management function in a financial institution.
Pursuant to article 10.1 of the Law "On Banks", administrators of banks, their branches, divisions, representations and local branches and representations of foreign banks shall be the persons having fit and proper characteristics. Administrators are the members of Controllers' Board, Audit Committee and Management Board of the Bank, as well as chief accountant of the bank (head of accounting service), employees of internal audit division, managers and chief accountants of branches, departments and representations of the bank. Persons having fit and proper characteristics — civilly impeccable natural person, who is thought to be fair and trustful for its social position and professional qualities, experience, business interests of whose let him be the owner of majority participation share in the bank, administrator, temporary administrator

and liquidator.
Civil impeccability for the owner of majority of participation share, and if it is the legal entity, for management of his executive authorities, as well as the management of subsidiary structures of the bank means the absence of criminal conviction for willfully committed crimes; for administrator, temporary administrator and liquidator — absence of conviction for a committed crime, absence for criminal records on serious and especially serious crimes against property or in the sphere of economic activity, absence of restrictions by the court order, for holding of the position or engagement in professional activities, absence of the fact on insolvency announcement by the court.
Article 22 of the Law "On Banks" regulated the restriction of a significant or controlling interest in the charter capital of the bank. Based on this article Central Bank shall reject the issuance of permits in following cases:

- if managers of executive authorities of legal person do not have fit and proper characteristics;
- if the natural persons do not have fit and proper characteristics.

According to the Law "On Insurance Activity", there is a requirement on the civil impeccability for the:

- administration of the insurers;
- managers of the executive body of the legal entity being insurers' shareholders;
- citizen of the Republic of Azerbaijan being insurer's shareholders.

Definition of the civil impeccability is stipulated in the article 1.1.41 of the Law, that is civil impeccability – for the persons, specified hereof:

- absence of previous convictions for deliberately committed crime;
- absence of the previous convictions for grave or especially grave crimes against property and in the sphere of economic activity;
- absence of restrictions according to the court order for holding appropriate position or engagement in professional activities.

Article 121 of the mentioned Law provides that civil impeccability of a natural person shall be determined on the base of the appropriate references of the Ministry of Internal Affairs given at the request of the insurance supervision authority.
According to the article 21.1 of the Law no person, including insurer's founders and shareholders, might conclude contract, resulting in obtaining significant participating share (direct or indirect possession of 20 or more percent of distributed shares) in insurer's paid up capital through purchase of its ordinary shares, as well as carrying out significant control (contract, granting any person power to considerably influence on legal entity in its decision-making , irrespective of whether he has or does not have shares of this legal entity) over insurer without consent of insurance supervision authority.
Article 19.1.2 stipulates that citizen of the Republic of Azerbaijan shall meet the civil impeccability requirement in order to become insurer's founder or shareholder if he/she wishes to obtain significant participating share or significant control in the insurer.
In the article 19.2.2 it is indicated that in order local legal entities to obtain significant participating share or significant control in the insurer its managers of executive body shall meet the civil impeccability requirement.
Foreign natural persons can't be shareholder in the insurers of the Republic of Azerbaijan (article 18.2.1).
Shareholder, being a foreign insurer or local legal entity, which has significant participating share, shall submit information on the occurrence of any circumstance, affecting civil impeccability of any administering employee of local legal entity or foreign insurer to the insurance supervision authority within 10 working days from the date of its occurrence.
In order to supervise over the observation of this Law, insurance supervision authority might require once a year information on civil impeccability of shareholder being physical person, if it is legal entity – information on civil impeccability of the administering employees of this shareholder (article 23.2).
According to article 37.1 of the Law members of Insurer's Directors Board, Management Board and Inspection Commission, as well as head of the Internal Audit Service, Chief accountant and Actuary are

administration (administering employees) of the insurer. Administration of insurer shall be appointed on the base of consent of the insurance supervision authority. Decision on appointment of the insurer's administration without consent of insurance supervision authority shall be deemed void from the moment of its adoption.

Article 37.2.6 stipulates that administration of insurer shall comply with the requirements of civil impeccability, determined in this Law. Before giving consent to the appointment of any of the nominee to the administration of the insurer that nominee shall pass appropriate attestation in the insurance supervision authority on the base of the regulations, determined by this authority.

The Regulation of the Ministry of Finance "On organization and implementation of attestation for candidates to senior positions in insurers and physical persons that want to get license for relevant insurance intermediary activity" approved by the ministry's order No. I-110 dated from November 14, 2008 the mentioned attestation shall be carried out by insurance supervision body in two stages:

- first stage – submission of documentation confirming the compliance of the person with requirements of legislation regarding senior officials of insurer or physical persons who act as insurance intermediary and review of that documentation by insurance supervision body;
- second stage – filling in the test paper that reflects the specific characteristics of intended senior official position or insurance intermediary activity for the license for which the application was made.

In the first stage along with other documents nominees to the administration of an insurer along with other documents should submit an application on civil impeccability on absence of the previous convictions for grave or especially grave crimes against property and in the sphere of economic activity. If the nominee complies with other requirements for senior official position or insurance intermediary activity, insurance supervision authority shall submit request to the Ministry of Internal Affairs in order to receive reference with regards to civil impeccability of that nominee.

According to the paragraph 4.2 of the mentioned Regulation the person who does not meet the requirements for senior official of insurer indicated in the Law "On Insurance Activity" shall not be permitted to enter the exam. So it is impossible that the insurance supervision authority shall not give consent to the appointment of the nominee that does not meet the requirement of the civil impeccability to any administering post of an insurer listed in the article 37.1 of the Law.

3. How many onsite inspections of financial institutions have been undertaken by the NBA and other designated supervisory bodies since the adoption of the MER:

- **solely for AML/CFT supervisory issues;**
- **which include an AML/CFT component as part of general supervisory activity?**

Since the beginning of the 2009, 6 on-site inspections had been conducted in the insurance sector, 36 on-site inspections had been conducted in the banking sector. During the inspections the issues of AML/CFT had been particularly taken into consideration.

4. Please describe all sanctions applied for AML/CFT infringements since the adoption of the MER, including against whom they were applied (i.e. the credit or financial institution, the directors or senior management, etc.).

After the adoption of the AML/CFT Law there were not any cases of breach AML/CFT legislation, so possible sanctions hadn't been applied in practice.

5. Have any guidelines on AML/CFT issues been provided to financial institutions other than banks since the evaluation? [Please provide copies in English of any new AML/CFT guidance issued by the NBA or other authority to financial institutions since the adoption of the report.]

Supervision authorities in relation to financial institutions adopted internal Action Plans to facilitate the implementation of the AML/CFT Law by obliged entities. Based on Action Plans special Guidelines on AML/CFT issues shall be prepared as well.

Additional questions since the first progress report

1. Is acquisition, possession and use of laundered property still limited to property in significant amounts?

By the adoption of New Law, acquisition, possession or use of minor amount of property, knowing, at the time of receipt, that such property is the proceeds of crime was embedded to the Code of Administrative Infringements, Article 234.

Article 234. Acquisition, possession, use or disposition of funds or other property, knowing, that such funds or other property is the proceeds of crime

194.1. Acquisition, possession or use of funds or other property in a minor amount, knowing, that such funds or other property is the proceeds of crime, or disposition of funds or other property, knowing that such funds or other property is the proceeds of crime, for the purpose not to conceal or disguise the illicit origin of the funds or other property—

shall be punished by the fine from one hundred up to five hundred manats with confiscation of property.

Note: the minor amount stipulated in this article is considered the amount up to one thousand manats.

2. Please explain, if you have not already done so, how many autonomous 3rd party money laundering investigations, prosecutions and convictions there have been since the first progress report and what are/were the predicate offences in these cases.

All prosecuted 9 criminal cases were self laundering ML offences and there have been no autonomous 3rd party money laundering investigations, prosecutions and convictions since the first progress report.

3. What changes have been made since the last progress report to ensure that judicial or administrative means to freeze terrorist assets under SR.III are not conditional upon the existence of criminal proceedings (as the issue is explained in paragraphs 10 and 11 of the FATF Information Best Practices paper on Freezing or Terrorist Assets, 23 June 2009)?

There has been included new article 7.2.5 to the AML/CFT Law which defines financial institutions' and DNFBP's obligation to freeze without delay of terrorist funds or other assets of designated persons, and immediately make a STR to the Financial Monitoring Service about it. According to the AML/CFT Law assets of designated persons may be frozen up to 5 business days without institution of criminal proceeding. Based on FIU disclosures the appropriate law enforcement agency should seize funds and other property of designated persons by initiating a criminal case.

But, following to the draft Law this shortcoming in the freezing mechanism is addressed and freezing of terrorist assets in the framework of UNSCR is not made conditional with any criminal proceeding. According amending articles 19-1.3 and 19-1.4 to the AML/CFT Law assets of designated persons must be frozen without any delay by any person in the territory of the Republic of Azerbaijan and the relevant executive authority and Financial Monitoring Service shall be immediately informed hereof. Except the cases specified in Article 19-1.6 of the Law, the assets of the persons shall be frozen indefinitely and the frozen assets shall be released immediately after the delisting of the person.

4. Is there a system in place to keep assets frozen under UNSCR 1267 when criminal proceedings end in an acquittal?

Please see information above.

5. How are attempted suspicious transactions covered in the law in the case of occasional customers?

Attempted suspicious transactions covered in the article 7.2 of the AML/CFT Law and this provision is applicable in a same manner for all customers and transactions, including occasional.

Article 7.2. Information on funds or other property, transactions with them and **the attempts to carry out transactions** involving the following features shall be submitted to the financial monitoring organ regardless of their amount:

6. Please indicate the number of cases in which confiscation orders have been made in proceeds-generating cases other than money laundering, and indicate for which predicate offences such confiscation orders have been made.

Following chart includes statistics on cases in which confiscation orders have been made.

Year	Number of cases	Predicate offences (Articles of the Criminal Code)
2009	3	**Aritcle 179.** Assignment or waste **Aritcle 213-1.** Selling, storage or transportation with selling purposes of products subject to excise duty without documentary stamps
2010	2	**Aritcle 179.** Assignment or waste **Aritcle 311.** Bribe taking
2011	6	**Aritcle 206.** Smuggling **Aritcle 228.** Illegal purchase, transfer, selling, storage, transportation and carrying of fire-arms, accessories to it, supplies, explosives **Aritcle 313.** Service forgery **Aritcle 318.** Illegal crossing border of the Republic of Azerbaijan **Aritcle 320.** Fake, manufacturing or selling of official documents, state awards, seals, stamps, forms or use of counterfeit documents

2.5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[5]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC) are not applicable for the Republic of Azerbaijan.
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	This issue has already been clarified in the first progress report.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[6] (please also provide the legal text with your reply)	The definition of a "beneficial owner" is stipulated in the article 1.0.12 of the AML/CFT Law as follows: "**beneficial owner** – 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 arrangements." The definition of a "beneficial owner" was taken directly from the Glossary to FATF 40 Recommendations. The article 9 AML/CFT Law set out mandatory provisions in regard to the financial institutions and DNFBP concerning identification (monitoring entities shall identify their customers and beneficial owners) and verification (monitoring entities shall verify the identification data of their customers and beneficial owners using reliable, independent sources) procedures.
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[7] (please also provide the legal text with your reply)	This issue has already been clarified in the first progress report.

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

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

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

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	By the Draft Law it is proposed to amend AML/CFT Law for introduction of a risk-based approach provisions. After amendments financial institutions and DNFBP will apply CDD requirements to customers existing until the entrance into force of the AML/CFT Law, on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	Alongside with the AML/CFT Law, the Regulation "On Establishment of Internal Control Systems" introduces a "risk-based approach" performing enhanced and simplified customer due diligence measures for different categories of customer, business relationships, transactions and products. The scope of enhanced due diligence measures are set forth not only in the AML/CFT Law, but also in aforementioned Regulation. Item 6 of the this Regulation determines that, each reporting entity should establish the rules and procedures that allow detecting all types of risks related to customer, business relationships, transactions and products. Moreover, the reporting entities may determine additional risk types for identifying and assessing the risks related to money laundering or terrorism financing along with risk types specified by this Regulation. In relation to simplified customer due diligence measures, as the continuation policy of "risk based" approach, the draft Regulation "On Simplified Customer Due Diligence measures" has been prepared and currently under the consideration of the relevant state authorities. This regulation defines the minimum standards of simplified due diligence issues by specifying the low risk situations. Furthermore, there is no exemption from full customer due diligence taking place when there is a suspicion of money laundering or terrorism financing.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive[8] are provided for in your domestic legislation (please also provide the legal text with your reply).	The definition of a "politically exposed personsr" is stipulated in the article 1.0.14 of the AML/CFT Law as follows: "**politically exposed persons of foreign country** – individuals who are or have been entrusted with prominent public functions in a foreign country (Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials), as well as their family members or close associates." This definition was taken directly from the Glossary to FATF 40 Recommendations.
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the	This issue has already been clarified in the first progress report.

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

Third Directive and the Implementation Directive[9] are provided for in your domestic legislation (please also provide the legal text with your reply).	

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	Both directions are covered by the national legislation. The information submitted by the financial institutions and DNFBP to Financial Monitoring Service shall not be disclosed. In accordance with the Criminal Code: **Article 316–2. Disclosure of information about the measures to be taken against the legalization of criminally obtained funds or other property and the financing of terrorism** **316–2.1.** Except the cases prescribed by the Law, disclosure the measures to be taken against legalization of criminally obtained funds or other property by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 1 000 manats up to 3 000 manats, or with imprisonment for the term up to one year with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. **316–2.2.** Except the cases prescribed by the Law, disclosure the measures to be taken against financing of terrorism by a person to whom these data has been trusted or known on service— shall be punished by the penalty at a rate from 2 000 manats up to 4 000 manats, or with imprisonment for the term up to two years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to three years or without it. Under the Criminal Code it is also prohibited to disclose information on ongoing inquiries or investigations without a prior consent of a relevant officials, and guilty persons shall be punished by the penalty at a rate from 500 up to 1500 manats, or corrective works for the term up to two years, or imprisonment for the term up to six months.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	The second part of FATF Recommendation 14 was implemented in article 14 of the AML/CFT Law: **Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring** Where the financial institutions and DNFBP, its personnel, as well as the personnel of the supervision authorities submit the information on the transaction which is subject to monitoring to Financial Monitoring Service in order as defined by this Law, they shall be exempt from any liability for breach of any restriction on disclosure of the bank or other legally protected secrecy, as well as causing the material and moral damage emerged as a result of the disclosure of information.
Please indicate whether the prohibition is limited to the transaction	This issue has already been clarified in the first progress report.

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

report or also covers ongoing ML or TF investigations.	
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	Concerning the introduction of criminal liability for legal persons, please be informed as follows. Criminal Code of the Republic of Azerbaijan does not recognize legal persons as subjects of a crime, as directly stated in article 19 of the Criminal Code, under which to criminal liability shall be subjected person, who has mental capacity, committed a crime and reached appropriate age, settled by the Criminal Code. This provision reflects one of the fundamental principles of criminal legislation – the principle of personal liability of a person. Nevertheless, Azerbaijani legislation establishes effective sanctions against legal persons for offenses related with money laundering or terrorist financing. In particular, article 348-3 of the Code of Administrative Infringements stipulates an administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons, and an administrative fine of 800 up to 1,000 manats for violations of AML/CFT legislation by natural persons.
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	The intentional element of the money laundering infringement is inferred from factual circumstances of each offence.
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position	The draft Law "On amendments to Criminal Code of the Republic of Azerbaijan" was developed in order to introduce the provisions on corporate criminal liability.

within that legal person.	
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Please see information above.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	Under the AML/CFT Law the relevant obligations apply to legal persons trading in all goods where payments are made in cash in an amount of 20,000 manats or over (€ 15 000 or over).
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	This issue was clarified during the first progress report.

2.6. Statistics

2.6.1 Money laundering and financing of terrorism cases

a) Statistics provided in the first progress report

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

25.11.2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	1	1	1	1				58,000				
FT												

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

2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	1	1	1	1	1	1	1	58,000	1	58,000	1	58,000
FT												

2010												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	1	3	1	3	1	3	1	181,000	1	181,000	1	181,000
FT												

2011												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	5	5	2	2	-	-	2	726,000	2	726,000	-	-
FT												

2.6.2 STR/CTR

a) Statistics provided in the first progress report

2005															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold / objective indicators in the AML law (A.7.2.2-7.2.5)**	**reports about suspicious transactions (A.7.2.1 of the AML Law)**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**Cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows)															
Total															

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add															

further rows)															
Total															

2007															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows)															
Total															

2008															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial Banks															
Insurance Companies															
Notaries															
Currency Exchange															
Broker Companies															
Securities' Registrars															
Lawyers															
Accountants/Auditors															
Company Service Providers															
Others (please specify and if necessary add further rows)															

Total															

20-25.11.2009																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
Commercial Banks	327															
Insurance Companies	3															
Notaries	-															
Currency Exchange	6															
Broker Companies	3															
Securities' Registrars	1															
Lawyers	-															
Accountants/Auditors	-															
Company Service Providers	-															
Others (please specify and if necessary add further rows)																
Pawnshops	8															
Investment Funds	-															
Lottery organizer	-															
NGOs (Charities)	-															
Post	-															
Total	**348**															

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

2009															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
								ML		FT		ML		FT	
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons
Commercial Banks	536	2	1												
Insurance Companies	12	-	-												
Notaries	(not obliged to file CTRs)	2	-												
Currency Exchange	(operate within banks)	-	-												
Broker Companies	7	-	-												
Securities' Registrars	2	-	-												
Lawyers	(not obliged to file CTRs)	-	-												
Accountants/Auditors	(not obliged to file CTRs)	-	-												
Company Service Providers	(not obliged to file CTRs)	-	-												
Others (please specify and if necessary add further rows)															
Pawnshops	19	-	-												
Post	3	-	-												
Total	**579**	**4**	**1**	**0**	**1**	**0**	**1**	-	-	-	-	-	-	-	-

2010																
Statistical Information on reports received by the FIU								Judicial proceedings								
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				Convictions				
								ML		FT		ML		FT		
		ML	FT	ML	FT	ML	FT	cases	persons	cases	persons	cases	persons	cases	persons	
Commercial Banks	44493	7920	12													
Non-Bank Credit Organisations	9	-	-													
Insurance Companies	23	-	-													
Notaries	(not obliged to file CTRs)	10	-													
Currency Exchange	(operate within banks)	-	-													
Broker Companies	20	-	-													
Securities' Registrars	3	-	-													
Lawyers	(not obliged to file CTRs)	-	-													
Accountants/Auditors	(not obliged to file CTRs)	-	-													
Company Service Providers	(not obliged to file CTRs)	-	-													
Others (please specify and if necessary add further rows)																
Pawnshops	27	-	-													
Post	13	-	-													
Total	**44588**	**7930**	**12**	**2**	**12**	**2**	**12**	-	-	-	-	-	-	-	-	

2011																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**Convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
Commercial Banks	178085	15676	3													
Non-Bank Credit Organisations	27	-	-													
Insurance Companies	7	-	-													
Notaries	(not obliged to file CTRs)	14	-													
Currency Exchange	(operate within banks)	-	-													
Broker Companies	12	-	-													
Securities' Registrars	-	-	-													
Lawyers	(not obliged to file CTRs)	-	-													
Accountants/Auditors	(not obliged to file CTRs)	-	-													
Company Service Providers	(not obliged to file CTRs)	-	-													
Others (please specify and if necessary add further rows)																
Real Estate Agencies	9	-	-													
Leasing Companies	28	-	-													
Post	-	6	-													
Total	**178168**	**15696**	**3**	**1**	**3**	**1**	**3**	**1**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	

2.6.3 AML/CFT Sanctions imposed by supervisory authorities

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of supervised entity in the financial sector (eg, one table for banks, one for insurance, etc). If possible, please also indicate the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

If similar information is available in respect of supervised DNFBP, could you please provide an additional table (or tables) covering administrative sanctions on DNFBP, also with information as to the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

Administrative Sanctions

	2004 for comparison	2005 for comparison	2006	2007	2008	2009	2010	2011
Number of AML/CFT violations identified by the supervisor							**1**	**7**
Type of measure/sanction*								
Written warnings								**6**
Fines							**1**	**1**
Removal of manager/compliance officer								
Withdrawal of license								
Other**								
Total amount of fines							**EUR 1500**	**EUR 1500**
Number of sanctions taken to the court (where applicable)								
Number of final court orders								
Average time for finalising a court order								

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

**** Please specify**

3. Appendices

3.1. APPENDIX I - 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)	• Azerbaijan authorities should establish offences of "insider trading" and "market manipulation". Furthermore the offence of "financing of terrorism" should be widened in order to enable all relevant issues to be covered as predicate offences to money laundering. • Legislation should be amended to provide clear definitions for the following concepts: "financial transactions", "other transactions", "money funds" or "property" • Azerbaijan should make the necessary amendments to Article 193-1 of the Criminal Code to bring it into line with the provisions of the Vienna and Palermo Conventions. The evaluators strongly advise to use the language of the Conventions. In particular it is necessary to criminalise clearly and explicitly (i) the conversion or transfer of property, knowing that such property is the proceeds of crime for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action, (ii) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime and (as there are no basic concepts of the legal system preventing this) (iii)the acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime. • Conspiracy is partly covered by association, but needs to be available to cover agreements to commit basic money laundering by others not involved in organised crime. • The intentional element of the offence of money laundering would benefit from being reflected in the legislation. • Legislation should be amended to bring liability of legal persons into line with modern international standards. • The Criminal Code has to be clarified to make it clear that Azerbaijan has jurisdiction for the money laundering offence when the predicate offence was committed abroad by a foreign citizen. • Azerbaijani prosecutors should test the provisions they have to prosecute money laundering as a "stand alone" crime and, where necessary, invite the courts to draw necessary

	inferences. It is also strongly advised that Azerbaijan introduces a provision in its legislation clarifying that the absence of a judicial finding of guilt in respect of the predicate offence should not preclude money laundering investigations and prosecutions. It would help if this was also coupled with a provision, which clearly indicates that the existence of the underlying predicate offence (or, indeed, the intentional element of the money laundering offence) can be established in a money laundering case by objective facts and circumstances. • There needs to be a firm prosecution policy and creation of jurisprudence, particularly on the evidentiary requirements. This should be accompanied by training and awareness-raising in respect of police officers, prosecutors and judges particularly on how money laundering investigations and prosecutions have been successfully achieved in other European jurisdictions.
2.2 Criminalisation of Terrorist Financing (SR.I)	• Criminal legislation should be further amended to fully ensure that the money laundering offence fully reflects the terms of the Conventions so far as is consistent with fundamental principles of domestic law, and that the terrorist financing offence is fully consistent with the 1999 Convention. • The Azerbaijani authorities should reinforce their system for implementing UN SC Resolutions relating to prevention and suppression of financing terrorism (S/REC/1267 (1999) and S/REC/1373 (2001) by developing and implementing the necessary procedures and mechanisms. • Additional matters which need to be covered in criminal legislation are: o liability of legal persons is not covered; o awareness of some reporting entities with respect to their role in CTF mechanism; o a specific procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• Legislation should clearly state that "property" covers both direct and indirect proceeds of crime. • Confiscation should be legally available in respect of all predicate offences to money laundering (as defined in the Glossary to the FATF Recommendations) not only where the offences are committed in their aggravated forms, but also where they are committed in their basic forms. • Confiscation of criminal proceeds should be made clearly mandatory in respect of some of the major proceeds-generating offences, like drug and human trafficking. • In respect of certain serious proceeds-generating offences, consideration should be given to reversing the burden of proof after conviction for the criminal offence, when the court is considering the lawful origin property in the hands of the convicted person. • The provision for asset sharing in corruption cases should

	be extended to cover confiscation in all cases.
2.4 Freezing of funds used for terrorist financing (SR.III)	• A comprehensive and transparent legal structure needs to be put in place now which ensures that all the financial sector receives designations and understands its obligations under UNSCR 1267 and 1373. • There should be a mechanism for conversion into Azerbaijani law of designations under UNSCR 1267 and in the context of UNSCR 1373. Specifically, there should be a clear national authority for designations under 1373 and for consideration of foreign requests for designations. This mechanism must assess without delay whether reasonable grounds or a reasonable basis exists to initiate in Azerbaijan a freezing action (and subsequent freezing of funds or other assets) in respect of persons designated by third countries. • All designations under 1267 and 1373 should be communicated promptly to all parts of the financial sector. • All parts of the financial sector which may hold targeted funds should be given clear guidance on the wide meaning of funds or other assets in the context of SR.III, as defined in criterion III.4. • All of the financial sector needs to understand whether the system is administrative in the sense that they are positively required to take initial freezing actions themselves, or whether they should simply notify an authority of a match with a view to an application by the competent authorities for a freezing order from the courts. • There needs to be publicly known procedures for de-listing and unfreezing and for those inadvertently affected by freezing mechanisms. • The Azerbaijan authorities may wish to consider the merits of a more administrative procedure for handling SR.III in its entirety, subject to proper safeguards (especially with regard to bona fide third Parties). • All supervisors should be actively checking compliance with SR.III and sanctions should be available (to be applied by the supervisors) for non-compliance. • Dedicated AML/CFT legislation is required that imposes duties on the regulated sector with sanctions in the event of non-compliance.
2.5 The Financial Intelligence Unit and its functions (R.26)	• An FIU should be created as a matter of urgency. The FIU should be adequately structured, funded and staffed, and provided with sufficient technical and other resources to fully perform its functions. The FIU should have access to relevant registers, and it should be authorised to disseminate financial information and other intelligence both to the national law enforcement authorities and to foreign FIUs. Together with the creation of an FIU the evaluators also recommend the introduction of a legal obligation for financial intermediaries to report suspicious transactions and activity to the FIU. The FIU should keep adequate statistics on received suspicious

	transaction reports as well as on requests for assistance. • Attention will need to be given to the number and training of staff when the FIU is fully established, however, the overall impression was that law enforcement is adequately resourced.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• One agency should be clearly tasked with the receipt and investigation of STRs when the draft law is passed. If the present arrangements are retained, all STRs should be copied to the General Prosecutor so that he can actively co-ordinate their investigation. • All investigation bodies responsible for detection and investigation of proceeds-generating cases need to be sensitised to the importance of the financial aspects of these cases. • A concerted effort should be made now to raise awareness of the law enforcement community that money laundering is not just an adjunct to corruption cases, but that through money laundering investigations more success can be achieved in confiscation of the real indirect profits made by organised crime. To this end law enforcement and prosecutors need more training on evidential issues in money laundering cases, perhaps looking at how prosecutors in other jurisdictions tackle some of the difficult evidential issues in these cases. • An approach to autonomous money laundering urgently needs to be developed – one which does not call for a prior conviction for the predicate offence in money laundering cases. • More should be done to train the major investigators in modern financial investigation techniques, which will uncover laundering cases. • In major cases, where the prosecutor is asked by the Police to obtain a court decision concerning coercive measures, the prosecutor should proactively consider the classification of the case – whether the case should be considered not just as one where the predicate offence only is investigated, but it is recommended that he should advise investigators, in appropriate cases, to pursue the money laundering aspects. The mindset of law enforcement and prosecutors which concentrates only on the predicate offence, whether it is corruption, drug or human trafficking, without considering the money laundering aspects needs to be changed if any real success in this area is to be achieved now that the money laundering offence has been extended beyond the drugs predicate.
2.7 Cross Border Declaration & Disclosure (SR IX)	• There is a need for measures to strengthen the capacity of Customs to detect funds possibly linked with money laundering and financing of terrorism. • Customs should be provided with indicators to detect money laundering and financing of terrorism and have clear power to detain persons such as cash couriers where money laundering or financing of terrorism is suspected, for sufficient time to question persons on money laundering and financing of terrorism, before handling them over to other authorities, as necessary.

	• The competence of Customs to investigate money laundering and financing of terrorism, which is discovered in the context of their work, should be reviewed. It would assist the national effort if they were empowered to conduct preliminary enquiries in this area at least before handing cases over to the General Prosecutor.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	The Azerbaijani authorities should introduce proper AML/CFT legislation with a "risk based" approach.
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	• Introduce comprehensive AML/CFT preventive legislation without further delay. • It is strongly advised that the asterisked criteria in R.5 be placed into AML/CFT legislation. • CDD measures should be explicitly applied, not only when establishing business relations, but also: o when financial institutions carry out (domestic or international) transactions which appear to be linked and are above the threshold of US$/Euro 15,000; o when carrying out occasional transactions that are wire transfers; o when there is the suspicion of ML and FT regardless of any exemptions or thresholds or, o when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. • The concept of verification of identification should be further addressed. The Azerbaijani authorities should take steps to apply an enhanced verification process in appropriate cases. Financial institutions should then determine an internal procedure for approval from senior management for categories of clients, products, services and transactions considered as higher risk of money laundering and of terrorism financing. • Financial institutions should be advised to use not only the documents as currently prescribed by law but also to use other reliable, independent source documents, data or information for the verification of the customer's identity. • Azerbaijani legislation should provide a definition of "beneficial owner", on the basis of the glossary of the FATF Methodology. • Financial institutions should be required to take reasonable measures to verify the identity of beneficial owners using relevant information or data obtained from reliable sources. • Financial institutions should be required to determine for all clients whether the customer is acting on behalf of a third party and, if this is the case, identify the beneficial owner and verify the latter's identity. As regards clients which are legal persons, financial institutions should understand the controlling structure of the customer and determine who the beneficial owner is.

	• Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship. • The scrutiny of transactions and the updating of identification data acquired during the CDD process should be undertaken as an ongoing process of due diligence on the business relationship and this requirement should be set out by the AML Law, in order to ensure that the transactions being conducted are consistent with the financial institutions' knowledge of the client. • It should be made clear to financial institution that if they are unable to satisfactorily complete CDD measures, they should consider making an STR. • Financial institutions should be required by enforceable means to identify all existing clients (on the basis of materiality and risk) and to conduct due diligence on such existing relationships at appropriate times, in order to acquire all missing data and information. • With regard to PEPs, measures should be put in place that require financial institutions: o to determine if the client or the potential client is - according to the FATF definition – a PEP; o to obtain senior management approval for establishing a business relation with a PEP; o to conduct higher CDD and enhanced ongoing due diligence on the source of the funds deposited/invested or transferred through the financial institutions by the PEP. • In relation to cross-border correspondent banking and services, financial institutions should be required to obtain further information on: o the reputation of the respondent counterparts from publicly available information; o assessing the adequacy of the existing AML/CFT controls in a respondent bank; o document the respective AML/CFT responsibilities of each institution; o obtain guarantees that counterpart organisations apply the normal CDD measures to all customers that have client access to the accounts of the correspondent institutions and that it is able to provide relevant customer identification data on request. • Financial institutions should be required to have policies in place to prevent the misuse of technological developments for AML/CFT purposes, and to have policies in place to address specific risks associated with non face to face transactions.
3.3 Third parties and introduced business (R.9)	• The Azerbaijan authorities should cover all the essential criteria under Recommendation 9 in the AML Law and ensure that this contains rules for third party reliance or introduced business.

3.4 Financial institution secrecy or confidentiality (R.4)	• Law on Providence of Heritage should be repealed on passage of the AML Law. • A provision should be made for the sharing of information between financial institutions in relation to correspondent banking and in relation to identification of customers involved in cross-border or international wire transfers.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	• A clear obligation to keep records of account files and business correspondence should be introduced for all financial institutions and a provision to ensure that the mandatory record-keeping period may be extended in specific cases upon request of an authority should be included in the legislation. • The information needed for domestic wire transfers should include also the originator's address and an obligation that the information included in wire transfers is meaningful and accurate should be included. • The requirements for each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer must be added in the legislation. • The sanctions regime concerning SR VII must be made more effective in order to be applied in practice
3.6 Monitoring of transactions and relationships (R.11 & 21)	• The essential criteria in FATF Recommendation 11 should be implemented by law, regulation or other enforceable means. • Recommendation 21 should be implemented by law, regulation or other enforceable means.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	• Azerbaijan as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities in law or regulation. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning the financing of terrorism. All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty. • The new legislation should also address the specific questions of disclosing the fact that an STR or related information is being reported to the FIU and provide for protection from criminal or civil liability for financial institutions, their directors, officers and employees where they report suspicious transactions in good faith. • Once a statutorily based STR system is in place the Azerbaijan authorities should consider the provision of adequate and appropriate feedback to reporting entities.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	• The Azerbaijani authorities should consider including in law, regulation or other enforceable means a requirement for financial institutions to develop programmes against money laundering and financing of terrorism. • A requirement for financial institutions to designate at least an AML/CFT compliance officer at the management level must be introduced in the legislation. • Provision concerning timely access of the AML/CFT

	compliance officer and other appropriate staff to CDD and other relevant information has to be introduced. • Financial institutions should be required to include the necessity for internal audit to test compliance with the internal procedures and policies for AML/CFT. • A requirement for financial institutions to put in place screening procedures to ensure high standards when hiring staff needs to be addressed by the Azerbaijani legislation. • Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees. • A requirement for financial institutions to ensure that their foreign branches and subsidiaries pay particular attention to ensuring that AML/CFT measures applied are consistent with the Azerbaijani legislation in countries that do not or insufficiently apply the FATF Recommendations and in cases where the AML/CFT minimum standard differs should be included in local normative acts. • A requirement should be introduced for financial institutions to inform their Azerbaijani supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures in the host country.
3.9 Shell banks (R.18)	• Azerbaijan should review its laws, regulations and procedures and implement specific requirements covering the prohibition of the establishment or the continued operation of shell banks. Furthermore, financial institutions should be prohibited from entering into or continuing correspondent banking relationships with shell banks. In addition, there should be an obligation placed on financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. It would be helpful if the NBA then considered periodically seeking assurances in writing from all their banks that they have no direct or indirect correspondent relationships with shell banks.
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	• Azerbaijan should implement effective, proportionate and dissuasive sanctions available to deal with natural or legal persons that fail to comply with national AML/CFT requirements. • Sanctions should be available in relation not only to the legal persons that are financial institutions or businesses but also to their directors and senior management. • The range of sanctions available should be broad and proportionate to the severity of a situation. They should include the power to impose not only disciplinary, but also financial sanctions and the power to withdraw, restrict or suspend the financial institution's license for not observing AML/CFT requirements. • The authorities should provide supervisors with adequate powers of enforcement and sanction against the directors or senior management of financial institutions for failure to comply with or

	properly implement requirements to combat money laundering and terrorist financing. • Staff of all supervisory bodies should be required to maintain high professional standards and to keep professional secrets confidential and clear ethical rules should be developed.
3.11 Money value transfer services (SR.VI)	• The authorities should implement requirements in relation to Recommendations 4-11, 13-15 and 21-23 specified for the MVT service providers. • The sanctioning system for infringements of the existing legislative acts requiring court decisions via application of the supervisory authorities does not work in practice as no sanctions apart from NBA corrective measures for banks have been imposed so far. It should be amended to provide for an effective sanctioning regime. • The legislation should be amended in order 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 a bank.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	• It is strongly recommended that the Azerbaijan authorities make all DNFBP, as defined by FATF, subject to AML/CFT obligations. It is also advised that tax advisors, lottery organisers and auditors are covered. • Azerbaijan should fully implement Recommendations 5, 6, 8, 10 and 11 and make these measures applicable to DNFBP
4.2 Suspicious transaction reporting (R.16)	• Recommendations 13 – 15 and 21 are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible
4.3 Regulation, supervision and monitoring (R.24-25)	• All the relevant categories of DNFBP should be included as obliged entities under the AML/CFT regime. At the same time the relevant supervisory authorities should be designated and their powers should be defined in accordance with FATF recommendations, including powers to monitor and sanction DNFBP for deficiencies connected with AML/CFT. • Guidance for DNFBP should be provided including any measures that these institutions could take to ensure that their AML/CFT measures are effective.
4.4 Other non-financial businesses and professions (R.20)	• In the domestic context of Azerbaijan, the Azerbaijani authorities should consider which other non-financial businesses or professions may be considered to be at risk of being misused for money laundering or terrorist financing.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	
5.2 Legal Arrangements – Access	

to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	• Powers should be set out in the law and regulations to ensure that known terrorist organisations would be prohibited from establishing a legitimate NPO or to becoming part of it in a later stage. • The Azerbaijani authorities should periodically review NPOs/NGOs with the object of assessing terrorist financing vulnerabilities. • A permanent independent audit should be carried out in order to ensure that funds are used for the stated purposes, to check if the funds have reached the intended beneficiary and to detect misdirection of the funds. • The NPOs/NGOs should be required to take preventive verification measures to ensure that their entities, as well as their partner organisations are not being penetrated or manipulated by terrorists or terrorist organisations. Such preventive measures should also include special training programs for the designated authorities which are in charge of supervising the NPOs/NGOs sector. Terrorist financing experts should work with NPOs/NGOs supervisory authorities to raise awareness on the problems faced and to alert these authorities to the specific characteristics of terrorist financing. • A further review of the laws on NPOs/NGOs based on an assessment of the vulnerabilities and needs of the sector should be undertaken.
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	• When the AML Law is passed, a working group at the policy level to monitor the effectiveness of its application and the effectiveness of the system overall would assist. • At the working level it is advised that the newly-appointed FIU creates a working group or groups which reach out to the financial sector and relevant parts of he DNFBP to assist the process of embedding the new provisions into Azerbaijani practice. Similarly, the FIU will need to co-operate in a better way than the NBA is able to do at present with law enforcement to ensure that the FIU receives feedback on the cases it sends to law enforcement and is thus able to give feedback to the reporting entities.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	• Criminal legislation ratifying the Vienna and Palermo Conventions and the Terrorist Financing Convention should be further amended to fully ensure that the money laundering offence fully reflects the terms of the Conventions so far as is consistent with fundamental principles of domestic law, and that the terrorist financing offence is fully consistent with the 1999 Convention. • It is recommended that Azerbaijan authorities reinforce its system for implementing UN SC Resolutions relating to prevention and suppression of financing terrorism (S/REC/1267

	(1999) and S/REC/1373 (2001) by developing and implementing the necessary procedures and mechanisms. • The following issues still need to be addressed: o liability of legal persons is not covered; o awareness of some reporting entities with respect to their role in CTF mechanism; o a specific procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	• Broaden the ML and TF offences to avoid dual criminality problems. • The Azerbaijan authorities are recommended to consider a review of existing law and practice in this area to identify any features which may act as barriers to the development of practical co-operation of this type (R.38).
6.4 Extradition (R.39, 37 & SR.V)	• Broaden ML and TF offences to avoid potential dual criminality problems
6.5 Other Forms of Co-operation (R.40 & SR.V)	• Establish a FIU and apply to Egmont. • Establish a firm legal basis for supervisory exchanges of information in TF (and ML) and establish more practice.
7. Other Issues	
7.1 Resources and statistics (R. 30 & 32)	• Reconsider resources for AML/CFT issues in all sectors and review and establish clear integrity standards for law enforcement and supervisors in the context of AML/CFT. • More relevant AML/CFT financing required for law enforcement, prosecutors and judges. • More statistics need to be available to review performance of AML/CFT systems on a regular basis. • Keep comprehensive statistics on ML investigations, prosecutions and convictions and on provisional measures and confiscations in ML cases and in other major proceeds generating cases. • Keep statistics on MLA and FIU to FIU cooperation when the FIU is established and keep statistics showing the range of international cooperation by the supervisory authorities with their counterparts.

3.2. APPENDIX II – 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 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

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

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

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

3.3. APPENDIX III – List of acronyms used

AML Law	Anti-Money Laundering Law
AZN	Azerbaijani Manat
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CTR	Cash Transaction Reports
DNFBP	Designated Non-Financial Businesses and Professions
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
IN	Interpretative Note
IT	Information Technology
LEA	Law Enforcement Agency
MFA	Ministry of Foreign Affairs
MLA	Mutual Legal Assistance
MOT	Ministry of Taxes
MOU	Memorandum of Understanding
NBA	National Bank of Azerbaijan
NCCT	Non-cooperative countries and territories
NPO	Non-Profit Organisation
PEP	Politically Exposed Persons
SRO	Self-Regulatory Organisation
SCS Azerbaijan	State Committee on Securities under Auspices of the President of the Republic of
STRs	Suspicious transaction reports
SWIFT	Society for Worldwide Interbank Financial Telecommunication