



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

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Azerbaijan

Progress report¹

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

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.

FMS 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 FMS 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 FMS, 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.

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key 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	<i>To establish offences of “insider trading” and “market manipulation”.</i>
Measures taken to implement the Recommendation of the Report	<p>By the Draft Law offences of “insider trading” and “market manipulation” will be established in the Criminal Code as follows:</p> <p>Article 202–2. Insider trading</p> <p>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.</p> <p>202–2.2. The same deeds:</p> <p>202–2.2.1. when committed by the person, who have been convicted earlier for this crime;</p> <p>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.</p> <p>Article 203–1. Market manipulation</p> <p>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.</p> <p>203–1.2. The same deeds:</p> <p>203–1.2.1. when committed by the person, who has been convicted earlier for this crime;</p> <p>203–1.2.2. when committed by an organized group;</p> <p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>To widen the offence of “financing of terrorism” to cover all relevant issues as predicate offences to money laundering.</i>

<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <p>Article 214–1. Terrorist financing</p> <p>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—</p> <p>shall be punished by imprisonment for the term from ten up to twelve years with the confiscation of property.</p> <p>Note:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The AML/CFT Law and Law “On Suppression of Terrorism” will be amended in the same way.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Legislation should be amended to provide clear definitions for the following concepts: “financial transactions”, “other transactions”, “money funds” or “property”</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The definition of “deal” is defined in the article 324 of Civil Code as a unilateral,</p>

	<p>bilateral or multilateral will aimed at acquisition, change or termination of civil relationship.</p> <p>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.</p> <p>The new definition was taken directly from the wide definition in the United Nations International Convention for the Suppression of the Financing of Terrorism.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <p>Article 193–1. Legalization of criminally obtained funds or other property</p> <p>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.</p> <p>193–1.2. The same acts, committed:</p> <p>193–1.2.1. by group of persons in a preliminary conspiracy;</p> <p>193–1.2.2. repeatedly;</p> <p>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.</p> <p>193–1.3. The acts provided for by articles 193–1.1 or 193–1.2 of this Code, committed:</p> <p>193–1.3.1. by organized group or criminal community (criminal organization);</p> <p>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.</p> <p>Note: In the article 193–1.3.2 of this Code the “large amount” shall mean the amount exceeding 45 000 manats.</p>
<p>Recommendation of</p>	<p><i>To criminalise clearly and explicitly the conversion or transfer of property, knowing</i></p>

the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	See item above.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	See item above.
Recommendation of the MONEYVAL Report	<i>To criminalise clearly the acquisition and possession of property knowing at the time of receipt that such property is the proceeds of crime.</i>
Measures taken to implement the Recommendation of the Report	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 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.
Recommendation of the MONEYVAL Report	<i>To criminalise conspiracy in order to cover agreements to commit basic money laundering by others not involved in organised crime.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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 (<i>Implementation of the criminal law concerning the persons who have committed a crime out of border of the Republic of Azerbaijan</i>) of the Criminal Code:</p> <ul style="list-style-type: none"> • Foreign citizen committed a crime outside of jurisdiction of the Republic of Azerbaijan, shall be instituted to criminal liability under the Criminal Code when: <ol style="list-style-type: none"> 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. <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.

<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>According to the Azerbaijani Legal Doctrine, all articles of the Criminal Code may serve as a basis for criminal prosecution on their own.</p> <p>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.</p> <p>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.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>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.</p>

(Other) changes since the last evaluation	
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Recommendation 5 (Customer due diligence)	
I. Regarding financial institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>The Azerbaijani authorities should introduce comprehensive AML/CFT legislation with a “risk based” approach.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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).</i>
Measures taken 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”.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>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:</p> <p>“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.”</p> <p><u>Securities sector</u></p> <p>Monitoring entities in the securities sector are required to carry out proper customer identification according to the:</p> <p>a. Regulations on carrying out broker activity in securities market</p>

	<p>b. Regulations on carrying out professional management of securities in securities market</p> <p>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</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Financial institutions should be required to undertake customer due diligence (CDD) measures when:</i></p> <ul style="list-style-type: none"> <i>a) establishing business relations;</i> <i>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;</i> <i>c) carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR VII;</i> <i>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</i> <i>e) the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.</i>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <ul style="list-style-type: none"> • before establishing business relations; • before carrying out occasional transactions above the applicable designated threshold; • before carrying out wire transfers (regardless of their amount). <p>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.</p> <p>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.</p> <p><u>Securities sector</u></p> <p>According to the Instructions on AML/CFT measures, monitoring entities in the securities sector (brokers, asset managers, investment funds) shall identify their customers:</p> <ul style="list-style-type: none"> • before establishing business relations; • before carrying out occasional transactions above the applicable designated threshold; • before carrying out wire transfers (regardless of their amount). <p>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 <u>and notify SCS</u> when they have a suspicion of money laundering or terrorist financing.</p> <p>Based on article 13.1 of the Law “On insurance Activity”, insurers, reinsurers and</p>

	<p>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.”</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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).</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.”</p> <p>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.</p> <p>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.</p> <p>The measures applying for verification of a legal person are the following:</p> <ul style="list-style-type: none"> • 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. <p>The measures applying for verification of a natural person are the following:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p><u>Securities sector</u></p> <p>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:</p> <ul style="list-style-type: none"> • comparing the information submitted by a legal person with information included into the state register of legal persons;

	<ul style="list-style-type: none"> • obtaining the information on activity of legal person from mass-media, internet or official publication; • comparing the latest submitted information with previously received information. <p>The measures applying for verification of the natural persons are the following:</p> <ul style="list-style-type: none"> • 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.
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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 authorised, and identify and verify the identity of that person.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law:</p> <p>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.</p> <p><u>Securities sector</u></p> <p>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.</p>

	<p>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.</p>
Recommendation of the MONEYVAL Report	<p><i>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.</i></p>
Measures taken to implement the Recommendation of the Report	<p>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.”</p> <p>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.</p> <p>Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law:</p> <p>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.</p> <p>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).</p> <p><u>Securities sector</u></p> <p>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.</p>
Recommendation of the MONEYVAL Report	<p><i>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.</i></p>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <p>power of attorney + ID documents of a natural person, or;</p> <p>power of attorney + ID documents of a natural person + certificate issued by the relevant tax agency, or;</p>

	<p>power of attorney + charter of the legal person + state registration certificate of the legal person.</p> <p>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.</p> <p>The measures applying for verification of a natural person are the following:</p> <ul style="list-style-type: none"> • 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. <p>The measures applying for verification of a legal person are the following:</p> <ul style="list-style-type: none"> • 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. <p><u>Securities sector.</u></p> <p>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.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>Taking into account the language of FATF Methodology, by the Draft Law it is proposed to amend article 9 of the AML/CFT Law:</p> <p>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.</p> <p>For customers that are legal persons, the monitoring entities are required to take reasonable measures to understand the ownership and control structure of the</p>

	<p>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).</p> <p><u>Securities sector.</u></p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Financial institutions should be required to conduct ongoing due diligence on the business relationship.</i>
Measures taken to implement the Recommendation of the Report	<p>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).</p> <p><u>Securities sector.</u></p> <p>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:</p> <ul style="list-style-type: none"> • transactions with cash • transactions above the 20,000 AZN threshold <p>Financial intermediaries should carry ongoing customer due diligence and notify SCS when they have a suspicion of money laundering or terrorist financing.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> • 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;

	<ul style="list-style-type: none"> • 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. <p>The enhanced due diligence measures performed by the monitoring entities are the following:</p> <ul style="list-style-type: none"> • 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.
Recommendation of the MONEYVAL Report	<p><i>(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.</i></p>
Measures taken to implement the Recommendation of the Report	<p>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.”</p> <p>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.</p> <p>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.</p> <p>The measures applying for verification of a legal person are the following:</p> <ul style="list-style-type: none"> • 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. <p>The measures applying for verification of a natural person are the following:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
Recommendation of the MONEYVAL	<p><i>Azerbaijani legislation should provide a definition of “beneficial owner”, on the</i></p>

Report	<i>basis of the glossary of the FATF Methodology.</i>
Measures taken to implement the Recommendation of the Report	“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.
Recommendation of the MONEYVAL Report	<i>Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.”
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the	Taking into account this Recommendation by the Draft Law it is proposed to amend AML/CFT Law with article 9.16:

Recommendation of the Report	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.
(Other) changes since the last evaluation	<p>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:</p> <ul style="list-style-type: none"> • 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”,

	<p>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.</p> <ul style="list-style-type: none"> 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.
<p>Recommendation 5 (Customer due diligence) II. Regarding DNFBP¹</p>	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Currently by the article 5 of the AML/CFT Law as DNFBP (other persons involved in monitoring) are established:</p> <ul style="list-style-type: none"> notaries; lawyers; auditors; other persons providing legal services. <p>The institutions of “tax advisors”, “external accountants” are not applicable for the Republic of Azerbaijan.</p> <p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>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.</p>

¹ i.e. part of Recommendation 12.

(Other) changes since the last evaluation	<p>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:</p> <ul style="list-style-type: none"> • 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.
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<p align="center">Recommendation 10 (Record keeping) I. Regarding Financial Institutions</p>	
<p>Rating: Partially compliant</p>	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>A clear obligation to keep records of account files and business correspondence should be introduced for all financial institutions.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>Article 10 of the AML/CFT Law establishes mandatory obligation to keep records of account files and business correspondence.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p><u>Securities sector</u></p> <p>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.</p> <p>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</p>

	<p>documents and record books at least for 10 years.</p> <p>According to the article 8.5 on “Standards of depository activity”, information related to the depository accounting and reflected on a paper and electronic data shall be kept by depository during 15 (fifteen) years.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>See also <i>ibid</i>.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>By the wording “<i>if no longer period is envisaged by the legislation</i>” 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.</p> <p><u>Securities sector</u></p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>No formal provision requiring that customer transaction records to be made available on a timely basis to domestic competent authorities.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p><u>Securities sector</u></p> <p>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</p>

	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.
Recommendation of the MONEYVAL Report	<i>No provision as yet in secondary legislation defining the record keeping documents to be retained and the length of retention in the insurance sector.</i>
Measures taken 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.
(Other) changes since the last evaluation	For the overall implementation of FATF Recommendation 10 by the Draft Law article 10 of the AML/CFT Law will be amended as follows: Article 10. Obligation to preserve the identification documents and documents on transactions with the funds or other property 10.1. The monitoring entities shall preserve the documents on due diligence measures envisaged by the article 9 of this Law, documents on the transactions with the funds or other property and documents envisaged by articles 9-1 and 9-2 of this Law, in the information carriers or in the electronic format within the timeframes indicated below, if no longer period is envisaged by the legislation: 10.1.1. 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; 10.1.2. 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. 10.2. Monitoring entities are required to ensure that all customer and transaction records and information mentioned in article 10.1 of this Law are available on a timely basis to the supervision authorities and FMO upon appropriate authority. 10.3. The timeframe stipulated in article 10.1 of this Law may be prolonged if requested by supervision authorities or FMO in specific cases upon proper authority.
Recommendation 10 (Record keeping) II. Regarding DNFBP²	
Recommendation of the MONEYVAL Report	<i>Azerbaijan should fully implement Recommendation 10 and make their measures applicable to DNFBP.</i>
Measures taken to implement the Recommendation of	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

² i.e. part of Recommendation 12.

the Report	<p>prepare for or carry out transactions for their customers with respect to the following activities:</p> <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting)	
I. Regarding Financial Institutions	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information:</p> <ul style="list-style-type: none"> • 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. <p>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</p>

	<p>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.</p> <p>The information submitted to Financial Monitoring Service shall not be disclosed. In accordance with the Criminal Code:</p> <p>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</p> <p>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.</p> <p>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.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>All financial institutions and relevant non-financial institutions covered by the FATF recommendations (or the EU Directive) should be subject to the reporting duty.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>The mandatory requirement to make STR is referred to:</p> <ul style="list-style-type: none"> • 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.
<p>(Other) changes since the last evaluation</p>	

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP³	
Recommendation of the MONEYVAL Report	<i>Recommendation 13 is not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.</i>
Measures taken 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: <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The evaluators strongly recommend that financing of terrorist organisations and individual terrorists be explicitly criminalised.</i>
Measures taken 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,...”.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to	Please see item above.

³ i.e. part of Recommendation 16.

implement the Recommendation of the Report	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	The new definition of funds extends to any funds, whether they come from legitimate or illegitimate sources.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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 rely 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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

	<p>administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons.</p> <p>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”.</p> <p>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)”.</p>
(Other) changes since the last evaluation	<p>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:</p> <p>Article 214–1. Terrorist financing</p> <p>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.</p> <p>Note:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The AML/CFT Law and Law “On Suppression of Terrorism” will be amended in the same way.</p>

Special Recommendation IV (Suspicious transaction reporting)
I. Regarding Financial Institutions

Rating: Non-compliant

Recommendation of the MONEYVAL Report	<p><i>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</i></p>
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	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>The information submitted to Financial Monitoring Service shall not be disclosed. In accordance with the Criminal Code:</p> <p>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</p> <p>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.</p> <p>316–2.2. Except the cases prescribed by the Law, disclosure the measures to be</p>

	<p>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.</p> <p>The mandatory requirement to make STR is referred to:</p> <ul style="list-style-type: none"> • 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; <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting)	
II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	<i>Recommendation 13 (15 and 21) are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

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	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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”.</p> <p>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)”.</p> <p>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.</p>
Recommendation of the MONEYVAL	<i>The practice to allow the intentional element of the money laundering offence to be</i>

Report	<i>inferred from factual circumstances is untested in practice. The intentional element would benefit from being reflected in the legislation.</i>
Measures taken 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 rely 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	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 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.
(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

	<p>criminally obtained funds or other property and the financing of terrorism, that is:</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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.</p>
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Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Legislation should clearly state that “property” covers both direct and indirect proceeds of crime.</i>
Measures taken to implement the Recommendation of the Report	<p>The definition of “criminally obtained funds or other property” is stipulated in the AML/CFT Law as follows:</p> <p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>In order to broad range of offences susceptible to confiscation domestically and</p>

	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).
Recommendation of the MONEYVAL Report	<i>Confiscation of criminal proceeds should be made clearly mandatory in respect of some of the major proceeds-generating offences, like drug and human trafficking.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>The provision for asset sharing in corruption cases should be extended to cover confiscation in all cases.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>There should be clear power to confiscate laundered property in a stand alone ML offence.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>Article 193-1. Legalization of criminally obtained funds or other property</p> <p>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.</p> <p>193-1.2. The same acts, committed:</p> <p>193-2.1. by group of persons in a preliminary conspiracy;</p> <p>193-1.2.2. repeatedly;</p> <p>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.</p> <p>193-1.3. The acts provided for by articles 193-1.1 or 193-1.2 of this Code,</p>

	<p>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.</p>
(Other) changes since the last evaluation	

Recommendation 6 (Politically exposed persons)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<p><i>With regard to PEPs, measures should be put in place that require financial institutions to:</i></p> <p><i>(a) determine if the client or the potential client is - according to the FATF definition – a PEP;</i></p> <p><i>(b) obtain senior management approval for establishing a business relation with a PEP;</i></p> <p><i>(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.</i></p>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	<p>For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows:</p> <p>Article 9–1. Politically exposed persons of foreign countries</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

	<p><u>Securities sector</u></p> <p>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.</p>
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Recommendation 7 (Correspondent banking)

Rating: Partially compliant

<p>Recommendation of the MONEYVAL Report</p>	<p><i>In relation to cross-border correspondent banking and services, financial institutions should be required to:</i></p> <p><i>(a) obtain further information on the reputation of the respondent counterparts from publicly available information;</i></p> <p><i>(b) assess the adequacy of the existing AML/CFT controls in a respondent bank;</i></p> <p><i>(c) document the respective AML/CFT responsibilities of each institution;</i></p> <p><i>(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.</i></p>
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<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>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:</p> <p>6.4. Foreign banks shall be required to submit the following information and documents for opening correspondent accounts foreign currency:</p> <ul style="list-style-type: none"> • 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;
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	<ul style="list-style-type: none"> 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. <p>The adequacy of the AML/CFT supervision measures applied to the foreign banks abroad shall also be assessed by the local banks.</p> <p>Where a correspondent relationship involves the maintenance of “payable-through accounts”, banks shall be satisfied that:</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>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).</p> <p>Bank shall refuse to conclude the bank account agreement in the cases, inter alia, when:</p> <ul style="list-style-type: none"> 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.
(Other) changes since the last evaluation	

Recommendation 8 (New technologies and non face-to-face business)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows:</p> <p>Article 12–1. Non-face to face business relationships and transactions</p> <p>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</p>

	<p>criminally obtained funds or other property and the financing of terrorism.</p> <p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	
Recommendation 11 (Unusual transactions)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<p><i>The essential criteria in FATF Recommendation 11 should be implemented by law, regulation or other enforceable means, as:</i></p> <p><i>(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;</i></p> <p><i>(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.</i></p>
Measures taken to implement the Recommendation of the Report	<p>For the overall implementation of this Recommendation by the Draft Law it is proposed to amend AML/CFT Law as follows:</p> <p>Article 9–2. Unusual transactions</p> <p>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.</p> <p>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.</p> <p><u>Securities sector</u></p> <p>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:</p> <ul style="list-style-type: none"> • 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;

	<ul style="list-style-type: none"> • transactions by bearer shares; • transactions by people, their relatives and representatives that were previously involved in money laundering and terrorist financing.
(Other) changes since the last evaluation	
Recommendation 12 (DNFBP)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>Azerbaijan should fully implement Recommendations 6, 8, 10 and 11 and make these measures applicable to DNFBP.</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

Recommendation 14 (Protection and no tipping-off)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>FATF recommendation 14 is implemented in the article 14 of the AML/CFT Law:</p> <p>Article 14. Exemption from liability for reporting of the transaction which is subject to monitoring</p> <p>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.</p>
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Non-compliant	
Recommendation of the MONEYVAL	<i>The Azerbaijani authorities should consider including in law, regulation or other enforceable means a requirement for financial institutions to develop programmes</i>

Report	<i>against money laundering and financing of terrorism.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>This system shall include, inter alia, the followings:</p> <ul style="list-style-type: none"> • 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. <p>The internal control system shall be developed in accordance with the requirements of the Financial Monitoring Service.</p> <p><u>Securities sector</u></p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>A requirement for financial institutions to designate at least an AML/CFT compliance officer at the management level must be introduced in the legislation.</i>
Measures taken to implement the	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,

Recommendation of the Report	<p>which are legal persons, shall appoint a person at the level of management (including the management of structural units) who will be responsible for:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Provision concerning timely access of the AML/CFT compliance officer and other appropriate staff to CDD and other relevant information has to be introduced.</i>
Measures taken 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).
Recommendation of the MONEYVAL Report	<i>Financial institutions should be required to include the necessity for internal audit to test compliance with the internal procedures and policies for AML/CFT.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p><u>Securities sector</u></p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p><u>Securities sector</u></p> <p>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.</p>

(Other) changes since the last evaluation	
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Recommendation 16 (DNFBP)	
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Rating: Non-compliant	
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Recommendation of the MONEYVAL Report	<i>Recommendations 14 – 15 and 21 are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible.</i>
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Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>This system shall include, inter alia, the followings:</p> <ul style="list-style-type: none"> • 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
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	<p>monitoring;</p> <ul style="list-style-type: none"> 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. <p>The internal control system shall be developed in accordance with the requirements of the Financial Monitoring Service.</p>
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>Azerbaijan should implement effective, proportionate and dissuasive sanctions to deal with natural or legal persons that fail to comply with national AML/CFT requirements.</i>
Measures taken to implement the Recommendation of the Report	<p>The Recommendation of the MONEYVAL Report has been implemented in the Criminal Code and Code of Administrative Infringements.</p> <p>Extract from the Criminal Code:</p> <p>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</p> <p>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.</p> <p>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.</p> <p>Extract from the Code of Administrative Infringements:</p> <p>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</p> <p>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:</p> <p>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;</p> <p>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;</p> <p>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</p>

	<p>persons;</p> <p>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;</p> <p>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—</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>Financial sanctions for not observing AML/CFT requirements are envisaged by the article 348–3 of the Code of Administrative Infringements.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><u>Securities sector</u></p> <p>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</p>

	abovementioned Decree and article 9.6 of the Statute, the SCS may revoke the license of the financial institutions in the securities sector.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>In concordance with the article 48.1.2 of the Law “On Banks” Central Bank may temporarily suspend the senior management of the credit institution for failure to comply with the requirements of the AML/CFT Law.</p> <p>Central Bank, in cases stipulated under the Law “On Banks” may also apply following sanctions against banks:</p> <ul style="list-style-type: none"> • administrative fines to the bank and bank senior management, as per Code of Administrative Infringements; • dismiss bank senior management from their positions. <p>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.</p> <p><u>Securities sector</u></p> <p>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</p>
(Other) changes since the last evaluation	

Recommendation 18 (Shell banks)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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</i>
Measures taken to implement the Recommendation of the Report	<p>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.)</p> <p>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.</p> <p>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,</p>

	<p>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.</p> <p>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.</p> <p>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.</p> <p>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”.</p> <p>With this in mind, by the Draft Law it is proposed to amend the AML/CFT Law with article 9–3 of below content:</p> <p>Article 9–3. Shell bank</p> <p>9–3.1. Establishment or accept the continued operation of shell banks in the Republic of Azerbaijan is prohibited.</p> <p>9–3.2. Monitoring entities shall not enter into, or continue, correspondent banking relationships with shell banks.</p> <p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Financial institutions should be prohibited from entering into or continuing correspondent banking relationships with shell banks.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the	There are mandatory provision in the amended Central Bank Regulation “On opening, maintenance and closing of accounts in banks”, that for opening

Recommendation of the Report	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).
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
(Other) changes since the last evaluation	

Recommendation 20 (Other DNFBP and secure transaction techniques)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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: <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Recommendation 21 should be implemented by law, regulation or other enforceable means.</i>
Measures taken 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

	<p>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.</p> <p><u>Securities sector</u></p> <p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	<p>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:</p> <p>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</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>

	<p>country laws and regulations permit.</p> <p>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.</p> <p>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.</p>
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Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see item above.
(Other) changes since the last evaluation	<p>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:</p> <p>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</p> <p>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</p>

	<p>which do not or insufficiently apply international standards against the legalization of criminally obtained funds or other property and the financing of terrorism.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Competent authorities need designating for supervision for AML/CFT purposes [for all financial institutions].</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> • 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

	<p>management of securities, lottery organizers and investment funds;</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
(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.

Recommendation 24 (DNFBP - Regulation, supervision and monitoring)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>All the relevant categories of DNFBP should be included as obliged entities under the AML/CFT regime.</i>
Measures taken to implement the Recommendation of the Report	<p>Currently by the article 5 of the AML/CFT Law as DNFBP (other persons involved in monitoring) are established:</p> <ul style="list-style-type: none"> • notaries; • lawyers; • auditors; • other persons providing legal services. <p>The institutions of “tax advisors”, “external accountants” are not applicable for the Republic of Azerbaijan.</p> <p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • buying and selling of real estate;

	<ul style="list-style-type: none"> 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. <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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:</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>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.</p>
(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.

Recommendation 25 (Guidelines and feedback)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>Once a statutorily based STR system is in place the Azerbaijan authorities should consider the provision of adequate and appropriate feedback to reporting entities.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>No guidelines issued on AML/CFT issues by other supervisory bodies than the NBA.</i>
Measures taken to	Supervision authorities in relation to financial institutions adopted internal Action

implement the Recommendation of the Report	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”
Recommendation of the MONEYVAL Report	<i>Guidance for DNFBP should be provided including any measures that these institutions could take to ensure that their AML/CFT measures are effective.</i>
Measures taken 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.
(Other) changes since the last evaluation	

Recommendation 26 (The FIU)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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 (FMS) 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: <ul style="list-style-type: none"> • 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

	<p>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);</p> <ul style="list-style-type: none"> • 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). <p>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.</p> <p>Immediately following the appointment of the FMS 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 FMS and further implementation of the Action Plan was taken under special control.</p> <p>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:</p> <ul style="list-style-type: none"> • improve legislation; • improve the activity of the FMS; • 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. <p>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.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>According to article 17 of the AML/CFT Law and item 11 of the Statute, the</p>

	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>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.</i></p>
<p>Measures taken to implement the Recommendation of the Report</p>	<p>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:</p> <ul style="list-style-type: none"> • 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

	<p>transfer funds to the anonymous accounts that are out of the jurisdiction of the Republic of Azerbaijan.</p> <p>The Regulation on submission of STR (and CTR) is determined by the Financial Monitoring Service. The STR shall contain the following information:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
Recommendation of the MONEYVAL Report	<i>The FIU should keep adequate statistics on received suspicious transaction reports as well as on requests for assistance.</i>
Measures taken to implement the Recommendation of the Report	<p>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).</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Attention will need to be given to the number and training of staff when the FIU is fully established.</i>
Measures taken to implement the Recommendation of the Report	<p>Preparation and support for implementation of internal and external training plans for the staff of FMS as well as AML/CFT stakeholders is one of the priorities in Financial Monitoring Service's Action Plan.</p> <p>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 FMS 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.</p>
(Other) changes since the last evaluation	<p>As to the Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations:</p> <p><i>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</i></p>

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 FMS 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 FMS 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

	<p>states and international organisations; participates in international negotiations, and signs international instruments in a manner defined by legislation (item 14.7).</p> <p><i>26.7. Information held by the FIU should be securely protected and disseminated only in accordance with the law.</i></p> <p>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.</p> <p>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.</p> <p><i>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.</i></p> <p>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).</p> <p><i>26.9. Where a country has created an FIU, it should consider applying for membership in the Egmont Group.</i></p> <p>By the item 11.6 of the Statute Financial Monitoring Service is entitled to apply for membership in the specialised international institutions.</p> <p><i>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).</i></p> <p>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).</p> <p>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.</p> <p>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 FMS is expecting for advises on further actions required in order to become an Egmont Group member.</p>
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Recommendation 27 (Law enforcement authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the	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

Recommendation of the Report	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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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 series 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>More should be done to train the major investigators in modern financial investigation techniques, which will uncover laundering cases.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
(Other) changes since the last evaluation	

Recommendation 29 (Supervisors)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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

	<p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>More relevant AML/CFT training required for law enforcement, prosecutors and judges.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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

	<p>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”.</p> <p>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.</p>
(Other) changes since the last evaluation	

Recommendation 31 (National co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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, <i>ad hoc</i> 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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: <ul style="list-style-type: none"> • 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

	<p>National Security of the Republic of Azerbaijan and gets feedback from them;</p> <ul style="list-style-type: none"> 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. <p>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).</p>
(Other) changes since the last evaluation	

Recommendation 32 (Statistics)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>More statistics need to be available to review performance of AML/CFT systems on a regular basis.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see item above.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
(Other) changes since the last evaluation	

Recommendation 33 (Legal persons – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Commercial, corporate and other laws do not require adequate transparency concerning the beneficial ownership and control of legal persons.</i>
Measures taken to implement the	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”

Recommendation of the Report	<p>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.</p> <p>Also it is proposed to implement essential criteria of Recommendation 5 into the article 9 of the AML/CFT Law:</p> <p>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.</p> <p>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).</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	

Recommendation 35 (Conventions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<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.</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to FATF Recommendation 1.
(Other) changes since the last evaluation	

Recommendation 38 (MLA on confiscation and freezing)	
Rating: Partially compliant	

Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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).</p> <p>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.</p> <p>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.</p> <p>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.</p>
(Other) changes since the last evaluation	

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Establish a FIU and apply to Egmont.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>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.</p> <p>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).</p> <p>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.</p> <p>Paying special attention to the international cooperation, Financial Monitoring</p>

	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 FMS is expecting for advises on further actions required in order to become an Egmont Group member.
Recommendation of the MONEYVAL Report	<i>Establish a firm legal basis for supervisory exchanges of information in TF (and ML) and establish more practice.</i>
Measures taken 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.
(Other) changes since the last evaluation	

Special Recommendation I (Implement UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to SR II.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to SR III.
Recommendation of the MONEYVAL Report	<i>The following issues still need to be addressed:</i> <ul style="list-style-type: none"> • <i>liability of legal persons is not covered;</i> • <i>awareness of some reporting entities with respect to their role in CTF mechanism;</i> • <i>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.</i>
Measures taken 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

	<p>administrative fine of 8,000 up to 15,000 manats for violations of AML/CFT legislation by legal persons.</p> <p>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.</p> <p>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”.</p> <p>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)”.</p> <p>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.</p>
(Other) changes since the last evaluation	

Special Recommendation III (Freeze and confiscate terrorist assets)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>All designations under 1267 and 1373 should be communicated promptly to all parts of the financial sector.</i>
Measures taken to implement the Recommendation of the Report	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, Ministry of the Interior, Ministry of Justice, the Prosecutor General, the State Committee on Securities. Lists of other countries are also circulated in the same way.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	This Recommendation will be implemented by way of trainings.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>There needs to be publicly known procedures for de-listing and unfreezing and for those inadvertently affected by freezing mechanisms.</i>
Measures taken to implement the Recommendation of the Report	Special Regulation expected to be prepare within an Action Plan will cover this issue.
Recommendation of the MONEYVAL Report	<i>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).</i>
Measures taken to implement the Recommendation of the Report	This Recommendation is one of targets of proposed Regulation.
Recommendation of the MONEYVAL Report	<i>All supervisors should be actively checking compliance with SR.III and sanctions should be available (to be applied by the supervisors) for non-compliance.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>Dedicated AML/CFT legislation is required that imposes duties on the regulated sector with sanctions in the event of non-compliance.</i>

<p>Measures taken to implement the Recommendation of the Report</p>	<p>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.</p> <p>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):</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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).</p> <p>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:</p> <p>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</p> <p>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.</p> <p>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.</p>
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(Other) changes since the last evaluation	
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Special Recommendation V (International co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Broaden the TF offence to avoid dual criminality problems (in mutual legal assistance).</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to SR II.
Recommendation of the MONEYVAL Report	<i>Broaden the TF offence to avoid potential dual criminality problems (extradition).</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to SR II.
(Other) changes since the last evaluation	

Special Recommendation VI (AML requirements for money/value transfer services)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The authorities should implement requirements in relation to Recommendations 4-11, 13-15 and 21-23 for the MVT service providers.</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to these Recommendations above.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see comments in relation to Recommendation 17.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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,

	<p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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.
(Other) changes since the last evaluation	

Special Recommendation VII (Wire transfer rules)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p> <p>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.</p> <p>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).</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to	After the Third Round of Mutual Evaluation, special Regulation concerning wire

implement the Recommendation of the Report	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.
Recommendation of the MONEYVAL Report	<i>The sanctions regime concerning SR VII must be made more effective in order to be applied in practice</i>
Measures taken 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.
(Other) changes since the last evaluation	

Special Recommendation VIII (Non-profit organisations)	
Rating: Non-compliant	
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	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. 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.
Recommendation of the MONEYVAL Report	<i>The Azerbaijani authorities should periodically review NPOs/NGOs with the object of assessing terrorist financing vulnerabilities.</i>
Measures taken 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.”
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	<p>Please see item above.</p> <p>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:</p> <p>“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.</p> <p>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.”</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>A further review of the laws on NPOs/NGOs based on an assessment of the vulnerabilities and needs of the sector should be undertaken.</i>
Measures taken 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	<p>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)”:</p> <ol style="list-style-type: none"> 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: <p>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</p>

	<p>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.</p> <p>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.</p> <p>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.</p> <p>3. add article 29.5 with below content:</p> <p>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.</p> <p>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.</p>
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Special Recommendation IX (Cross Border declaration and disclosure)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>There is a need for measures to strengthen the capacity of Customs to detect funds possibly linked with money laundering and financing of terrorism.</i>
Measures taken to implement the Recommendation of the Report	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 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.”
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken 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

	<p>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.</p> <p>Under the Criminal Procedural Code customs authorities may detain persons including cases where money laundering or financing of terrorism is suspected, and to conduct preliminary enquiry for term up to ten days, before handing them over to other authorities, as necessary.</p>
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	Please see item above.
(Other) changes since the last evaluation	

4. *Specific Questions*

<p>1. Are all attempted suspicious transactions covered by the reporting obligation under AML/CFT law for all financial institutions?</p>
<p>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:</p> <ul style="list-style-type: none"> • 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. <p>STR shall contain the following information:</p> <ul style="list-style-type: none"> • 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?

<p>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.</p>
<p>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.).</p>
<p>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.</p>
<p>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.]</p>
<p>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.</p>

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)⁴

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
<p>Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.</p>	<p>Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC) are not applicable for the Republic of Azerbaijan.</p>

Beneficial Owner	
<p>Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive⁵ (please also provide the legal text with your reply)</p>	<p>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.”</p> <p>The definition of a “beneficial owner” was taken directly from the Glossary to FATF 40 Recommendations.</p> <p>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.</p>

⁴ For relevant legal texts from the EU standards see Appendix II.

⁵ 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.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive ⁶ are provided for in your domestic legislation (please also provide the legal text with your reply).	The definition of a “politically exposed persons” 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.

“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

⁶ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	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.

“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.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all	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).

goods where payments are made in cash in an amount of € 15 000 or over.	
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6. Statistics

a. Please complete - to the fullest extent possible - the following tables:

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. STR/CTR

Explanatory note:

The statistics under this section should provide an overview of the work of the FIU.

The list of entities under the heading “*monitoring entities*” is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.

The information requested under the heading “*Judicial proceedings*” refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.

“*Cases opened*” refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term “cases open” is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005															
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															

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																		

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)	<p>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.</p> <p>Legislation should be amended to provide clear definitions for the following concepts: “financial transactions”, “other transactions”, “money funds” or “property”</p> <p>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.</p> <p>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.</p> <p>The intentional element of the offence of money laundering would benefit from being reflected in the legislation.</p> <p>Legislation should be amended to bring liability of legal persons into line with modern international standards.</p> <p>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.</p> <p>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</p>

	<p>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.</p> <p>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.</p>
<p>2.2 Criminalisation of Terrorist Financing (SR.I)</p>	<p>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.</p> <p>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.</p> <p>Additional matters which need to be covered in criminal legislation are:</p> <ul style="list-style-type: none"> • liability of legal persons is not covered; • 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.
<p>2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)</p>	<p>Legislation should clearly state that “property” covers both direct and indirect proceeds of crime.</p> <p>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.</p> <p>Confiscation of criminal proceeds should be made clearly mandatory in respect of some of the major proceeds-generating offences, like drug and human trafficking.</p> <p>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.</p>

	<p>The provision for asset sharing in corruption cases should be extended to cover confiscation in all cases.</p>
<p>2.4 Freezing of funds used for terrorist financing (SR.III)</p>	<p>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.</p> <p>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.</p> <p>All designations under 1267 and 1373 should be communicated <u>promptly</u> to <u>all</u> parts of the financial sector.</p> <p>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.</p> <p>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.</p> <p>There needs to be publicly known procedures for de-listing and unfreezing and for those inadvertently affected by freezing mechanisms.</p> <p>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 <i>bona fide</i> third Parties).</p> <p>All supervisors should be actively checking compliance with SR.III and sanctions should be available (to be applied by the supervisors) for non-compliance.</p> <p>Dedicated AML/CFT legislation is required that imposes duties on the regulated sector with sanctions in the event of non-compliance.</p>
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<p>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</p>

	<p>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.</p>
<p>2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>More should be done to train the major investigators in modern financial investigation techniques, which will uncover laundering cases.</p> <p>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.</p>
<p>2.7 Cross Border Declaration & Disclosure (SR IX)</p>	<p>There is a need for measures to strengthen the capacity of Customs to detect funds possibly linked with money laundering and financing of terrorism.</p> <p>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</p>

	<p>terrorism, before handling them over to other authorities, as necessary.</p> <p>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.</p>
<p>3. Preventive Measures – Financial Institutions</p>	
<p>3.1 Risk of money laundering or terrorist financing</p>	<p>The Azerbaijani authorities should introduce proper AML/CFT legislation with a “risk based” approach.</p>
<p>3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)</p>	<p>Introduce comprehensive AML/CFT preventive legislation without further delay.</p> <p>It is strongly advised that the asterisked criteria in R.5 be placed into AML/CFT legislation.</p> <p>CDD measures should be explicitly applied, not only when establishing business relations, but also:</p> <ul style="list-style-type: none"> • when financial institutions carry out (domestic or international) transactions which appear to be linked and are above the threshold of US\$/Euro 15,000; • when carrying out occasional transactions that are wire transfers; • when there is the suspicion of ML and FT regardless of any exemptions or thresholds or, • when the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data. <p>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.</p> <p>Azerbaijani legislation should provide a definition of “beneficial owner”, on the basis of the glossary of the FATF Methodology.</p> <p>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.</p> <p>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</p>

	<p>persons, financial institutions should understand the controlling structure of the customer and determine who the beneficial owner is.</p> <p>Financial institutions should be required to obtain information on the purpose and intended nature of the business relationship.</p> <p>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.</p> <p>It should be made clear to financial institution that if they are unable to satisfactorily complete CDD measures, they should consider making an STR.</p> <p>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.</p> <p>With regard to PEPs, measures should be put in place that require financial institutions:</p> <ul style="list-style-type: none"> • to determine if the client or the potential client is - according to the FATF definition – a PEP; • to obtain senior management approval for establishing a business relation with a PEP; • 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. <p>In relation to cross-border correspondent banking and services, financial institutions should be required to obtain further information on:</p> <ul style="list-style-type: none"> • the reputation of the respondent counterparts from publicly available information; • assessing the adequacy of the existing AML/CFT controls in a respondent bank; • document the respective AML/CFT responsibilities of each institution; • 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. <p>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.</p>
3.3 Third parties and introduced	The Azerbaijan authorities should cover all the essential

business (R.9)	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

	<p>AML/CFT compliance officer at the management level must be introduced in the legislation.</p> <p>Provision concerning timely access of the AML/CFT compliance officer and other appropriate staff to CDD and other relevant information has to be introduced.</p> <p>Financial institutions should be required to include the necessity for internal audit to test compliance with the internal procedures and policies for AML/CFT.</p> <p>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.</p> <p>Financial institutions should be required to put in place screening procedures to ensure high standards when hiring employees.</p> <p>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.</p> <p>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.</p>
<p>3.9 Shell banks (R.18)</p>	<p>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.</p>
<p>3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>The authorities should provide supervisors with adequate powers</p>

	<p>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.</p> <p>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.</p>
3.11 Money value transfer services (SR.VI)	<p>The authorities should implement requirements in relation to Recommendations 4-11, 13-15 and 21-23 specified for the MVT service providers.</p> <p>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.</p> <p>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.</p>
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<p>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.</p> <p>Azerbaijan should fully implement Recommendations 5, 6, 8, 10 and 11 and make these measures applicable to DNFBP</p>
4.2 Suspicious transaction reporting (R.16)	<p>Recommendations 13 – 15 and 21 are not addressed in the Azerbaijani legislation and should be implemented for DNFBP as soon as possible</p>
4.3 Regulation, supervision and monitoring (R.24-25)	<p>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.</p> <p>Guidance for DNFBP should be provided including any measures that these institutions could take to ensure that their AML/CFT measures are effective.</p>
4.4 Other non-financial businesses and professions (R.20)	<p>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.</p>
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)	<p>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.</p> <p>The Azerbaijani authorities should periodically review NPOs/NGOs with the object of assessing terrorist financing vulnerabilities.</p> <p>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.</p> <p>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.</p> <p>A further review of the laws on NPOs/NGOs based on an assessment of the vulnerabilities and needs of the sector should be undertaken.</p>
6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	<p>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.</p> <p>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. 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.</p>
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<p>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</p>

	<p>1999 Convention.</p> <p>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.</p> <p>The following issues still need to be addressed:</p> <ul style="list-style-type: none"> • liability of legal persons is not covered; • 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.
6.3 Mutual Legal Assistance (R.36-38 & SR.V)	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • Broaden ML and TF offences to avoid potential dual criminality problems
6.5 Other Forms of Co-operation (R.40 & SR.V)	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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.

APPENDIX II

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 2005/60/EC (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.

APPENDIX III – List of additional legislation and data submitted with the progress report.

Laws of the Republic of Azerbaijan:

1. “On the Prevention of the Legalization of Criminally Obtained Funds or Other Property and the Financing of Terrorism”;
2. “On State Registration and Registry of Legal Persons”;
3. “On Non-governmental Organizations (public associations and funds)”;
4. “On Currency Regulation”;
5. “On Banks»;
6. “On Insurance Activity”
7. “On Auditing Services”;
8. “On Notaries”;
9. “On Investment Funds”;
10. “On Advocates and Advocate Activities”;
11. “On Lottery”;
12. “On Post”;
13. “On Central Bank of the Republic of Azerbaijan”;
14. “On Precious Metals and Precious Stones”..

Codes of the Republic of Azerbaijan:

1. Criminal Code
2. Code of Administrative Infringements;
3. Criminal Procedure Code;
4. Civil Code.

Regulations of the Central Bank of the Republic of Azerbaijan:

1. “On opening, maintenance and closing of accounts in banks”
2. “On the Regime of Foreign Currency Transactions by Residents and Non-Residents in the Republic of Azerbaijan”.

Regulations of the State Committee for Securities of the Republic of Azerbaijan:

1. “On carrying out broker activity in securities market”;
2. “On carrying out professional management of securities in securities market”;
3. “On measures against the ML/TF in the securities market”.

Draft Law of the Republic of Azerbaijan:

1. “On changes and amendments to some legislative acts of the Republic of Azerbaijan in connection with the improvement of the legislation on AML/CFT sphere”.