



Strasbourg, 10 December 2008

MONEYVAL (2008) 42 REV1

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

Second written progress report
submitted to MONEYVAL
by Hungary¹

¹ As adopted by MONEYVAL at its 28th Plenary Meeting (Strasbourg, 8-12 December 2008). For further information on the examination and adoption of this report, please refer to the Meeting report (ref. MONEYVAL (2008) 40 at <http://www.coe.int/moneyval>)

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

Position as at date of last progress report (5 September 2006)

The IMF/Moneyval conducted the third round evaluation of Hungary in 2005. The on-site visit was organized from February 21 to March 4 and the final report was adopted by the Moneyval plenary in June, 2005. (The evaluation was conducted by a team of evaluators composed of staff of the IMF and the team worked in collaboration with an evaluator from the Moneyval.). Hungary has agreed to lift the confidentiality of the report and publish it on the Moneyval web-site.

The Hungarian authorities consider that the main findings of the report concerning the overall AML situation in Hungary are the followings:

“The Hungarian authorities have made significant progress in strengthening their AML regime in the four years since the last assessment. The most important step was the passage of a revised AML Act of 2003... With this, the legislative framework for AML is in place... Financial institutions’ compliance with the AML requirements is well-supervised and they are well aware of their obligations under the Act.

These impressive efforts notwithstanding, some important gaps remain in the legislative framework for CFT and AML implementation needs to be improved...”

Since the evaluation the Hungarian authorities have been committed to implement the recommendations made by the IMF/Moneyval in addressing deficiencies in the CFT legislative framework and AML implementation.

I. On the basis of the IMF/Moneyval report the Government of Hungary has adopted an **Action Plan** in a Government Resolution [Government Resolution No. 2221/2005. (X.17.) Korm.]. This Action Plan reflects all of the recommendations made by the IMF/Moneyval and determines all of the tasks for the relevant actors and authorities responsible for anti-money laundering issues according to three categories: I. Legislative tasks; II. Impact studies (in order to identify the exact necessary measures); III. Training, consultation. This document is mandatory and publicly available.

The implementation of the determined tasks is under way and the relevant authorities have made significant progress. Some of the most important tasks are the following:

- several impact studies have been made (e.g. in order to better address certain issues of the beneficial ownership; concerning the use of the information received in the STRs for the purpose of criminal investigation; in order to strengthen the competences of the Hungarian Customs and Finance Guard (hereinafter HCFG) in AML/CFT; in order to introduce more explicit AML/CFT requirements for foreign branches and subsidiaries of financial institutions; in order to review the rules and practices of notaries and lawyers; concerning asset sharing etc.),
- there is an ongoing software-development for the FIU,
- the amendment of the Act IV of 1978 on the Criminal Code (hereinafter: HCC) is under preparation and it will be likely adopted by the Parliament during the second half of this year etc.

II. Hungary is working on the implementation of the Third EU AML/CFT Directive and regulations concerning AML/CFT issues.

The **Third EU AML/CFT Directive** (Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing) entered into force in December 2005 and member states have to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 December 2007. The Third EU AML/CFT Directive is fully consistent with the 40+9 Recommendations of the FATF. With the implementation of the directive, the member states will be fully compliant with the Recommendations. Due to the new EU Directive the re-codification of the Act XV of 2003 on the Prevention and Impeding of Money Laundering (hereinafter: AML Act) has become necessary. According to our present timetable, the new draft AML Act and the other necessary amendments will be under interministerial level expert discussion until March, submitted to the Government in June and expected to be submitted to the Parliament in September 2007. Those parts of the recommendations of the IMF//Moneyval which are in close connection with the new issues dealt with by the Third EU AML/CFT Directive will be implemented also in this framework as a time- and cost-effective measure.

The implementing measures (elaborated by the Commission and entered into force in August 2006) ensure the uniform implementation of the Directive in certain issues and contribute to the successful implementation by the Hungarian authorities (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).

It is worth mentioning that the Hungarian delegation consisting of the Ministry of Finance (hereinafter MoF) and Hungarian Financial Supervisory Authority (hereinafter: HFSA) experts had participated in the work of the EU Commission’s Contact Committee on Money Laundering (long before Hungary’s EU membership), and the work of the Committee on the Prevention of Money Laundering and Terrorist Financing (Comitology Committee). The remarks and proposals of these experts backed by their respective Authorities and the by Inter-ministerial AML Committee have contributed to the shaping of the Third EU AML/CFT Directive and of its implementing directive.

The so called “**cash control**” **regulation** (Regulation EC No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community), which regulation implements the FATF Special Recommendation IX on Cash Couriers, also entered into force in December 2005 and it shall apply from 15 June 2007. The draft of the necessary amendments in the AML Act concerning the regulation is expected to be in the Parliament during the second half of this year.

The Council agreed a general approach on the **draft “funds transfer” regulation** (Proposal for a Regulation of the European Parliament and of the Council on information on the payer accompanying the transfer of funds) in December 2005 and the European Parliament adopted its opinion in July 2006. The regulation expectedly will be adopted by the Council during the second half of this year and most likely will enter into force on the 1 January, 2007. Considering this fact the necessary amendments concerning the regulation are under elaboration and the draft will be submitted to the Government and the Parliament during the second half this year.

III. On the basis of the decision of the Hungarian Government the Minister of Finance in an official letter applied for the **FATF membership** last year in September, like several other non-FATF-member countries in the European Union.

IV. Three draft acts were prepared concerning the following topics:

- signature and ratification of the **new Council of Europe Convention** (Council of Europe Convention on Laundering, Search, Seizure and Confiscation on the Proceeds from Crime and on the Financing of Terrorism),
- ratification of the **Palermo Convention** and the two Protocols (United Nations Convention Against Transnational Organized Crime; Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention Against Transnational Organized Crime; Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime),
- implementation of the **financial sanctions** (restrictive measures).

V. At the beginning of 2006 the **Hungarian Financial Supervisory Authority** (hereinafter: HFSA) established a **new department** specialized on the prevention and combating of money laundering and financial crime. This department is responsible for the coordination of supervisory tasks and duties against money laundering and terrorist financing, cooperation with the other departments of the HFSA competent in on-site and off-site inspections including the evaluation of internal regulations according to the requirements of AML/CFT. Besides, this department cooperates and communicates with international and national legal authorities and experts in this field.

Also another new **special anti-money laundering unit** had been set up as part of the Department for International Affairs, Unit for European Affairs in the **MoF** in Hungary, dealing exclusively with AML/CFT issues. [MoF has the main responsibility of forming of the regulatory framework concerning fight against money laundering and combating terrorist financing, the national and international communication concerning this topic, as well as the Minister of Finance chairs the Interministerial Committee dealing with AML/CFT issues. The new special anti-money laundering unit is responsible for these topics and the professional coordination work for the Interministerial Committee.]

Furthermore the **Hungarian Banking Association** has founded a **commission** on the prevention of AML/CFT (on 29th March 2006).

VI. Significant progress has been made concerning the **activity of the FIU**:

- The National Police Headquarters (hereinafter NPHQ) have started to develop a new electronic system which will be able to receive and handle the STRs in electronic format. In this project the FIU has the full IT and regulatory support of the HFSA.
- The Hungarian FIU called the attention of the territorial police departments to scrutinize and revise the circumstances of the current criminal investigations in order to clarify the financial background searching for the possibility of money laundering. Consequently the Hungarian FIU can send useful data and information obtained from criminal investigations into the database of Europol for the use of other member states.

- In the case of the service providers which do not have any state or professional supervision, the Hungarian FIU has raised the level of on-site inspection with the assistance of the county police headquarters for the conduction of this task.
- In 2005 and in the first half of 2006 the Hungarian FIU has undertaken confiscations in four cases in open criminal investigations due to money laundering offences.
- The Hungarian FIU introduced the new international cooperation request form prepared and accepted by the Egmont Group.

International cooperation and participation in the activity of international organizations

- The participation of the Hungarian FIU in the **AGIS program** was launched by the invitation of the Portuguese FIU. The name of the program was: *“information exchange between the FIU-s in the fight against money laundering and terrorism financing”*. There were 5 EU countries involved in this program, with the participation of 2 new member states (Poland, Hungary, Portugal, Ireland, Sweden). What made the training even more interesting was that all participating countries – except Poland – have police type FIUs. There was a one-week training held in each of the countries during 2005. The main objectives of the program were: the exchange of information and experience of the countries AML matters; the learning about the daily work and activities of FIUs; discussion of theoretical and practical problems and difficulties, and the differences in the regulations of the countries involved in order to achieve more effective work and communication.

- The experts on money laundering issues of the Hungarian FIU had the opportunity to participate at the *“Workshop on financial investigation and implementation aspects of anti-money laundering and combating the financing of terrorism: roles of the FIU and criminal justice officials”*, jointly **organized by the IMF and NPHQ**. The main purpose of the workshop was to provide training for those investigators who work in the field of AML/CFT, and have a daily contact with the Hungarian FIU. Experts from all parts of the country were invited to share their experience, discuss theoretical and practical questions, and tell about their problems and difficulties of their region while introducing their daily activities. The workshop also focused on the difficulties of the investigations of money laundering cases and the differences between Hungarian and foreign regulations of criminal procedure law. The lecturers of the training were, among others: experts of the IMF, INTERPOL, UN office of Drugs and Crime, a lawyer from United Kingdom and a Hungarian prosecutor.

- Between 1st January – 31st March 2006 a police officer of the Hungarian FIU was appointed for an **internship at the Europol**, Serious Crime Department, Financial Crime Unit. During this time the participant had the possibility to get information about the history, legal background, and structure of Europol, about security, employment, document handling, and information technology including all the IT programs used by Europol. Besides, the internship included practical training, participation in workshops, conferences and meetings, and visit to the other 5 Units of Serious Crime Department. The participant got insight into the work of an international organization with which Europol has an operative agreement; SUSTRANS work file; the CARIN network in the field of confiscation.

- Upon the initiative of the Hungarian FIU a **workshop of EUROPOL** will be held in Budapest in the first part of September. The title of the workshop is: *“workshop on financial investigation and implementation aspects of anti-money laundering: roles of the FIU and Europol”*. Officials of the FIU, Economic Crime Department, Financial Investigation Department, Department of

Terrorism of the Hungarian National Bureau of Investigations (hereinafter NBI), and also officials from Pest Region, International Criminal Cooperation Centre of the NPHQ and the representatives of HCFG have been invited in order to develop and improve the cooperation and the effectiveness between Hungarian FIU and Europol. The lecturers will be experts of Europol in the field of money laundering.

- One police officer deals with the **CARIN network**. The CARIN network (Camden Asset Recovery Interagency) was launched in 2004, its purpose is to facilitate seeking out, seizing and confiscating assets originating from crime on an international level. The obligation of the member states is to provide information concerning their criminal procedure law and concrete criminal procedures while introducing their own legal system.

- Hungarian FIU was chosen for the membership of the committee of the **CEPOL** (Police Academy of the European Union) to prepare and work out the educational material on money-laundering for the Academy students.

The results of the changes in the legal background of the AML Unit

- The changes of the AML Act:

The AML Act was amended on the 1st of January, 2005. Under the new section 8/A. the Hungarian FIU may request a data and information from the service providers, without starting a criminal procedure or a confidential information collection procedure, vital for the investigations of suspicious cases. The FIU may also act on the basis of a foreign FIU request, and may share the data and information thus obtained with a foreign FIU.

This change made it possible to support and deepen the analytical work of the FIU in order to help the investigation of money-laundering cases.

Further progress was achieved in this context by the assignment of six persons for the development of international contacts and cooperation. They are responsible for the communication with other FIU units, and for keeping up with the international legal developments in this field. (At the request of the international financial institutions definite contact persons were assigned.) (Prior to this the work of the FIU and the police department was not fully separated within the structure of the AML Unit.)

- The results of the amendment of the Interior Minister's decree number 15/1994. (VII.14.):

The amended decree of the Interior Minister on the competences of the Investigatory Bodies number 15/1994, entered into force on the 15th April 2005, has given the competence over ML investigations to the AML Unit of the NBI in cases of money laundering when the person who commits the criminal offence (predicate offence) is different from the person who commits the actual crime of money laundering, and the amount of the money laundered is over a significant amount (HUF 500 million).

It is worth taking note of the fact, that the HCFG has been given power starting with 15 September 2006, concerning tax fraud and other financial crime and this fact will improve the system of AML investigations.

- The results of the amendment of the Decrees number 17/2004 and 5/2004 of the Hungarian National Police Directorates

The two decrees on the Methods of the Investigation and Prevention of ML were changed on the 22nd of October, 2005. There were a few modifications related to the methods of analyzing the STR's and the most significant change was that the AML Unit (of the NPHQ - FIU) may

supervise DNFBPs with the assistance of other units (especially the supervision of the 23.000 local DNFBPs). In 2006 the regional units have started the work; due to this fact the supervision has become definitely more efficient.

VII. The activity of the Hungarian Financial Supervisory Authority

1. Overview of the changes in the number of financial institutions between 2005 and 2006

	2005	Aug. 2006
Banks	30	30
Branches of Foreign Banks	3	4
Specialized Credit institutions	8	8
Cooperative Credit Institutions	177	172
Financial enterprises	224	245
Investment enterprises	17	17
Investment funds	24	26
Insurance Companies	63	64
Funds Private pension funds, voluntary pension funds, health funds	179	197

2. The HFSA has prepared and published for expert consultation its “**Recommendation** on the Internal Defense Lines of Financial Institutions”, which focuses on AML/CFT.

The HFSA has amended the **Inspection Procedure Manual of supervisors** laying emphasis on risk-based supervision and AML/CFT.

The HFSA added the OFAC list to the proposed lists used for monitoring transactions and clients.

4. AML/CFT on-site inspections in 2005:

The HFSA had 169 on-site inspections all including AML compliance enquiry and 4 targeted money laundering on-site inspections. The HFSA has passed resolutions in 25 cases. In 62 cases the financial institutions involved were called upon in letters signed by high-ranking officials of the HFSA to comply with the regulations in force, to change internal proceedings, to introduce appropriate monitoring system, upgrade customer diligence, internal control procedures, to improve the quality of STRs, or pay more attention to the training of the employees.

VII. Hungarian Gaming Board

Since the IMF/Moneyval evaluation the Hungarian Gaming Board has executed 2 sample testing and 178 on-site inspections in 6 casino units related to the compliance with the requirements and regulations on the prevention and combating of money laundering and terrorist financing. The inspection of the compliance with the regulations in force was the objective of 4 comprehensive inspections. The data show increase both in the number of inspections and in their ratio to the number of casinos, however inspections did not reveal any violation of regulations or any discrepancy which would have required administrative action.

On the legal side there has been a significant change regarding the prevention and combating of money laundering. From the 1st January 2006, with the completion of 12§ (3) b) of the Act XXXIV of 1991 (Gaming Act) the Gaming Board may impose a fine between 100 000 HUF to 1 000 000 HUF (with or without other supervisory measures) in case of violation of regulations in force.

VIII. The Hungarian authorities responsible for AML/CFT issues participated and gave presentations in several national and international **conferences, trainings** during the second half of 2005 and in 2006, or are preparing such meetings and trainings.

- EU-US Prosecutors and Designators' Workshop (Luxembourg, 27 April – 2 May 2005)
- "National Workshop on AML/CFT" organized by the Hungarian FIU and IMF (Budapest, 29-31 August 2005)
- "International Investigations and Prosecutions of Money Laundering Crimes" - Conference organized by U.S. Department of Justice and ILEA (Budapest, 5 - 9 September 2005). (Presentations by the HFSA, the MoF, the General Prosecutor's Office, the NBI, prosecutors, lawyers and judges, and the US Ministry of Justice, etc.)
- Regulation of Non-Profit Organizations Workshop (London, 19th September 2005)
- EU Practitioners' Workshop on Financial Sanctions (London, 7-8 November 2005)
- International Conference on the Combating the Financing of Terrorism (Vienna, 8-11 November 2005)
- Conference on Money Laundering Prevention in Central & Eastern Europe (Prague) (HFSA presentation on AML issues)
- Forensic Accounting Seminar (Budapest, jointly sponsored by the British Chamber of Commerce in Hungary and the HFSA) (HFSA presentation)
- Enterprise Crime Summit (Unisys International Management Center, Saint-Paul-de- Vence) (HFSA presentation on AML issues)
- AML/CFT and anti-corruption seminar (Berlin, organized by Akademie Heidelberg)
- Conference on Money Laundering and Financing of Terrorism for financial supervisors in Central and Eastern Europe (Vienna, co-sponsored by the Organization for Security and Co-operation in Europe and the United Nations Office on Drugs and Crime)
- Training Program at the Financial Crime Department of the Treasury in London (15 January – 26 March 2006)
- International Visitor Program, US Foreign Policy and Counter Terrorism (USA, 28 February – 24 March 2006)

- „Anti-Money Laundering Measures for Non-financial Businesses” Conference (Vienna, 27 February – 03 March 2006) (presentation of the MoF)
- Corruption and the possibility to restrict it (Budapest, 22 March 2006)
(With presentations by the Vice-Chair of the Hungarian Parliament, the Minister of Justice, the President of the Supreme Court, the President of the National Audit Office, the Director General of the HFSA, the Head of the HCFG, European Director of Transparency Int., etc)
- „Money Laundering and Enterprise Risk Management in the New World Order” Conference (Vienna, 23-24 March 2006)
- GCC-EU Countries Joint Seminar on Combating Terrorist Financing (24 April 2006)
- Consultation with the leader of the Austrian FIU (Vienna, 03 May 2006)
- EU-US Workshop on Financial Sanctions (1-2 June 2006, Vienna, sponsored by the Austrian Government as the Austrian Presidency of the EU)
- Training organized by an international consultancy firm for HFSA employees on AML/CFT regulations in force, Third EU AML/CFT Directive, Company Code of Ethics, etc (September-October 2006)
- Training organized by other experts for HFSA on business safety of financial institutions, supervisory principles, tools, methods, procedures, the methods of customer due diligence, safety of data supply and basis. (July 2006 – July 2007)

New developments since the adoption of the 1st progress report

LEGISLATIVE ACTS

1) New AML/CFT Act

On the 15th December 2007, a new Anti-Money Laundering Act entered into force (Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing, hereinafter referred to as AML/CFT Act).

The AML/CFT Act implemented the third EU AML/CFT Directive (Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing) and the implementing measures (Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of ‘politically exposed person’ and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis).

The new Act establishes the legislative framework for the prevention and combating of CFT and fully harmonizes with the international AML standards and requirements. The AML/CFT Act complying with the Directive expands its scope to further professions: all natural or legal persons trading in goods by way of business and allow cash payments above the amount of 3.6 million HUF (EUR 15 000) or more. Due to Article 4 and 5 of the Directive as well as to the position and experience of the relevant experts the scope – compared to what was determined in the former AML Act (Act XV of 2003) – is

extended to further professions and categories, e.g. postal financial intermediation services, postal money transfer, accepting and delivering domestic and international postal money orders:

“Scope
Section 1

(1) With the exceptions set out in Subsections (3)-(5) - this Act shall apply to persons who are engaged in the territory of the Republic of Hungary in:

- a) the provision of financial services or in activities auxiliary to financial services;*
- b) the provision of investment services, in activities auxiliary to investment services or in providing investment fund management services;*
- c) the provision of insurance services, insurance agency or occupational retirement provision;*
- d) the provision of commodity exchange services;*
- e) the provision of postal financial intermediation services, postal money transfers, accepting and delivering domestic and international postal money orders;*
- f) the provision of real estate agency or brokering and any related services;*
- g) the provision of auditing services;*
- h) the provision of accountancy (bookkeeping), tax consulting services whether or not certified, or tax advisory activities under agency or service contract;*
- i) the operation of a casino or electronic casino;*
- j) the trading in precious metals or articles made of precious metals;*
- k) the trading in goods, involving a cash payment in the amount of three million six hundred thousand forints or more;*
- l) the provision of voluntary mutual insurance fund services;*
- m) the provision of legal counsel or notary services.*

(2) This Act shall apply to:

- a) customers of service providers;*
- b) directors, managers, and employees of service providers and their participating family members.*

(3) Service providers engaged in trading in goods may not - within the scope of these activities - accept any cash payment in the amount of three million six hundred thousand forints or more, unless they undertake to discharge the obligations conferred upon service providers by this Act in accordance with Subsection (4) of Section 33.

(4) This Act shall not apply to:

- a) the agents described in Paragraph b) of Point 12 of Chapter I of Schedule No. 2 to Act CXII of 1996 on Credit Institutions and Financial Enterprises (hereinafter referred to as “CIFE”), and in Point 46 of Subsection (2) of Section 4 of Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities (hereinafter referred to as “IRA”);*
- b) the tied insurance intermediaries described in Subsection (4) of Section 33 of Act LX of 2003 on Insurance Institutions and the Insurance Business (hereinafter referred to as “Insurance Act”);*
- c) the independent insurance intermediaries described in Subsection (4) of Section 33 of the Insurance Act as regards their activities relating to the field of non-life insurance under Part A of Schedule No. 1 to the Insurance Act;*
- d) insurance companies, if authorized to pursue only the activities relating to the field of non-life insurance under Part A of Schedule No. 1 to the Insurance Act, and the insurance companies authorized to engage in activities in the field of non-life insurance under Part A of Schedule No. 1 to the Insurance Act and at the same time in activities in the field of life assurance under Schedule No. 2 to the Insurance Act, as regards their activities relating to the field of non-life insurance.*

(5) This Act shall not apply to the activity defined in Paragraph a) of Subsection (1), if carried out by the Magyar Nemzeti Bank (hereinafter referred to as “MNB”), with the exception of the provision of services relating to the transfer of funds under Section 22 and Section 2.

Section 2

Section 22 shall apply to the service providers who:

a) are engaged in the activities referred to in Paragraphs a)-b) and e) of Subsection (1) of Section 1 of this Act; and

b) provide services relating to the transfer of funds within the Republic of Hungary under Point 7 of Article 2 of Regulation (EC) No. 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying the transfers of funds (hereinafter referred to as "Regulation")."

The AML/CFT Act introduces more specific and detailed provisions relating to the identification of the customer and of any beneficial owner and the verification of their identity. To that end a precise definition of 'beneficial owner' is also essential. The Act introduces risk-sensitive approach regarding CDD. The Act establishes detailed rules for customer due diligence, including simplified as well as enhanced CDD for low or high-risk customers or business relationships, such as appropriate procedures to determine whether a person is a politically exposed person, and certain additional, more detailed requirements. In line with the Directive in respect of the application of this Act a politically exposed person is any natural person, having a residence abroad, who executes or who within the year that preceded the execution of the customer due diligence measures has executed an important public task, and the close relative of such a person, or a person known to be close associates of such a person. In order to avoid repeated CDD procedures, leading to delays and inefficiency in business, it is allowed for certain service providers to rely on a third party due to the requirements of the Act (in line with the Directive).

Suspicious transactions should be reported to the Financial Intelligence Unit (FIU), which serves as a national centre for receiving, analyzing and disseminating to the competent authorities suspicious transaction reports and other information regarding potential money laundering or terrorist financing.

Starting from the 15th December 2007, a separate department of the Hungarian Customs and Finance Guard Central Criminal Investigation Bureau (hereinafter: HFIU) is fulfilling the duties of the Financial Intelligence Unit.

In the case of suspicion of money laundering and terrorist financing the service providers under the scope of the AML/CFT Act should send an STR to the HFIU. The service providers (mainly dealing with financial transactions) shall suspend a transaction where there is any suspicion of ML/TF and prompt action by the HFIU is deemed appropriate to examine certain corresponding information, data or circumstance. The transaction shall be examined by the HFIU and may be completed by the service providers within 1 working day concerning domestic transaction and 2 working days in the case of non-domestic transaction. The AML/CFT Act broadens the type of the offences in which the information received in STRs can be disseminated to the Hungarian authorities (investigating authorities, law enforcement authorities, national security offices, prosecutors) and foreign FIUs.

The Act determines the competent supervisory authorities and the effective, proportionate and dissuasive penalties for the failure to respect the provisions of the Act. Hungary's financial regulatory body, the Hungarian Financial Supervisory Authority (HFSA), is charged with supervising financial service providers with the exception of cash processors, which are supervised by the National Bank of Hungary. In the case of the casinos the determined supervisory authority is the Hungarian Tax and Financial Control Administration. Most designated nonfinancial businesses and professions (DNFBPs), like real estate agents, accountants, tax advisors are supervised by the HFIU. In line with the international provisions supervisory functions are allowed to be performed by self-regulatory bodies: by regional bar associations with respect to lawyers and by the chambers of notaries public

with respect to notaries public, the Chamber of Hungarian Auditors and Auditing Activities with respect to auditors. Trade licensing authority (The Hungarian Trade Licensing Office) acts as the supervisory authority with respect to the natural and legal persons trading in goods and allowing cash payments above the amount of 3.6 million HUF.

The Act determines the requirements of the disclosure of information. The Act requires the keeping of statistics in order to be able to review the effectiveness of the systems to combat money laundering and terrorist financing. HFIU is obliged to keep such a statistics that is suitable for checking the efficiency of the domestic system serving the combat against money laundering and terrorist financing and serves as a sort of feedback for the service providers. The statistics can be reached on the website of HFIU (statistics according to professions under the scope of the Act). The Act contains provisions on the internal procedures, training and internal communication which supports the effective execution of requirements, proved the employees with relevant information. (The service provider is obliged to ensure the operation of the internal control and information system that facilitates customer due diligence procedure, the performance of reporting and the management of registration in the interest of preventing a business relation, transaction order that allows or implements money laundering or terrorist financing.) Moreover the effective internal system could be responsible for the improvement of the quality of STRs and for the reduction of the quantity of STRs. The Act determines special procedures for lawyers and notaries in accordance with the Directive. Service providers are obliged to have internal rules (details are prescribed by Ministerial Decree 35/2007 of the Minister of Finance) and the supervisory authorities approve the internal rules, if they contain the compulsory elements that correspond to this Act and the Ministerial Decree. Supervisory bodies make model rules available on their websites which serve as guidelines for the preparation of internal rules.

The Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds entered into force on the 1 January, 2007. Hungary has implemented the regulation's requirements in the new AML/CFT Act (Article 22). The Act determines the relevant authorities to supervise the compliance with the provisions (HFSA in case of financial service providers, and the HFIU in case of the National Bank of Hungary) as well as the effective, proportionate and dissuasive penalties for the failure to respect the requirements of the regulation, moreover some derogations for certain transactions.

According to the new AML/CFT Act, the supervisory bodies, in collaboration with the HFIU and in agreement with the Minister of Finance, shall provide non-binding recommendations based on standard model rules, for drawing up internal rules by the service providers. (All supervisory bodies have fulfilled this obligation, and their model rules, approved by the Minister of Finance, were put at disposal of the service providers.

2) New Act on the implementation of financial sanctions [Act CLXXX of 2007]

The legal background for asset/funds freezing related to TF has been created by the Act CLXXX of 2007 on the enforcement of the economic and financial restrictive measures adopted by the European Union (hereinafter referred to as **EFR Act**). According to the Act, the HFIU examines whether the certain persons and entities subject to economic and financial restrictive measures have funds or economic resources in Hungary.

3) New Act on the implementation of the Cash Control Regulation [Act XLVIII of 2007]

In order to enhance the enforcement of the EU legislation, an act has been adopted by the Hungarian Parliament on the enforcement of the Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (Act

XLVIII of 2007 – hereinafter referred to as **Cash Control Act**). According to the Regulation (EC) No 1889/2005 (hereinafter referred to as Cash Control Regulation), cash movements amounting or exceeding 10 000 EUR shall be declared on the border of the Community. The border customs offices provide the HFIU with information on cash movements and the HFIU is entitled to request information on cash declarations from the customs offices.

Non-compliance of the obligation to declare has been penalized as a petty offence and a fine amounting to 150 000 HUF (c. 600 EUR) can be imposed.

4) The Act LXIII of 2008 on the Promulgation of the 2005 Warsaw Convention

Act LXIII of 2008 on the Promulgation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, made at Warsaw on 16 May 2005, and on the Amendment of Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing has entered into force on the 8th November 2008. This Act implements Articles 14 and 47 (1) of the Warsaw Convention by amending the existing AML/CFT Act, by ensuring that the HFIU, both at its own competence or on request of a foreign FIU, may suspend or withhold consent to a transaction that is deemed to be suspicious. This change in the AML/CFT Act will be entered into force on 16 December 2008.

5) The modification of the Hungarian Criminal Code as regards ML offences

Act XXVII of 2007 has amended Sections 303 and 303/A of the Hungarian Criminal Code (HCC) on money laundering, the amended version has entered into force on 1st June 2007:

“Money Laundering

Section 303.

(1) Any person who, in order to conceal the true origin of an object obtained from criminal activities committed by others, that is punishable by imprisonment:

- a) converts or transfers the object in question, or uses in his business activities;*
- b) conceals or dissimulates any right attached to the object or any changes in this right, or conceals or dissimulates the place where the object can be found;*
- c) performs any financial transaction or receives any financial service in connection with the object is guilty of felony punishable by imprisonment of up to five years.*

(2) The punishment in accordance with Subsection (1) shall also be imposed upon any person who, in connection with an object obtained from criminal activities, that is punishable by imprisonment, committed by others:

- a) obtains the object for himself or for a third person;*
- b) safeguards, handles, uses or consumes the object, or obtains other financial assets by way of or in exchange of the object, or by using the consideration received for the object if being aware of the true origin of the object at the time of commission.*

(3) The punishment in accordance with Subsection (1) shall also be imposed upon any person who, in order to conceal the true origin of an object that was obtained from criminal activities that is punishable by imprisonment:

- a) uses the object in his business activities;*
- b) performs any financial transaction or receives any financial service in connection with the object.*

(4) The punishment shall be imprisonment between two to eight years if the money laundering specified under Subsections (1)-(3):

- a) is committed in a pattern of business operation;*
 - b) involves a substantial or greater amount of money;*
 - c) is committed by an officer or employee of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, or an organization engaged in the operation of gambling activities;*
 - d) is committed by a public official in an official capacity;*
 - e) is committed by an attorney-at-law.*
- (5) Any person who collaborates in the commission of money laundering as specified under Subsections (1)-(4) is guilty of misdemeanor punishable by imprisonment of up to two years.*
- (6) The person who voluntarily reports to the authorities or initiates such a report shall not be liable for prosecution for money laundering as specified under Subsections (1)-(5), provided that the act has not yet been revealed, or it has been revealed only partially.*

Section 303/A.

- (1) Any person who, in connection with an object obtained from criminal activities, that is punishable by imprisonment, committed by others:*
- a) uses the object in his business activities;*
 - b) performs any financial transaction or receives any financial service in connection with the object, and is negligently unaware of the true origin of the object is guilty of misdemeanor punishable by imprisonment of up to two years, community service work, or a fine.*
- (2) The punishment shall be imprisonment for misdemeanor for up to three years if the act defined in Subsection (1):*
- a) involves a substantial or greater amount of money;*
 - b) is committed by an officer or employee of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, or an organization engaged in the operation of gambling activities;*
 - c) is committed by a public official in an official capacity.*
- (3) The person who voluntarily reports to the authorities or initiates such a report shall not be liable for prosecution for money laundering as specified under Subsections (1) and (2), provided that the act has not yet been revealed, or it has been revealed only partially.*

6) Ministerial Decree 35/2007 on the Compulsory Elements of the Internal Rules

Empowered by the AML/CFT Act the Minister of Finance issued Ministerial Decree 35/2007 (XII. 29.) on the Compulsory Elements of the Internal Rules. The Decree serves as guidance for the service providers when preparing their internal AML/CFT rules and gives an exhaustive list on the elements and issues which must be incorporated and governed in the internal rules of each service provider that falls under the scope of the AML/CFT Act.

7) Ministerial Decree 28/2008 on equivalent third countries

Enabled also by the AML/CFT Act, Ministerial Decree 28/2008 (X. 10.) has been issued by the Minister of Finance on the third countries applying equivalent requirements with the provisions of the new AML/CFT Act. The list corresponds to what was agreed upon between the EU Member States in June 2008.

8) Modification of Ministerial Decree 3/2008

Ministerial Decree 3/2008 (II. 26.) of the Minister of Finance on supervisory reporting obligations of financial institutions was modified by Ministerial Decree 27/2008 (IX. 19.) of the Minister of Finance, in order to ensure conformity with the new AML/CFT Act.

REGULATORY DEVELOPMENTS, RECOMMENDATIONS, GUIDANCE

- The HFSA published its official position regarding the CDD procedures in distance selling via electronic distribution channels
- The HFSA issued guidance for the Hungarian Post on the implementation of Regulation No 1781/2006 on Funds Transfer.
- A guidance with the assistance of CERT Hungary is in preparation regarding the security of electronic financial services channels, including strict and safe KYC/CDD procedures by applying multilevel identification procedures.
- Drawing the attention of the banks on the reputational and AML risks of intraday transactions and overdrafts, obliging them to work out or modify the respective internal regulation and to strengthen the control of compliance officers
- The new AML/CFT Recommendation and Guidance of the HFSA (which aims at assisting the supervised entities in the implementation of the regulation by interpreting the provisions of the Act) has been approved by the Board of the HFSA and published.
- HFSA has published Recommendation No. 11 of 2006 (14 December) of the Board of the Hungarian Financial Supervisory Authority on setting up and using internal safeguards.

CHANGES IN THE ROLES AND RESPONSIBILITIES OF THE HUNGARIAN AUTHORITIES

1) FIU

The most significant change was that the FIU functions were transferred from the National Police Headquarter (NPHQ) to the Hungarian Customs and Finance Guard (HCFG).

Due to the amendment of the Government Decree on the organisation of the HCFG (Government Decree No. 314/2006), the FIU activities were transferred to the HCFG, Central Criminal Investigation Bureau. A new department (the Hungarian Financial Intelligence Unit, HFIU) was set up and has been working since 15 December 2007. The department consists of three units: a **domestic analytical unit**, an **international unit**, a **unit** for fulfilling the tasks of **supervision** over real estate agents, accountants, tax advisors and tax consultants according to the new AML/CFT Act and the Secretariat.

The FIU is the authority for receiving, analysing and disseminating of STRs.

As the HCFG was appointed to perform the FIU activities, a lot of changes have taken place since 15 December 2007. Due to the everyday contact, the co-operation between the 'new' Hungarian FIU and the reporting entities is efficient and works well.

The HFIU has a link on the HCFG's website (HFIU website), and this link contains easily accessible,

useful information (AML/CFT, Financial Restrictive Measures, Cash Control, etc.), reports, downloadable documents, statistics and helpful materials (model rules for service providers being under the supervision of the HFIU, FAQ, useful internet links, etc.). The English version of the HFIU website is under preparation.

According to the AML/CFT Act, the HFIU is authorized to disseminate information to law enforcement authorities (LEAs) in connection with AML/CFT issues or for the purpose of 8 offences (criminal offences of terrorist act, unauthorized financial activities, money laundering, failure to comply with the reporting obligation related to money laundering, tax fraud/tax evasion, embezzlement, fraud or misappropriation of funds). Due to this supportive work, the co-operation between the FIU and the LEAs has grown stronger. Nevertheless, the feedback from LEAs has to be enhanced.

2) Hungarian Financial Supervisory Authority

HFSA has increased its staff in the Financial Forensic Department which is responsible for the AML/CFT aspects of the financial supervision. Its main tasks remained the coordination and execution of the AML/CFT activities of the HFSA, prevention of financial crimes in the supervised institutions and daily contact with the investigative and other competent authorities. The Financial Forensic Department was promoted to higher level in the organization of the HFSA.

The HFSA established a Standing Sub-Committee on the Prevention of Financial Abuses in the form of which the previously ad-hoc AML/CFT Working Group continues its work as a standing working group. The members of the AML/CFT Working Group are the representatives of:

- departments of the HFSA (Financial Forensic, EU and International Affairs, Prudential Supervision, Legal, IT and Regulatory Departments)
- the Hungarian Banking Association,
- the Hungarian Insurance Association,
- the Associations of Saving Cooperatives
- compliance officers of systemically important banks and insurance companies

The AML/CFT Working Group of the HFSA continues its work with discussions on the practical issues arising from the application of the new AML/CFT Act and Model Rules. The Working Group has carried on its work: studied the options of the Directive and – after thorough consultation with the market participants – elaborated the position of HFSA towards the new requirements of the AML/CFT Act.

The HFSA recently established its Training and Methodology Centre, for the education of the staff of the HFSA, other authorities and financial institutions as well as for research. The curriculum contains both AML/CFT and financial crime issues.

The responsibilities of the Hungarian Financial Supervisory Authority have also been changed in such a way that it became the appointed sanctioning authority as regards the controlling of implementation of the Funds Transfer Regulation. This competence was created by Section 22 of the new AML/CFT Act:

“Information on the Payer Accompanying Transfers of Funds

Section 22

(1) In accordance with Article 14 of the Regulation, the Authority and the national financial intelligence unit shall function as the “authorities responsible for combating money laundering or

terrorist financing”.

(2) Payment service providers shall respond to inquiries from the authorities referred to in Subsection (1) above acting in their vested official capacity concerning the information on the payer as specified in Article 4 of the Regulation for the purposes specified in Article 14 of the Regulation.

(3) In accordance with Article 15 (2) of the Regulation, the Authority shall function as “the authority responsible for application”, and as the “competent authority” referred to in Article 15 (3) of the Regulation, and the national financial intelligence unit shall have the same functions with respect to the MNB.

(4) The Authority shall carry out the supervisory procedure in due observation of the provisions of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter referred to as “APA”), subject to the derogations set out in Act CXXXV of 2007 on the Hungarian Financial Supervisory Authority (hereinafter referred to as “HFSA”), furthermore, the national financial intelligence unit shall act in accordance with the APA.

(5) In the event of any infringement of the provisions of the Regulation or non-compliance with the obligations set out in the Regulation, the Authority shall take the measures specified under Paragraphs b)-e) of Subsection (1) of Section 35 and the measures specified below, consistent with the weight of the infringement:

a) call upon the service provider to take the measures necessary for compliance with the provisions of the Regulation, and to eliminate the discrepancies;

b) prohibit the service provider from engaging in the provision of transfer of funds services before the infringement is terminated.

(6) The fine referred to in Paragraph e) of Subsection (1) of Section 35 may be imposed upon any service provider for non-compliance with the provisions contained in resolutions adopted under the Regulation or by the Authority, and for partial or late compliance with the said provisions.

(7) In the event of any infringement of the provisions of the Regulation or non-compliance with the obligations set out in the Regulation, the national financial intelligence unit shall apply the measures specified under Paragraphs c)-d) of Subsection (1) of Section 35 consistent with the weight of the infringement, and may call upon the service provider to take the measures necessary for compliance with the provisions of the Regulation, and to eliminate the discrepancies.

(8) Where Article 3 (4) and Article 5 (4) of the Regulation apply, the amount transferred shall be translated to euro based on the official exchange rate quoted by the MNB in effect on the day when the transfer order in question is received, or by the exchange rate published in the MNB Bulletin for the conversion of currencies that are not quoted by the MNB to euro in effect on the day when the transfer order in question is received.

(9) The “national identity number” referred to in Article 4 (2) of the Regulation shall be construed as the numbers specified in Subparagraph ad) of Paragraph a) and in Subparagraph bc) of Paragraph b) of Subsection (2) of Section 7.

(10) Service providers are not required to apply the provisions of the Regulation with respect to transfer of funds services carried out inside the Republic of Hungary that are in compliance with Article 3 (6) of the Regulation.”

3) Hungarian Trade Licensing Office

The Hungarian Trade Licensing Office was appointed as the supervisory authority for service providers who are engaged in trading in precious metals or articles made of precious metals as well as service providers engaged in trading in goods, involving a cash payment in the amount of three million six hundred thousand HUF (15 000 euro) or more. Within its supervisory functions, the Hungarian Trade Licensing Office is responsible for the preparation of model rules and for the registration of service providers who are willing to accept cash payments in the amount of 3.6 million HUF or above as well as for the approval of such service providers’ internal rules.

4) SROs

The new AML/CFT Act established special tasks for regional bar associations and branches of attorneys and notaries as well as for the Hungarian Bar Association and the Hungarian Association of Notaries.

Section 37 of the AML/CFT Act provides that attorneys and notaries public shall file STRs via their respective regional bar association or regional branch, while Section 38 sets up the obligation for the Hungarian Bar Association and the Hungarian Association of Notaries to draw up standard policies or guidelines for their members which will be treated as their internal rules.

Regional bar associations of attorneys and regional branches of notaries public are also empowered by the AML/CFT Act to exercise supervisory tasks.

5) Changes concerning the Gaming Board of Hungary

As of 1 January 2007, the Gaming Board of Hungary has been merged into the Hungarian Tax and Financial Control Administration.

IT DEVELOPMENTS – ELECTRONIC STRs

According to the AML/CFT Act, service providers will be obliged to send their STRs in electronic format after 15 December 2008. Therefore, the HFIU has started to develop its new electronic STR database system in order to be able to receive and handle STRs in electronic format. The Hungarian Banking Association and major banks were also involved in the project-work.

The system is currently under the test phase and expected to operate as a pilot project between 15 November and 14 December 2008 and it shall be officially used from 15 December 2008.

The electronic reporting system was established with the support of the HFSA: Financial and professional support was given to the FIU for the development of the new electronic reporting and monitoring system.

Information on the new electronic reporting system has been made available for all service providers at FIU's website.

OTHER DEVELOPMENTS

1) Domestic co-operation between the responsible authorities

- The Inter-ministerial AML/CFT Committee continued its regular meetings and deliberated on current issues.
- The HFSA has concluded an MoU with the National Police Headquarter (NPHQ) and the Hungarian Customs and Financial Guard (FIU) in respect of the responsibilities enacted by the new AML/CFT Act. The HFSA provides permanent professional support for the investigative authorities and keeps the daily relationship regarding the reported cases and required assistance.
- The HFSA has modified the existing MoU with National Bank of Hungary in relation the changes of AML/CFT regulation and the closer co-operation to detect and prevent the financial frauds.

2) International co-operation

- **Egmont Group:** The HFIU as a new unit has been the member of the Egmont Group of Financial Intelligence Units since the Working Group Meetings of EG held in Santiago de Chile. The HFIU receives and sends request via Egmont Secured Web and it also takes part in the work of the Egmont Working Groups. The head of the HFIU participated in all Egmont Group meetings this year (Santiago, Chile – March 11-13, 2008; Seoul, South Korea – May 26-31, 2008; Toronto, Canada – October 20-23, 2008). Regarding the obligations deriving from the Charter of Egmont Group the Commissioner of the HCFG has signed the Commitment Letter of the Charter.
- **FIU.NET:** The HFIU has expressed its intention to join the FIU.NET project and, on 1 January 2009, it becomes a member of the FIU.NET. Two Hungarian FIU officers are designated to take part in the FIU.NET Users' Workshop held in the Hague in January 2009.
- **Europol:** The Central Criminal Investigation Bureau of the HCFG regularly delegates representatives to Europol as trainees working with the liaison officer for a three-month period. During this period of time, the trainees have chance to learn more about the organizational structure, history, legal background and the role of Europol. The trainees also have chance to get acquainted with the real activities of the serious crime departments and analytical work files, to participate in conferences, workshops and trainings organized by Europol. Since October 2006, five trainees have been delegated to Europol.
- **Operation Athena:** In the area of cash control the so-called 'Operation Athena' was organized in the period of September 10-17, 2008 as a joint operation initiated by the French Customs Authority. The HCFG participated in the Operation Athena. The Criminal Directorate of HCFG was designated as a contact point during the operation.
- **FATF:** The representatives of the Hungarian authorities attended the last three FATF Plenary Meetings this year (Paris, London, Rio de Janeiro) as members of the MONEYVAL delegations.
- **MONEYVAL:** The representatives of the responsible Hungarian authorities attended at the MONEYVAL plenary meetings. Representatives of the Hungarian authorities were also participated in delegations of evaluators for MONEYVAL in the Third Round Mutual Evaluation. Responsible Hungarian authorities were also represented at MONEYVAL Typologies meetings.
- **EU Committee:** The representatives of the Hungarian authorities participated in the work of the EU Committee For the Prevention of Money Laundering and Terrorist Financing (CPMLTF).
- **3L3:** Hungarian authorities participated in the activity of the 3L3 Anti Money Laundering Task Force (AMLTF).
- **Study visits:**
 - Four members of the HFIU visited the Romanian FIU in the period of September 7-9, 2008. This study visit enabled the Hungarian FIU to have a better knowledge of the legal background and the organisational structure of the Romanian FIU. Beside of the facts mentioned above, this visit gave a great opportunity for the FIUs to make personal contacts.
 - The HFIU and the HFSA hosted the Moldavian delegation for a study visit on October 16, 2008. The visit created a good opportunity to learn from each other and to make personal contacts.
 - Among 21 Member States, the HFIU has participated in the CEPOL AGIS program hosting two experts from the Polish and Spanish Economic Police for ten days. During this period of time, the Hungarian FIU organized a wide range of programs and possibilities for the two exchangees in order to get a better knowledge on the Hungarian legal system. Beside the participation in the everyday activity of the FIU, the exchangees

had chance to meet and visit the Ministry of Finance, the leaders of banks, prosecutors, the Hungarian Financial Supervisory Authority and to visit other Customs offices, border crossing points etc. The closing event of this CEPOL AGIS program will be held in Vilnius, December 4-5, 2008.

- The HFIU has an extended and active cooperation with the delegated police liaison attachés of the region.
- Study visit of a Russian banking delegation (representatives of 5 banks) gathering information on the Hungarian AML/CFT regulation, requirements of the HFSA, practical issues.

3) Trainings, conferences, consultations, seminars, etc.

a) trainings received by the representatives of the Hungarian authorities

- **Europol:** Two-day long training was held on ML issues for the members of the delegates of the Criminal Investigation Bureau and the Regional Investigation Offices of the HCFG. Presentations were given by the project manager of AWF Sustrans (Europol), a Hungarian prosecutor experienced in ML issues, the head of the Department of Intelligence of the Criminal Investigation Bureau, the Hungarian liaison officer delegated to Europol and the head of the Hungarian FIU.
- **Conferences:**
 - In 2008, four “EU FIU Platform” meetings were organized with the participation of the representatives of 27 member states (16 January 2008; 18 February 2008; 12 June 2008; 8 October 2008). The HFIU participated on the meetings.
 - EU – GCC conference “Seminar on the detection and prevention of money laundering and terrorist financing” was held in Brussels, 14-15 April 2008. The seminar was organized by Slovenia and created a good chance to exchange information and experiences between the representatives of the 27 member states and the Gulf Cooperation Countries. The seminar revealed the common interest of EU and non-EU countries in the field of terrorism financing.
 - “Train the trainees on money laundering” meeting was organized by CEPOL in Lisboa, between 5-9 May 2008. A member of the Criminal Directorate of HCFG took part in the meeting.
 - The Fiscalis Working Group organized a meeting in Dublin focusing on “Using Intelligence to Identify Tax evasion”. The meeting was held between 27-30 May 2008. The seminar was organized for investigators of different organizations, like Tax Authorities, FIUs, financial investigators etc. The meeting focused on practical tactics and methods used during the investigations especially in case of offshore companies. A delegate of the Hungarian FIU took part in the Working Group.
 - Participation on Corporate Fraud and Forensics Conference II. organized by Marcus Evans London. Main topics: Tools and methods for the detection, investigation and prevention of financial frauds, Implementation of EU 3rd Directive, the accuracy and the effectiveness of CDD procedures (7-8 April 2008).
 - IIR Compliance Presentation on the Assessment of Survey on practical issues of Fund Transfer Regulation and Common Understanding.
 - Participation on 3L3 training seminar on Enforcement and Supervision of AML/CFT (27-28 October 2008, Bonn).
 - International Seminar on Combating the Financing of Terrorism (15-17 October 2007) Giessbach, Switzerland organized by the Financial Integrity Network.
 - IAIFA Annual meeting, Fight Against the Fraud in the Insurance Industry (10-11

September 2007), Lisbon.

- FSI Seminar on Supervising Banking institutions Efforts to Prevent Money Laundering and Terrorist Financing, BIS, Basel (25-27 September 2007).
- **Typologies Meetings of MONEYVAL/FATF:** Responsible Hungarian authorities were also represented at MONEYVAL Typologies meetings.
- **MONEYVAL Training Seminar for Evaluators:** The representatives of MoF and HFSA took part at the training seminar held in Strasbourg between 1-3 October 2008.
- **EU-US Seminars organised by EU Presidencies:** Representatives of the MoF, the Ministry of Justice and Law Enforcement and the HFSA participated in the seminar in November 2007. Representatives of MoF, the Ministry of Justice and Law Enforcement, Ministry of Foreign Affairs and the HFSA in May 2008.

b) Trainings held by the Hungarian authorities:

- BACEE (Banking Association for Central and Eastern Europe) conference was held in Budapest on 28-29 January 2008. The representatives of the HFIU, the Ministry of Finance and the HFSA gave presentations on this event.
- 8 consultations were held by the HFSA with supervised institutions in all sectors (banks, insurance companies, saving cooperatives, investment service providers, pension and healthcare funds etc.) on the requirements and practical issues of the AML/CFT internal rules in February 2008. The representatives of the Ministry of Finance and the HFIU also took part and gave presentations on this training.
- Crimalexpo: AML/CFT panel organized by HFSA, Ministry of Finance, FIU, NBH, Hungarian Banking Association and Association of Hungarian Insurance Companies (16 April 2008).
- Consultations by the HFSA with 2 top ranking Hungarian banks' management competent in AML/CFT issues, on measures taken, actions planned and developments (17 April 2008, 28 April 2008).
- The representative of the Ministry of Finance and the HFIU gave presentations for a Regional Chamber of Notaries on money laundering on 5 April. The HFIU continued these presentations for further two Chambers of Notaries on 18 April and 23 May 2008.
- Joint conference with the HFSA on the topic of "New Challenges in the financial sector, common measures on the prevention of financial abuse" was held at the Police Academy on 10 May 2008.
- Presentation for and consultation with Heads of Financial Crime Departments of Police County Headquarter Offices was held with the participation of HFSA on the relevant AML/CFT issues and the main objectives in the prevention of financial crime (Csopak, 28 May 2008).
- Presentation was held for the Hungarian Central Bank by the head of the HFIU on 16 June 2008. Topic: general overview of money laundering.
- A meeting was organized for compliance officers of banks and representatives of Central Criminal Investigation Bureau in order to enhance the cooperation between the banks and HFIU and between banks and criminal investigating authorities. The meeting embraced the issues of information exchange and development of communication channels. The representatives of the Hungarian Banking Association and the HFSA also attended the meeting on 17 July 2008.
- Training was held for the representatives of the Association of the Hungarian Certified Tax Consultants by the head of the HFIU on 26 September 2008.
- A roundtable discussion focusing on the general overview of money laundering was organized for representatives of DNFs on 9 October 2008 where the representatives of HFIU held

presentations on the new legal background, the supervisory task of HFIU and the practical issues.

- Trainings were given for the employees of two different Savings Cooperatives by the representative of the HFIU in October 2008.
- The representatives of the MoF and the HFIU held training for the Hungarian State Treasury on 29 September 2008.
- A joint education/training on money laundering is planned to be given for the investigators of the Regional Investigating Bureaus of the HCFG and for the representatives of the Hungarian Banking Association in November 2008.
- Presentation for and consultation with the Head of Financial Crimes Department of Polish Police in the CEPOL/AGIS International Exchange Programme (organized by European Police College) on the Hungarian AML/CFT regulation and the policy and objectives of HFSA.
- Consultation with the project leader of the “Study for the European Commission on “best practices” in vertical relations between FIUs and ML/TF reporting entities in order to indicate models for feedback on follow-up to and effectiveness of suspicious reports”.
- Presentation for the delegation of Administrative Control Authority of Egypt about the Implementation of EU 3rd Directive, AML/CFT Policies of the HFSA and measures taken.
- Consultations, discussions and presentations in connection with the relevant issues of the implementation of 3rd Directive (China Banking Regulatory Commission, Croatian Financial Services Supervisory Agency, FIU of Romania, Royal Bank of Scotland).
- Consultations, discussions and presentations in connection with the relevant issues of the implementation of 3rd Directive (Banking delegations of Moldova).
- 2nd HFSA Banking Conference, included Banking Security Session (prevention of frauds, AML/CFT issues, KYC and CDD procedures, risk based approach), 6-7 November 2007.
- 2nd and 3rd HFSA-Police Academy Conference on the implementation of EU 3rd Directive and on fight against financial abuses (12 November 2007; 10 November 2008). Participants: Compliance officers and internal auditors of all supervised financial sectors, Police, FIU, Customs and Financial Guard, Tax Administration, Hungarian Competition Authority, National Bank of Hungary).
- Presentation on the Prevention of Financial Fraud Conference organized by IIR (25-26. September 2007). KYC and CDD issues for the prevention of fraud.
- Consultations with prudential departments giving aspects and methods in relation of supervising the compliance of the AML/CFT regulation and practices of financial institutions.
- Workshop organised by the HFSA on the Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.
- Presentation for the Russian Banking Delegation on the aspects and objectives of HFSA regarding AML/CFT. Organised by BACEE 14 November 2008.

4) Supervisory activities

FIU’s supervision consists of handling the incoming internal rules sent by service providers and carrying out on-site visits. As for assessing the received internal rules from the service providers, the HFIU carried out 283 measures until 1st October, 2008. According to the Action Plan on HFIU’s supervision for the year 2008 at least 20 on-site inspections has to be taken.

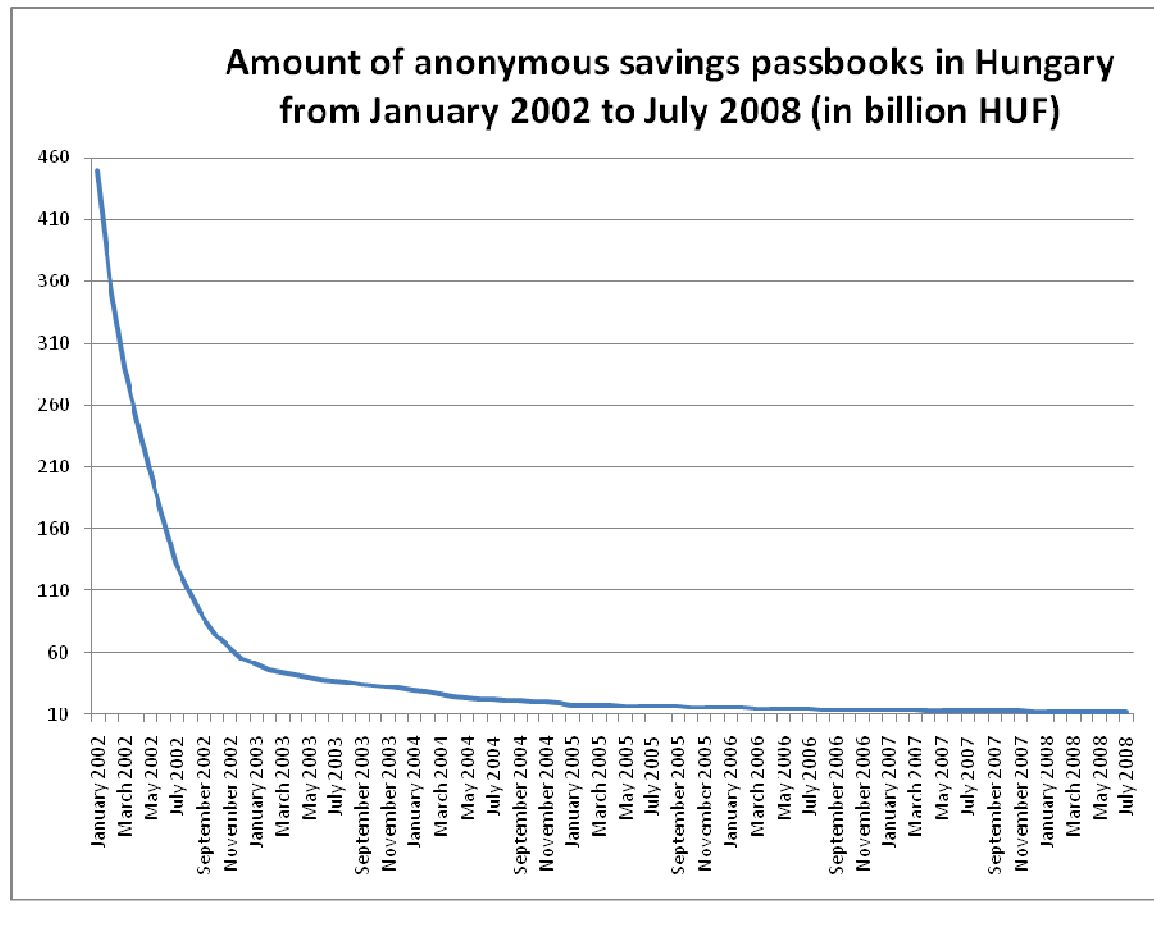
The HFSA reacts to and gives assistance for a numerous inquiries from the financial institutions in relation of practical and interpretation issues regarding the adaptation of new AML/CFT regulation

(internal regulation, client profile, the procedure of identification of beneficiary owner, reporting system, etc.). Main supervisory activities of the HFSA in respect of AML/CFT include:

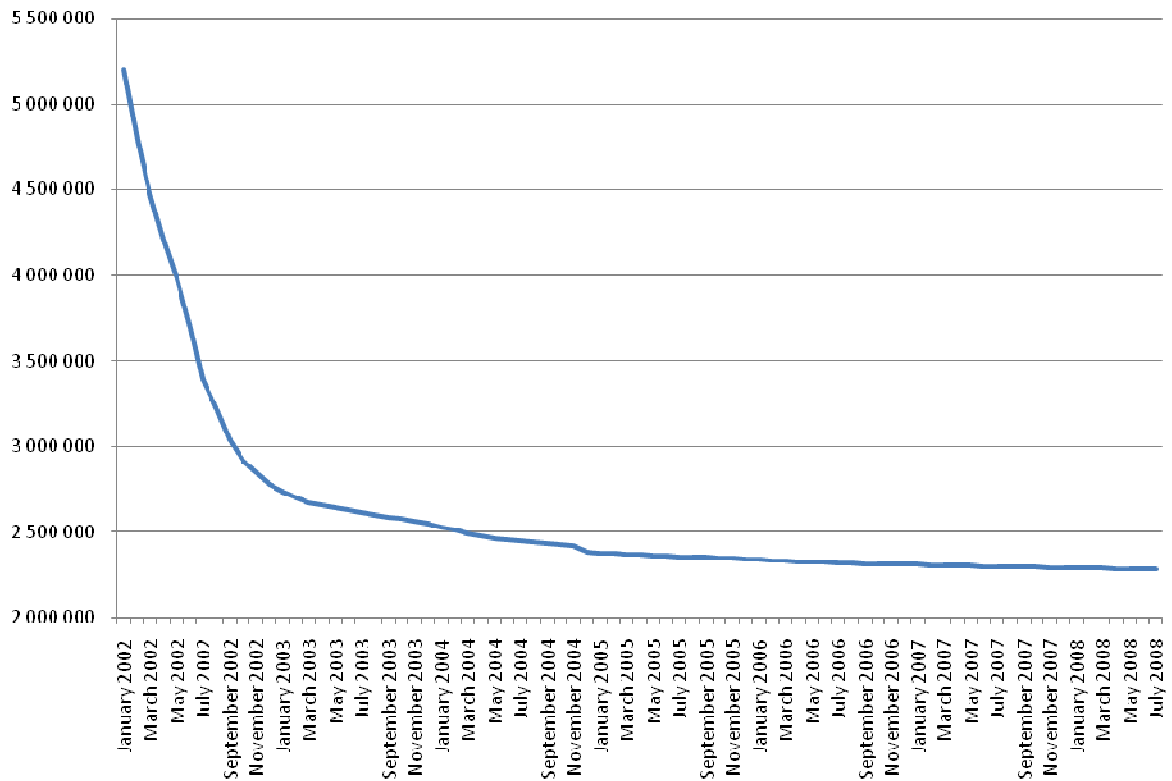
- specific and comprehensive on- and off-site examinations focusing on compliance with AML/CFT duties (2006: 13, 2007: 12, 2008: 21);
- daily co-operation with FIU and Tax Administration and other investigative authorities;
- approval of internal AML/CFT regulations;
- follow-up to the modification of the internal regulations and to the strengthening of the control of compliance officers regarding intraday transactions and overdrafts in respect of the reputational and AML risks.

5) Further developments in the demobilized stock of anonymous savings passbooks

The HFSA continuously monitors the trend of the remaining stock of anonymous savings passbooks. The balance of anonymous savings passbooks shows a permanently descending tendency towards zero the actual balance being the equivalent of EUR 46 million and the average balance being just over 20 EUR.



Number of anonymous savings passbooks in Hungary from January 2002 to July 2008



According to the provisions of Law-Decree 2 of 1989 on savings passbooks, any transaction with anonymous saving passbooks is bound to full customer identification and verification and conversion into registered savings passbook.

2. Key recommendations

Please indicate which improvements 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: Largely Compliant	
Recommendation of the MONEYVAL Report	<i>Enlarge the scope of the Money Laundering offence so that it covers all the circumstances set forth by the Vienna and Palermo Conventions.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	The Action Plan reflects this recommendation of the IMF/Moneyval report in its first part (legislative tasks) and laid down the task to amend the money laundering offence in order to be fully compliant with the Vienna and Palermo Conventions. The draft of the new provisions on money laundering (Section 303-303/B of the HCC) has been prepared. They enlarge the scope of the money laundering offence. The new provisions will cover the transfer of proceeds to a third party even if it carried out through a non-banking or non-financial transaction, the disguise or concealment of the true origin will be covered also. The provisions are part of a broader draft bill on the amending of the HCC. According to our present timetable, it will be sent out for an expert discussion at the end of September, submitted to the Government at the end of October this year.
Measures taken to implement the recommendations since the adoption of the first progress report	The Bill was adopted by the Parliament by Act XXVII of 2007. Art. 24 and 25 of Act XXVII has amended Art. 303 and 303/A of the Hungarian Criminal Code (HCC) on money laundering, the amended version entered into force on 1 st June 2007. The present text on money laundering in the HCC is the following: Money Laundering <i>Section 303.</i> <i>(1) Any person who, in order to conceal the true origin of an object obtained from criminal activities committed by others, that is punishable by imprisonment:</i> <i>a) converts or transfers the object in question, or uses in his business activities;</i> <i>b) conceals or dissimulates any right attached to the object or any changes in this right, or conceals or dissimulates the place where the object can be found;</i> <i>c) performs any financial transaction or receives any financial service in connection with the object is guilty of felony punishable by imprisonment of up to five years.</i> <i>(2) The punishment in accordance with Subsection (1) shall also be imposed upon any person who, in connection with an object obtained from criminal activities, that is punishable by imprisonment, committed by others:</i> <i>a) obtains the object for himself or for a third person;</i> <i>b) safeguards, handles, uses or consumes the object, or obtains other financial assets by way of or in exchange of the object, or by using the consideration received for the object</i> <i>c) if being aware of the true origin of the object at the time of commission.</i> <i>(3) The punishment in accordance with Subsection (1) shall also be imposed upon any person who, in order to conceal the true origin of an object that was obtained from criminal activities that is punishable by imprisonment:</i> <i>a) uses the object in his business activities;</i> <i>b) performs any financial transaction or receives any financial service in connection with the object.</i> <i>(4) The punishment shall be imprisonment between two to eight years if the money laundering specified under Subsections (1)-(3):</i> <i>a) is committed in a pattern of business operation;</i> <i>b) involves a substantial or greater amount of money;</i> <i>c) is committed by an officer or employee of a financial institution, investment firm, commodities</i>

	<p><i>broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, or an organization engaged in the operation of gambling activities;</i></p> <p><i>d) is committed by a public official in an official capacity;</i></p> <p><i>e) is committed by an attorney-at-law.</i></p> <p><i>(5) Any person who collaborates in the commission of money laundering as specified under Subsections (1)-(4) is guilty of misdemeanor punishable by imprisonment of up to two years.</i></p> <p><i>(6) The person who voluntarily reports to the authorities or initiates such a report shall not be liable for prosecution for money laundering as specified under Subsections (1)-(5), provided that the act has not yet been revealed, or it has been revealed only partially.</i></p> <p><i>Section 303/A.</i></p> <p><i>(1) Any person who, in connection with an object obtained from criminal activities, that is punishable by imprisonment, committed by others:</i></p> <p><i>a) uses the object in his business activities;</i></p> <p><i>b) performs any financial transaction or receives any financial service in connection with the object, and is negligently unaware of the true origin of the object is guilty of misdemeanor punishable by imprisonment of up to two years, community service work, or a fine.</i></p> <p><i>(2) The punishment shall be imprisonment for misdemeanor for up to three years if the act defined in Subsection (1):</i></p> <p><i>a) involves a substantial or greater amount of money;</i></p> <p><i>b) is committed by an officer or employee of a financial institution, investment firm, commodities broker, investment fund manager, venture capital fund manager, exchange market, clearing house, central depository, body acting as a central counterparty, insurance company, reinsurance company, voluntary mutual insurance fund, private pension fund or an institution for occupational retirement provision, or an organization engaged in the operation of gambling activities;</i></p> <p><i>c) is committed by a public official in an official capacity.</i></p> <p><i>(3) The person who voluntarily reports to the authorities or initiates such a report shall not be liable for prosecution for money laundering as specified under Subsections (1) and (2), provided that the act has not yet been revealed, or it has been revealed only partially.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Harmonize Article 303 and 303A so that the same definition of “item” will be formally applicable to both provisions.</i></p>
<p>Measures reported as of 5 September 2006 to implement the Recommendation of the Report</p>	<p>Section 20 of Act XCI of 1995 on the amendment of the Criminal Code solved this issue by introducing a new definition in Section 303/C, which explicitly covers Section 303/A the same way as Section 303 as far as the definition of “item” is concerned. The new provision entered into force on the 1st September 2005. The text of the new article is the following:</p> <p><i>“Interpretative Provision</i></p> <p><i>Section 303/C.</i></p> <p><i>In the application of Sections 303 and 303/A, the term ‘thing’ shall also cover instruments embodying rights to some financial means and dematerialized securities, that allows access to the value stored in such instrument in itself to the bearer, or to the holder of the securities account in respect of dematerialized securities.”</i></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The correct reference for the above mentioned Act is Act XCI of 2005 and not 1995. Otherwise the recommendation was implemented.</p>

(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	
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Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Largely Compliant	
Recommendation of the MONEYVAL Report	<i>Measures need to be taken to require full information for the identification of beneficial owners, for example by the AML Act and the supervisory rules by the Hungarian Financial Supervisory Authority (HFSA).</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>On the basis of the Action Plan an impact study has been prepared by the MoF (in collaboration with the other relevant Hungarian authorities) in order to better address certain issues of the beneficial ownership in the Hungarian AML legislation. The Anti-Money Laundering Interministerial Committee adopted the impact study in February 2006.</p> <p>The MoF reviewed the current Hungarian legislation concerning the identification process of the customer and the beneficial owner (data required for the identification in the AML Act, definition of the customer and the beneficial owner); featured the statements of the IMF/Moneyval report concerning the Hungarian situation; analyzed the international requirements concerning this topic; as well as made proposals for the necessary measures.</p> <p>[Section 6 of the AML Act provides that the customer is required to provide a written statement to the service provider stating whether he is acting in his own name or in the name and on behalf of the beneficial owner. If the customer declares that he is acting in the name and on behalf of a beneficial owner, the written statement shall contain the name and address of the beneficial owner. Under section 5 of the AML Act more detailed information are required for the identification of a customer (who comes directly to the service providers).</p> <p>The IMF/Moneyval report consider the treatment of the beneficial owner as a weakness in an otherwise robust CDD and record-keeping system, without reasons to justify such difference in the type and amount of information for the identification. According to the report this significant difference need to be better justified.]</p> <p>The conclusion of the review and the proposals for measures determined in the impact study are the following:</p> <p>Hungary is addressing the issue of the beneficial ownership in the context of the implementation of the Third EU AML/CFT Directive. It is necessary to review comprehensively and amend the current legislation concerning the beneficial owner and the implementation, especially considering the “beneficial owner” definition of the new directive.</p> <p>Under this review it would be necessary:</p> <ul style="list-style-type: none"> • consultation with the financial institutions and the DNFBPs about their experiences in relation to the current legislation and the necessary/possible amendments (interpretation of the current “beneficial owner” definition in the AML Act, whether the required data are sufficient for the identification without doubt etc.); • review the differences between the provisions of the Third EU AML/CFT Directive and the current Hungarian laws, and subsequently the amendment of the AML Act and other relevant laws/regulations.

<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The AML/CFT Act implemented the Third EU AML/CFT Directive. The new AML/CFT Act keeps the declaration system of the previous Act, requiring a written statement stating whether the customer is acting in his own name or in the name and on behalf of the beneficial owner. The written statement shall contain the minimum data: the name, address and citizenship of the beneficial owner. The text of Section 3 Point r) of the AML/CFT Act is as follows:</p> <p><i>‘r) beneficial owner:</i></p> <p>ra) that natural person, who has acquired at least twenty-five per cent of the voting rights or ownership ratio in a legal person or in an organisation without legal personality, if the legal person or the organisation without legal personality is a corporate entity, non-listed on the regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards,</p> <p>rb) that natural person, who has determining influence (control), determined in Subsection (2) of Section 685/B of Act IV of 1959 on the Civil Code (hereinafter: CC), in a legal person or an organisation without legal personality,</p> <p>rc) that natural person, whose behalf some kind of transaction order is executed based on assignment, and</p> <p>rd) regarding foundations, that natural person,</p> <ol style="list-style-type: none"> 1. who is the beneficiary of at least twenty-five per cent of the assets of the foundation, if the future beneficiaries are already determined; 2. in the interest of whom the foundation was established, or the foundation is operated, if the beneficiaries have not been determined yet, or 3. who is a member of the managing organisation of the foundation, or who exercises a determining influence (control) above at least twenty-five per cent of the assets of the foundation, or who acts representing the foundation;’ <p>The HFSA renewed its model rules and held consultations in this topics. Customers must declare who the beneficial owner is, and service providers must verify the applicability of their declaration in publicly available databases. In case the service provider is in doubt about the adequacy of the declaration, it must call upon the customer to make a new declaration. In case there is no beneficial owner according to the Third EU AML/CFT Directive, a company may declare, that it proceeds in its own behalf. The service provider must refuse to carry out transactions following 1 January 2009 for customers (who entered into business relationship with the service provider before the 15th December 2007) whose declaration on the beneficial owner does not comply with the AML/CFT Act (or other CDD data is missing).</p> <p>Due to the AML/CFT Act the service provider is able to decide on a risk sensitive basis whether to record the minimum or maximum data of the customer and the beneficial owner, information on the intended nature of the business relationship, and conducting ongoing monitoring.</p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p>	<p>HFSA and the MoF held a number of consultations in these topics to explain service providers the correct process to ensure, that beneficial owner data is provided appropriately. Service providers are required to lay down internal rules relating to discharging their functions conferred in this Act. The supervisory bodies determined under Section 5 shall provide non-binding model rules as recommendations - in collaboration with the national financial intelligence unit and in agreement with the minister of finance - for drawing up the internal rules. Empowered by the AML/CFT Act the Minister of Finance issued Ministerial Decree 35/2007 (XII. 29.) on the Compulsory Elements of the Internal Rules. The Decree serves as a guidance for the service providers when preparing their internal AML/CFT rules and gives an exhaustive list on the elements and issues which must be incorporated and governed in the internal rules of each service provider that falls under the scope of the AML/CFT Act. The 35/2007 Ministerial Decree determines the compulsory elements in line with the requirements of</p>

the new AML/CFT Act that the internal rules shall contain e.g. measures and procedures on the identification and verification of the customer as well as the beneficial owner.

**Recommendation 5 (Customer due diligence)
II. Regarding DNFBP²**

Recommendation of the MONEYVAL Report	<i>The rules and practices of notaries should be reviewed to ensure that the notary collects full CDD information for any third party to whom he or she may transfer money, valuables, or securities and to see if all the exemptions for “non-trial procedure” are appropriate.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>On the basis of the Action Plan an impact study has been prepared by the MoF (in collaboration with the other relevant Hungarian authorities, especially with the Ministry of Justice) in order to review the rules and practices of notaries in order to collect full CDD information for any third party to whom he or she transfers money, valuables and securities. The impact study is also dealing with the issue of the exemption for “non-trial procedure”. The Anti-Money Laundering Interministerial Committee adopted the impact study in February 2006.</p> <p>The MoF reviewed the current Hungarian legislation applicable to notaries (special provisions in the AML Act, definition of the customer, relevant provisions of the Act XLI of 1991 on Notaries); summarized the statements of the IMF/Moneyval report concerning the Hungarian situation; analyzed the international requirements; as well as drew the conclusions and made proposals for the necessary measures.</p> <p>[The special provisions applicable to notaries are specified in Section 14-15 in the AML Act. They shall be subject to the obligation of identification and reporting as laid down in the general sections of the AML Act on any client who engages in their services for: a) the purchase or sale of equity participations in business associations or other business entities; b) the sale or purchase of real property; c) the establishment, operation, or termination of business associations or other business entities. Such identification and reporting requirements also apply when the notaries carry out custody. In these cases the notaries are obliged to identify the customer (and his proxy or any other authorized representative). Act XLI of 1991 on Notaries stipulates a series of conditions for the custody of instruments, money, and valuables, as well as presents rules for transferring such items to a third party, however it does not specifically stipulate that the notary should record the identity of the third party. According to the IMF/Moneyval report Hungary should review this procedure to ensure that the identification of the third party is taken as a matter of common practice.</p> <p>Notaries are exempt from the requirements of the AML Act in certain cases specified in Section 14. One of these cases when they are conducting a “non-trial procedure,” which refers to probate action, nullifying securities, and deleting a mortgage.</p> <p>According to the IMF/Moneyval report Hungary should reviewed whether the latter two exemptions are reasonable/justified.]</p> <p>The conclusions of the review and the proposals for measures determined in the impact study are the following:</p> <ul style="list-style-type: none"> - The definition of the “customer” in the AML Act [an entity concluding a contract with the service provider for the use of services within the scope of activity of the service provider (regular customer) or giving a transaction order to the service provider (occasional customer)] mostly can be applied for the mentioned persons (third parties), however in certain cases these persons (third parties) can not be considered as a customer according to the AML Act. <p>It will be indispensable to review the definition of the “customer” in the AML Act and to amend/extend it in case of necessity.</p> <ul style="list-style-type: none"> - It is necessary to review the categories of the non-trial procedure by the relevant Hungarian authorities in the case of notaries. - Hungary is addressing these issues (review, as well as the necessary amendments in the AML Act and

² i.e. part of Recommendation 12.

	in the other relevant laws, regulations) in the context of the implementation of the Third_EU AML/CFT Directive.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>In line with the Third EU AML/CFT Directive the AML/CFT Act collects full CDD information for any of his customers. The AML/CFT Act keeps the determined declaration system of the previous AML Act, requiring a written statement stating whether the customer is acting in his own name or in the name and on behalf of the beneficial owner.</p> <p>Normal CDD measures are required due to the new AML/CFT Act regarding notaries, due to the Act XLI of 1991 on notaries (Article 122), within normal CDD the maximum data shall be recorded in accordance with the activities of the notaries.</p> <p>AML/CFT Act Section 3. s) customer: <i>who signs a written contract with the service provider for using the service within the scope of activities indicated in Subsection (1) of Section 1, or who places a transaction order for the service provider;</i></p> <p>In line with the Directive AML/CFT Act determines differentiated provisions for attorneys or notaries. Special Provisions Relating to Attorneys and Notaries Public Section 36 <i>(2) The customer due diligence and reporting requirements prescribed in this Act shall apply to notaries public - with the exception set out in Subsection (4) - if he provides safe custody services or if he provides notarial services in connection with the preparation and execution of the following transactions in accordance with the NPA:</i></p> <ul style="list-style-type: none"> <i>a) buying or selling any participation (share) in a business association or other economic operator;</i> <i>b) buying or selling real estate properties;</i> <i>c) founding, operating or dissolving a business association or other economic operator.</i> <p><i>(4) The obligations prescribed in this Act shall not apply to notaries public:</i></p> <ul style="list-style-type: none"> <i>a) in the event of obtaining any information, or learning about any fact or circumstance suggesting money laundering or terrorist financing while providing legal advice relating to the opening of such proceedings;</i> <i>b) in connection with nonjudicial proceedings.</i>
Recommendation of the MONEYVAL Report	<i>As with financial institutions, the DNFBP beneficial owner identification process should be strengthened both in the AML legislation and in the various directives and guidelines to require full information for legal and natural persons.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers to Recommendation 5., regarding financial institutions.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The AML/CFT Act implemented the Third EU AML/CFT Directive, DNFBPs have to fulfil full CDD measures. The new AML/CFT Act keeps the declaration system of the previous AML Act, requiring a written statement stating whether the customer is acting in his own name or in the name and on behalf of the beneficial owner.</p> <p>The written statement shall contain the minimum data: the name, address and citizenship of the beneficial owner.</p> <p>The AML/CFT Act determines further requirements on internal system and policies, training, education and the preparation of internal rules.</p> <p>Service providers with employees are required to establish adequate and appropriate policies and procedures of customer due diligence, reporting, record keeping, internal control and information systems in order to forestall and prevent business relationships, transactions and operations related to money laundering or terrorist financing.</p>

	Service providers are required to take appropriate measures so that their relevant employees are aware of the provisions in force relating to money laundering and terrorist financing, that they are able to recognize operations, business relationships and transactions which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases when noticing information, facts or circumstances that may suggest money laundering or terrorist financing. Service providers are required to take appropriate measures so that their relevant employees are aware of the provisions of the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests, so that they are able to proceed in accordance with the provisions contained therein. Service providers are required to ensure the participation of their relevant employees in special ongoing training programs.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	Service providers are required to lay down internal rules relating to discharging their functions conferred in this Act. The supervisory body mentioned under Section 5 shall provide non-binding model rules as recommendations - in collaboration with the national financial intelligence unit and in agreement with the minister - for drawing up the internal rules. The 35/2007 Ministerial Decree determines the compulsory elements in line with the requirements of the new AML/CFT Act that the internal rules shall contain e.g. measures and procedures on the identification and verification of the customer as well as the beneficial owner.

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

Rating: Compliant

Measures reported as of 5 September 2006 to implement the Recommendation of the Report	The Hungarian system (rules and practices) concerning record keeping is fully compliant with the current international requirements (FATF Recommendations and EU Directives). Accordingly there have not been any changes in this field since the last IMF/Moneyval evaluation.
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**Recommendation 10 (Record keeping)
II. Regarding DNFBP³**

Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answer above.
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**Recommendation 13 (Suspicious transaction reporting)
I. Regarding Financial Institutions**

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Further measures are needed to improve the capabilities of financial institutions to detect STRs related to ML and FT, and to improve the quality of STRs, for example, by conducting trainings for the Service Providers.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the	I. The Action Plan contains several tasks in its part of “III. Training, consultation” in order to reflect these recommendations of the IMF/Moneyval report and these problems concerning the financial institutions. The Hungarian authorities responsible for AML/CFT issues organized several conferences, trainings

³ i.e. part of Recommendation 12.

Report	<p>and gave presentations for the service providers during the second half of 2005 and in 2006, as follows.</p> <p><u>NPHQ</u></p> <ul style="list-style-type: none"> - The Hungarian FIU organized conferences in 2005 and 2006 for the service providers and the Hungarian authorities on the reporting obligation required by the AML Act and in order to enhance the quality of STRs provided by the financial institutions. - The Hungarian FIU regularly organizes presentations (upon invitations) for the bank sector, service providers and the Hungarian Police Academy on the possible improvement of the prevention of ML and FT. <p><u>HFSA</u></p> <ul style="list-style-type: none"> - The HFSA introduced the expected requirements, problems and impact of the Third EU AML/CFT Directive to the representatives of the Banking Association (August 2005). - The HFSA has issued several opinions on the questions raised by the bank sector concerning the Third EU AML/CFT Directive: PEP, risk-based approach in customer due diligence and verification, data basis, IT device, CDD, corporate criminal liability, etc. - Fraud Management for financial institutions and services – training with the assistance of HFSA lecturers (28 September 2005) - Conference for the financial sector organized by the HFSA and the Police Academy on the changes of the financial world due to the international requirements and the AML/CFT tasks of the supervisory authorities (September 2006) - Fraud and Money Laundering Conference (17-18 October 2006) <p><u>MoF</u></p> <ul style="list-style-type: none"> - The MoF has updated its official website: information on anti-money laundering and combating terrorist financing measures and relevant domestic, European and international legal sources are available on it. - Consultations on the implementation of the Third EU AML/CFT Directive with the members of the AML Interministerial Committee, the representatives of state or professional supervisory authorities, as well as the service providers (in the second half of 2006). - Consultations on the implementation of the “funds transfer” regulation with the relevant Hungarian authorities (14 July 2006) and the representatives of the relevant service providers (September 2006). <p>II. Furthermore the Action Plan laid down the obligation in part “I. Legislative task” to create a proportionate sanction system for both willful and negligent non-reporting of suspicious transactions under the Section 303/B of the HCC.</p> <p>[According to the IMF/Moneyval report the STR system in Hungary is producing a high volume of relatively low quality of STRs from financial institutions. The potential over-reporting could be linked to the criminal liability for both willful and negligent non-reporting under the HCC, especially to imposing terms of imprisonment for negligent non-reporting. It was recommended that the penalties for non-reporting be more proportionate.]</p> <p>The draft of the new provisions on failure to comply with the reporting obligation related to money laundering has been prepared. According to the draft, the punishment will be reduced from up to three years imprisonment to up to two years imprisonment in the case of intentional failure, and from up to two years imprisonment to up to one year imprisonment, community service work or fine in the case of negligent failure to report. These provisions are part of the same draft bill which was mentioned in the case of the amendment of the money laundering offence at Recommendation 1.</p> <p>According to our present timetable, it will be sent out for an expert discussion at the end of September, submitted to the Government at the end of October 2006.</p>
Measures taken to implement the recommendations since the adoption of	The AML/CFT Act provides for special rules on internal control and policies which supports the capabilities of financial institutions to detect STRs. The Act makes the service provider responsible for providing trainings for the employees. The supervisory authorities control the existence of such internal rules and policies:

the first progress report

Internal Control and Information Systems, Special Training Programs

Section 31

Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to establish adequate and appropriate policies and procedures of customer due diligence, reporting, record keeping, internal control and information systems in order to forestall and prevent business relationships, transactions and operations related to money laundering or terrorist financing.

Section 32

(1) Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to take appropriate measures so that their relevant employees are aware of the provisions in force relating to money laundering and terrorist financing, that they are able to recognize operations, business relationships and transactions which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases when noticing information, facts or circumstances that may suggest money laundering or terrorist financing.

(2) Service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to take appropriate measures so that their relevant employees are aware of the provisions of the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests, so that they are able to proceed in accordance with the provisions contained therein.

(3) In order to discharge the obligations set out in Subsections (1)-(2), service providers with employees participating in carrying out the activities listed under Subsection (1) of Section 1 are required to ensure the participation of their relevant employees in special ongoing training programs.

Internal Policies

Section 33

(1) Service providers are required to lay down the rules relating to discharging their functions conferred in this Act in internal policies (hereinafter referred to as "by-laws").

(2) The competent supervisory body mentioned under Section 5 shall grant approval for the by-laws if they contain the mandatory contents set out in this Act and in the decree implementing it, and if they are not contrary to any legal regulation.

(3) The supervisory body mentioned under Section 5 shall provide non-binding recommendations based on standard by-law models - in collaboration with the national financial intelligence unit and in agreement with the minister - for drawing up the by-laws.

(4) Service providers engaged in trading in goods may undertake to discharge the obligations set out in this Act by submission of the by-laws to the authority of trade and commerce. The authority of trade and commerce shall grant approval for the by-laws and, at the same time, register the service provider in question. Only registered service providers engaged in trading in goods shall be authorized to accept cash payments of three million six hundred thousand forints or more.

35/2007 Ministerial Decree also determines measures and procedures for the internal system as well as for the improving of the quality and reducing the quantity of the STRs sent to the HFIU.

According to the Section 23 Subsection 10 of AML/CFT Act the HFIU is in charge of publishing on its website each half year information about the efficiency of STRs and its proposals on promoting the efficiency of STRs. The HFIU published this information on its website in June 2008. Publishing annually the statistical data collected by the HFIU (according to the Section 28 Subsection 5 of the AML/CFT Act) is also a tool of this general feed-back for the financial service providers.

According to the AML/CFT law the HFSA issued a set of Model Rules for each types of supervised institutions, which contain detailed typology of suspicious cases. Publication of AML/CFT Recommendation and Guidance was fulfilled by HFSA. Consultations on implementation and practical issues of the 3rd Directive were organised with financial service providers, Ministry of Finance, regulatory authorities and the FIU.

Recommendation of the MONEYVAL Report	<i>Reporting STRs should be in electronic format.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>The question of reporting STRs in electronic format is covered in the 2nd part (II. Impact studies) of the Action Plan.</p> <p>In June 2006 the HFSA and FIU held discussions in view of launching a program for the electronic format of reporting, screening and statistics system. HFSA has provided financial, professional and IT assistance and the related supervisory support for the introduction of electronic STRs to the FIU.</p> <p>Other meeting on the introduction of the electronic STRs:</p> <ul style="list-style-type: none"> - Conference on cooperation of financial institutions and the FIU (Experts of the HFSA, of the National Bank of Hungary and of the MoF were also present) in June 2006. <p>Changes of technical aspects:</p> <p>New computers, server and other technical equipment have been provided for the FIU, which are essential to receive the STRs in electronic form, and to develop the new program for receiving and handling them. This makes possible to change the program called MONSTER, and implement new functions required (statistics, automatic checks and analysis).</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The AML/CFT Act determines that STRs shall be sent only in electronic format from the 15th December 2008.</p> <p><i>“Service providers shall dispatch the aforementioned report to the national financial intelligence unit in the form of a secure electronic message. Where the service provider submits the report to the national financial intelligence unit in the form of a secure electronic message, the national financial intelligence unit shall dispatch a read receipt by way of electronic means without delay to the sending service provider.”</i></p>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	<p>According to the amendment of the AML/CFT Act which comes into force on 15 December 2008, the service providers are obliged to send their STRs in electronic format. Therefore, the HCFG commenced a project for developing the system of sending STRs in electronic format. (The Hungarian Banking Association and the major banks are also involved into the project-work.</p> <p>The system is <u>under testing</u> period and expected to operate as a pilot project between 15 November and 14 December 2008 and it shall be officially used from 15 December 2008. HFSA provided financial and professional support for the FIU for the development of the new electronic reporting and monitoring system.</p> <p>There were more consultations held by HFIU on the electronic format of reporting STR.</p>

Recommendation 13 (Suspicious transaction reporting)
II. Regarding DNFBP⁴

Recommendation of the MONEYVAL Report	<i>Active measures should be taken to increase the quantity and quality of STR reporting from the DNFBPs. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBPs that are not organized within SROs to overcome existing habits and to ensure that all service providers are aware of their responsibilities.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>See our answers above (Recommendation 13., regarding financial institutions).</p> <p>Additional information:</p> <p>I. In the second half of 2005 the Internal Regulation of the Chief Commissioner and the General Director of the NPHQ was amended. Accordingly, the supervision of DNFBPs having no professional or state supervision (e.g. the accountants) has been strengthened due to the more precise provisions on on-site inspections conducted with the assistance of the regional police headquarters. This measure contributes to the increasing of the quality and quantity of the STRs. Moreover the level of the direct contact and communication with the 19 regional county police headquarters and the service providers has improved.</p> <p>Due to the more effective mutual discussion, consultation and the on-site inspections, the</p>

⁴ i.e. part of Recommendation 16.

	<p>representatives of DNFBPs have possibility to get answers for their questions and communicate with the competent person directly.</p> <p>In order to facilitate this process a conference was organised by FIU in June 2006 where the representatives of all the county police headquarters were invited. One of the main aims of the conference was to disseminate the relevant information for those subordinates who are responsible for on-site inspections themselves. (The main objectives of the conference was to gather different representatives of ministries, competent authorities, banks, police headquarters, etc who are responsible for anti-money laundering to discuss the improvements, possibilities, problems in the daily work of the prevention and combating MI/FT)</p> <p>Furthermore, the Hungarian FIU has prepared a guidance which gives an overall instruction concerning the on-site inspections, and the recognition of the money laundering and terrorist financing offences.</p> <p>II.</p> <p>Besides, in order to enhance the quality of STRs sending by the DNFBPs and to improve the communication between DNFBPs and the legal authorities, the Hungarian FIU has got in touch with the competent department of the MoF. This department is responsible for preparing and organizing the yearly compulsory education program for the accountants. It was agreed to organize a workshop has been planed and is being prepared on AML/CFT matters which will be carried out with the assistance and participation of the FIU.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The AML/CFT Act determines further requirements on internal system and policies, training, education and the preparation of internal rules.</p> <p>In order to enhance the quality of STRs sending by the DNFBPs and to improve the communication between DNFBPs and the legal authorities, since 2007 the AML/CFT regulations and implementation measures are involved in the compulsory education program for the accountants. Besides the compulsory education other consultations were held by MoF and the FIU for accountants, tax advisors and tax experts where FIU focused on the deficiencies regarding STRs in practise and the suggestions to improve the quality as well. Due to the changes of the legal background slight improvement in the quality and the quantity regarding DNFBPs could be seen.</p> <p>The information and data regarding STRs on the website of HFIU will be responsible for further improvement.</p> <p>Section 29</p> <p><i>(1) The national financial intelligence unit shall ensure that it is able to review the effectiveness of its systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems.</i></p> <p><i>(2) The register specified in Subsection (1) shall contain:</i></p> <p><i>a) the number of suspicious transaction reports made under Section 23, and the number of disclosures;</i></p> <p><i>b) the number of transactions suspended under 24;</i></p> <p><i>c) the number of cases for the freezing of assets in connection with terrorist financing under the Act on the Implementation of Restrictive Measures Imposed by the European Union Relating to Liquid Assets and Other Financial Interests and the number of cases for the freezing of assets by court order, and the forint value of the funds and economic resources frozen by court order;</i></p> <p><i>d) the number of suspicious transaction reports made under Section 23 upon which the national financial intelligence unit took any action, and the number of cases investigated and prosecuted;</i></p> <p><i>e) the number of cases investigated for suspicion of money laundering (Sections 303-303/A of the Criminal Code) and acts of terrorism (Section 261 of the Criminal Code), and the number of suspects;</i></p> <p><i>f) in the criminal proceedings referred to in Paragraph e):</i></p> <p><i>fa) the number of cases and the number of persons prosecuted;</i></p> <p><i>fb) the number of court verdicts and the number of persons convicted, the number of cases where any property has been frozen, seized or confiscated, the value of property seized or confiscated, and how much property has been frozen, seized or confiscated.</i></p>

Recommendation of the MONEYVAL Report	<i>A clear legal basis for the obligation to report suspicious transactions relating to the financing of terrorism should be established</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers at Special Recommendation IV.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The scope of the new AML/CFT Act was extended to terrorism financing. Clear legal basis is provided in the AML/CFT Act, which declares that:</p> <p>Reporting Obligations Section 23</p> <p><i>(1) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the person(s) defined in Paragraph b) of Subsection (2) of Section 1 shall, without delay, file a report to the person referred to in Subsection (2) of this Section. The report shall contain:</i></p> <p><i>a) the data and information the service provider has recorded pursuant to Sections 7-9; and</i> <i>ef description of the information, fact or circumstance suggesting money laundering or terrorist financing.</i></p> <p><i>(2) Service providers shall, depending on the structure of the organization, designate one or more persons (hereinafter referred to as “liaison officer”) to forward without delay the reports received from the persons referred to in Paragraph b) of Subsection (2) of Section 1 to the national financial intelligence unit. Service providers are required to notify the national financial intelligence unit concerning the appointment of the liaison officer, including the name and the position of such officer, and any subsequent changes therein, within five working days of the date of appointment or the effective date of the change.</i></p> <p><i>(3) Service providers shall dispatch the aforementioned report to the national financial intelligence unit in the form of a secure electronic message, by way of fax or registered mail with certified delivery. Where the service provider submits the report to the national financial intelligence unit in the form of a secure electronic message, the national financial intelligence unit shall dispatch a read receipt by way of electronic means without delay to the sending service provider. If the liaison officer is of the opinion that any delay is likely to jeopardize the success of processing the report by the national financial intelligence unit, the report dispatched in the form of a secure electronic message, by way of fax or registered mail with certified delivery shall be called in to convey the information contained in the message in advance.</i></p> <p><i>(4) Prior to dispatch of the report referred to in Subsection (2), the service provider may not carry out a transaction.</i></p> <p><i>(5) The service provider shall comply with the obligation of reporting referred to in Subsection (2) after carrying out the transaction, if the carrying out of the transaction cannot be prevented as under Subsection (4) or the filing of the report before carrying out the transaction is likely to jeopardize efforts to trace the beneficial owner as part of an impending investigation.</i></p> <p><i>(6) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have powers to make a request - acting under its own initiative or in order to fulfill the requests made by a foreign financial intelligence unit - to a service provider for data and information that are considered bank secrets, securities secrets, fund and insurance secrets, occupational retirement pension secrets, and trade secrets with respect to service providers engaged in the activity referred to Paragraph e) of Subsection (1) of Section 1, which the service provider must supply.</i></p> <p><i>(7) In the event of noticing any information, fact or circumstance that may suggest money laundering or terrorist financing, the national financial intelligence unit shall have powers to make a request - acting under its own initiative or in order to fulfill the requests made by a foreign financial</i></p>

	<p><i>intelligence unit - to the tax authority or the customs authority for data and information that are considered tax secrets or customs secrets, which the tax authority or the customs authority must supply.</i></p> <p><i>(8) Pursuant to Subsections (6)-(7), the national financial intelligence unit may release data and information to a foreign national financial intelligence unit if it is able to guarantee equivalent or better legal protection of such data and information than the protection afforded under Hungarian law.</i></p> <p><i>(9) If a report is filed in good faith, the person referred to in Paragraph b) of Subsection (2) of Section 1 and the liaison officer (hereinafter referred to as “notifier”) shall not be held liable if the report ultimately proves to be unsubstantiated.</i></p> <p><i>(10) The national financial intelligence unit shall post an announcement concerning the success rate related to the reports and any proposals it may have to improve such success rate on its official website semi-annually.</i></p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p>	<p>37/2008 Ministerial Decree covers the obligation of reporting TF and service providers are obliged to have internal measures and procedures for recognising and reporting STR..</p> <p>Model rules of the supervisory authorities provide recommendations on the obligation of reporting TF.</p>
<p>Special Recommendation II (Criminalise terrorist financing)</p>	
<p>Rating: Partially compliant</p>	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>There should be a separate provision for FT, particularly for the case of financing terrorist acts which are not to be committed or intended to be committed by a terrorist group.</i></p>
<p>Measures reported as of 5 September 2006 to implement the Recommendation of the Report</p>	<p>The provisions of the terrorist act in the HCC cover the criminalisation of the financing of terrorism (FT). However, the IMF/Moneyval Report highlighted a few deficiencies like the need of a separate provision for the financing of an individual terrorist’s acts. This requirement has been included into the Action Plan (I. Legislative tasks) which anticipates the amendment of the HCC in order to refine the abovementioned provisions. The draft of the new provisions on financing of terrorism [para (4)-(5) of Section 261] has been prepared. The new provision will punish in a separate paragraph the financing of terrorist acts which are not committed or intended to be committed by a terrorist group. These provisions are part of the same draft bill which was mentioned in the case of the amendment of the money laundering offence at Recommendation 1. According to our present timetable, it will be sent out for an expert discussion at the end of September and submitted to the Government at the end of October.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The above mentioned amendment of the HCC has been adopted by the Parliament and entered into force on 1st June, 2007 (Act XXVII of 2007).</p> <p>The Bill was adopted by the Parliament by Act XXVII of 2007 which has amended para. (4)-(6) of Art 261 of the HCC on the Acts of terrorism. The amended version entered into force on 1st June 2007. The new provision punishes in a separate paragraph the financing of terrorist acts which are not committed or intended to be committed by a terrorist group, but only a single terrorist. The provision in force is the following:</p> <p>HCC</p> <p>Acts of Terrorism</p> <p>Section 261.</p> <p><i>(1) Any person who commits a violent crime against one of the persons referred to in Subsection (9) or commits a crime that endangers the public or involves the use of a firearm in order to:</i></p> <p><i>a) coerce a government agency, another state or an international body into doing, not doing or countenancing something;</i></p> <p><i>b) intimidate the general public;</i></p>

	<p><i>c) conspire to change or disrupt the constitutional, economic or social order of another state, or to disrupt the operation of an international organization; is guilty of a felony punishable by imprisonment between ten to fifteen years, or life imprisonment.</i></p> <p><i>(2) Any person who seizes considerable assets or property for the purpose defined in Paragraph a) and makes demands to government agencies or non-governmental organizations in exchange for refraining from harming or injuring said assets and property or for returning them shall be punishable according to Subsection (1).</i></p> <p><i>(3) The punishment of any person who:</i> <i>a) abandons commission of the criminal act defined under Subsections (1) and (2) before any grave consequences are able to materialize; and</i> <i>b) confesses his conduct to the authorities;</i> <i>in such a manner as to cooperate with the authorities to prevent or mitigate the consequences of such criminal act, apprehend other coactors, and prevent other criminal acts may be reduced without limitation.</i></p> <p><i>(4) Any person who instigates, suggests, offers, joins or collaborates in the commission of any of the criminal acts defined under Subsections (1) and (2) or any person who is involved in aiding and abetting such criminal conduct by providing any of the means intended for use in such activities or by providing or raising funds to finance the activities is guilty of felony punishable by imprisonment between two to eight years.</i></p> <p><i>(5) Any person who is engaged in the conduct referred to in Subsection (4) or in the commission of any of the criminal acts defined under Subsections (1) and (2) in a terrorist group, or supports the terrorist group in any other form is guilty of felony punishable by imprisonment between five to ten years.</i></p> <p><i>(6) The perpetrator of a criminal act defined in Subsection (4) or (5) shall not be liable for prosecution if he confesses the act to the authorities before they become aware of it and reveals the circumstances of the criminal act.</i></p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</p>	

Special Recommendation IV (Suspicious transaction reporting)

I. Regarding Financial Institutions

Rating: Non compliant

<p>Recommendation of the MONEYVAL Report</p>	<p><i>A clear legal basis for the obligation to report STs related to FT should be established</i></p>
<p>Measures reported as of 5 September 2006 to implement the Recommendation of the Report</p>	<p>The Action Plan (I. Legislative task) reflects to the recommendation of the IMF/Moneyval Report that requires a clear legal basis for the obligation to report STRs related to FT. This legal deficiency is going to be remedied by the domestic implementation of the Third EU AML/CFT Directive, which treats the threat of ML and FT equally.</p> <p>As for the time being the AML Act’s preamble gives legal ground for the reporting STRs on data, facts and circumstances indicating terrorist financing. Although the preamble does not provide a very solid legal basis, but the reporting system is effective in practice and. the Recommendation Nr. 1/2004 of the HFSA defines guidelines for the financial service providers which are strictly followed.</p> <p>The Hungarian financial service providers (banks, insurance companies, investment funds, etc.) have</p>

	<p>been heavily investing in FT screening software. Reports on suspicion of FT are regularly sent to the FIU. This activity is firmly supported by the constantly updated EU and other relevant terrorist lists that are publicly accessible on the homepage of the HFSA and all financial service providers are daily updating their screening systems accordingly. Furthermore the HFSA approves all AML/CFT internal rules of the financial service providers and without a comprehensive reporting system including FT reporting there is no chance to obtain a license. All on-site inspections of the HFSA are also carefully looking for this subject.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>The legal basis has been created by the AML/CFT Act, which requires that STR shall be sent not only in the case of suspicion of money laundering but suspicion of terrorist financing, too. The scope of the Act has been extended to terrorism financing.</p> <p>Section 23 Subsection (1) of the AML/CFT Act</p> <p><i>'(1) In case such a data, fact, circumstance is raised that indicates money laundering or terrorist financing, the person determined in Point b) of Subsection (2) of Section 1 is obliged to make a report to the person given in Subsection (2).....'</i></p> <p><i>(2) Service providers shall, depending on the structure of the organization, designate one or more persons (hereinafter referred to as "liaison officer") to forward without delay the reports received from the persons referred to in Paragraph b) of Subsection (2) of Section 1 to the national financial intelligence unit. Service providers are required to notify the national financial intelligence unit concerning the appointment of the liaison officer, including the name and the position of such officer, and any subsequent changes therein, within five working days of the date of appointment or the effective date of the change.'</i></p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</p>	<p>35/2007 Ministerial Decree determines that internal rules shall cover typologies, measures and procedures on sending of STR by suspicion of TF. Model rules serve as guidance related to these issues. (obligation and practise)</p>

Special Recommendation IV (Suspicious transaction reporting)
II. Regarding DNFBP

<p>Recommendation of the MONEYVAL Report</p>	<p><i>Continued and enhanced measures should be taken to increase the quantity and quality of STR reporting from the DNFBPs. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBPs that are not organized within SROs to overcome existing habits and to ensure that all service providers are aware of their responsibilities.</i></p>
<p>Measures reported as of 5 September 2006 to implement the Recommendation of the Report</p>	<p>The IMF/Moneyval Report recommends increasing the quantity and the quality of STRs coming from the DNFBPs. The Action Plan contains several tasks which have the objective to resolve this subject. One of the points of the Action Plan's legislative tasks laid down the demand for a clear legal basis for reporting STRs related to FT. The Action Plan requires an impact study to review the supervision of the DNFBPs. The main aim of this impact study is drawing up options for enhancing supervisions of DNFBPs in accordance with the Third EU AML/CFT Directive. The improvement of the quantity and the quality of STRs is focused by the Action Plan through trainings and consultations. Furthermore see our answer at recommendation 13 regarding DNFBPs.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress</p>	<p>The HFIU – after the approval of the MoF – has published the non-compulsory model rules for DNFBPs being under the supervision of HFIU in compliance with the Section 33 of the AML/CFT Act. The model rules as well as the consultations serve as an effective measure to increase the quantity and quality of STR reporting from the DNFBPs.</p> <p>The website of the HFIU contains useful information, reports, downloadable documents, statistics and</p>

report	<p>help (model rules for service providers, FAQ, useful links, etc.) are provided.</p> <p>Trainings and presentations were given to the reporting entities (real estate agents, tax consultants, tax advisors, accountants) being under the supervision of the HFIU.</p> <p>Compulsory internal system and education for the employees are determined by the AML/CFT Act.</p>
Recommendation of the MONEYVAL Report	<i>DNFBPs, like financial institutions, should be required to report transactions suspected of financing terrorism and should be required to report attempts to launder money.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answer above.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>The DNFBPs – like the financial service providers – are also obliged to send STRs according to the AML/CFT Act.</p> <p>See our answer above.</p>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	<p>Service providers are required to lay down internal rules relating to discharging their functions conferred in this Act. The supervisory body mentioned under Section 5 shall provide non-binding model rules as recommendations - in collaboration with the national financial intelligence unit and in agreement with the minister - for drawing up the internal rules.</p> <p>The 35/2007 Ministerial Decree determines the compulsory elements in line with the requirements of the new AML/CFT Act that the internal rules shall contain e.g. measures and procedures on the identification and verification, as well as reporting STR of ML/TF.</p>

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 which measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 12 (DNFBP – R. 5, 6, 8 - 11)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Enhanced due diligence for PEPs and wider and more systematic dissemination to DNFBPs of information about international compliance with the FATF standards are needed.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>I. The Action Plan reflects the recommendation of the IMF/Moneyval report concerning the politically exposed persons in its second part (impact studies) in order to implement the relevant provisions in the Hungarian legal system and in order to comply with the international requirements. Hungary is addressing this issue (to review, as well as to introduce the necessary amendments in the AML Act and in the other relevant laws, regulations) in the context of the implementation of the Third EU AML/CFT Directive (taking into account the relevant provisions of the implementing measures).</p> <p>II. The Action Plan reflects the recommendation of the IMF/Moneyval report concerning the dissemination to DNFBPs of information about international compliance in its part of “III. Training, consultation”.</p> <p>See our answers for Special Recommendation 13. and Special Recommendation IV.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>DNFBPs are under the scope of the new AML/CFT Act which implemented the third EU AML/CFT Directive, therefore, DNFBPs are obliged to conduct enhanced CDD for PEPs, too.</p> <p>The text of Section 16 of the AML/CFT Act is as follows:</p> <p><i>(1) Customer residing in another Member State or in a third country are required to provide a statement to whether they are considered politically exposed according to the national law of their country. If a customer residing in another Member State or in a third country is considered politically exposed, the aforesaid statement must also indicate the category of politically exposed persons applicable according to Subsection (2) of Section 4.</i></p> <p><i>(2) Where there is any doubt concerning the veracity of the above-mentioned statement, the service provider must take measures to check the statement submitted under Subsection (1) in records and registers which are publicly available in accordance with legal regulations.</i></p> <p><i>(3) In respect of transactions or business relationships with politically exposed persons residing in another Member State or in a third country, approval from the management body defined in the organizational and operational regulations is required.</i></p> <p>During the consultations HFSA and the MoF draw the service providers attention to the FATF recommendations and newest statement.</p>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

Recommendation 35 (Conventions)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Ratify and fully implement the Palermo Convention.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	The Action Plan laid down the obligation of ratification and full implementation of the Palermo Convention in its first part (legislative task). As we mentioned in the “General overview”, a draft act was prepared concerning the ratification of the Palermo Convention and the two Protocols. According to our present timetable, it will be submitted to the Parliament during the first half of 2007.
Measures taken to implement the recommendations since the adoption of the first progress report	The Palermo Convention was ratified and fully implemented by the Act CI of 2006. For the implementation of the relevant criminal provisions see the answers at Recommendation I and Special Recommendation II above.
Recommendation of the MONEYVAL Report	<i>Fully implement Vienna and UN Convention on FT.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers at Recommendation 1. and Special Recommendation II.
Measures taken to implement the recommendations since the adoption of the first progress report	The Vienna Convention was ratified by the Act L of 1998 and its provisions were fully implemented. The International Convention for the suppression of the financing of terrorism was ratified and implemented by the Act LIX of 2002. For the implementation of the relevant criminal provisions see the answers at Recommendation I and Special Recommendation II above.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

Special Recommendation I (Implement UN instruments)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Provide for domestic legislation implementing the UN Resolutions.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	By virtue of the Action Plan the Ministry of Interior has elaborated a draft law to effectively implement restrictive measures. According to the legislative timetable of the Government, the bill shall be submitted to the Parliament in October 2006 and may be adopted before the end of the year. The draft law, while declaring the direct effect and direct applicability of the relevant EU legislation in Hungary, contains provisions which will enable the restrictive measures to be effectively implemented on the national level. According to the draft, subjects of the restrictive measures won't be able to enjoy the

	<p>profits of their assets, neither will they be able to acquire new assets; all public (state-managed) registers will be obliged to refuse the registration requests coming from the subjects of a restrictive measure. The draft explicitly guarantees the possibility to use legal remedies. The existing exemption procedure that is based entirely on EU Council Regulations on restrictive measures was regulated in 2004, in the form of Gov. Decree 306/2004 on the responsibilities of the Hungarian Authorities Concerning Exemptions from Restrictive Measures Ordered by the EU, performed by the NPHQ as first instance. By amending this decree, NPHQ will be obliged to consult the relevant UN committees besides the European institutions and EU Member States (as it is today's practice).</p> <p>Furthermore, a draft government resolution has also been elaborated for the smooth implementation of the law. On the basis of this, e.g. an on-line, updated, single list of the subjects will be available on the website of the Ministry of Justice and Law-Enforcement, in Hungarian.</p> <p>Concerning the single national list the Act LXXXIII of 2001 on Combating Terrorism, on Tightening up the Provisions on the Impeding of Money Laundering and on the Ordering of Restrictive Measures authorises the Government to adopt a government decree on financial restrictive measures (list) for 90 days against individuals and entities pursuant to the international obligations of Hungary including those based on EU Council common positions taken within the framework of European Union's Common Foreign and Security Policy. Since the UNSCR 1373 requires from the UN member states freezing assets in cases associated with FT, a domestic listing procedure laid down by the Act LXXXIII of 2001 is in place and fulfils this international obligation. The abovementioned draft resolution, which will repeals the Act LXXXIII. Of 2001, will introduce a similar procedure for the case of listing an individual or entity upon a national decision but without time limitation.</p> <p>It also has to be mentioned that implementation of the UNSCRs and the Third EU AML/CFT Directive have a wide common basis in respect of producing STRs. The reporting system of the Third EU AML/CFT Directive embraces restrictive measures in cases of terrorist financing as well. In case an individual or entity were under restrictive measures on TF, the service provider would have to send an STR according to the Third EU AML/CFT Directive. Therefore the clear legal basis will be provided by the implementing act of the Third EU Directive for reporting the information on a transaction of a listing individual or entity.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>UNSCRs are incorporated into the EU common positions and Council regulations. As Council regulations are directly applicable in the 27 EU Member States, Hungary is also obliged to apply them. In order to enhance the enforcement of the EU economic and financial restrictive measures, the Hungarian Parliament passed the Act CLXXX of 2007 on the enforcement of financial restrictive measures ordered by the European Union (EFR Act).</p> <p>Due to this indirect method, the UNSCRs are implemented into the domestic regulations.</p> <p>It also has to be mentioned that the reporting obligation according to the AML/CFT Act covers the obligation on sending reports in the subject of CFT (UNSCR 1267 and UNSCR 1373) that are not covered by the EFR Act.</p> <p>The EFR Act provides the possibility to use legal remedy and it also stipulates the provisions for exemption procedure that is based entirely on EU Council Regulations on restrictive measures. EC restrictive measures are available on the website of the Ministry of Foreign Affairs.</p>
<p>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</p>	<p>Act LXXXIII of 2001 was repealed according to the final provisions of the EFR Act.</p>

Special Recommendation III (Freeze and confiscate terrorist assets)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Create legal authority for freezing possibilities for the financial institutions upon suspicion of terrorist financing</i>
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Measures reported as of 5 September 2006 to implement the Recommendation of the Report	The service providers are obliged by the EC regulations to freeze terrorist assets. In the course of the implementation of the Third EU AML/CFT Directive the right to freeze assets will be newly formulated and in several respects extended. On the basis of this mechanism the service providers (FIs and DNFBPs as well) will have the legal authority to block transactions for a certain period and the obligation to send an STR to the FIU on this. The FIU will be entitled to control the circumstances of the blocking and send back a warrant to the service providers disposing about the freezing in so far as the blocking is justified. Certainly this mechanism will cover both the money-laundering and terrorist financing STRs.
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>The AML/CFT Act and the EFR Act authorizes the service providers to suspend transactions in the case of suspicion of terrorist financing. The service providers shall suspend the performance of the transfers and immediately report the transaction to the HFIU. In the case of an internal money transfer, the fund ordered to be transferred is blocked for one day, in the case of an international money transfer, the fund is blocked for two days. The HFIU has to conduct serious checks within the afore-mentioned period.</p> <p>If the HFIU justifies that the individual or entity, listed on the electronic list of persons and entities subject to financial sanctions imposed by the EU, is that person or entity whose transfer has been suspended or account has been blocked, the HFIU informs the competent authorities (county court, registry court, the minister responsible for tax policy (i.e. the minister of finance), the certain governmental organisation keeping wealth registry). The competent county court is authorized to conduct sequestration.</p> <p>If the HFIU comes to a conclusion that crime has been committed and this crime is one of the crimes mentioned in the AML/CFT Act dissemination section, the HFIU initiates criminal procedure/investigation and, based on the Act XIX of 1998 on the Criminal Procedure, precautionary measures can be taken on the blocked account.</p> <p>Please find below the relevant articles of the <i>EFR Act</i>:</p> <p><i>Executing the financial restrictive measures</i></p> <p>3. § (1) <i>Within 30 days after entering into force of Community legal act on ordering financial restrictive measures the authority being responsible for executing financial restrictive measures (hereinafter: Authority) examines whether the individual or organisation subject to financial restrictive measures has assets or economic resources covered by the financial restrictive measures within the territory of the Republic of Hungary.</i></p> <p>(2) <i>After the examination laid down in Subsection (1) within the period of financial restrictive measures in force the Authority monitors constantly whether the individual or organisation subject to financial restrictive measures has assets or economic resources covered by the financial restrictive measures within the territory of the Republic of Hungary.</i></p> <p>(3) <i>If the individual or organisation subject to financial restrictive measures has assets or economic resources covered by the financial restrictive measures within the territory of the Republic of Hungary, or the individual or organisation subject to financial restrictive measures gains advantage from a transaction, the Authority referring to the applicable Community legal act, after the examination has to inform – with sending the results of the examination laid down in Subsection (1)-(2) and Subsection (3)-(4) Section 10, and data laid down in Subsection (4) – without delay</i></p> <p style="padding-left: 20px;"><i>a) the County (Capital) Court being competent according to the position of asset or economic resources (hereinafter: Court);</i></p>
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	<p>b) the competent Registry Court; c) the minister being responsible for tax policy; d) if the individual or organisation subject to financial restrictive measures has economic resources registered in property registration, the authority running the property registration.</p> <p>4. § (1) The Court orders freezing in non-trial legal procedure on the basis of the notice of the Authority according to the Subsection (3) Section 3 in order to execute the financial restrictive measures. The Court has to inform – by way of electronic message having enhanced secured electronic signature or fax – the Authority without delay about ordering freezing. The obligations of service providers and authorities running property registration and the applicable measures</p> <p>10. § (1) The persons and organisations being subject to Act on Prevention and Combating Money Laundering and Terrorist Financing (hereinafter: service providers) and authorities running property registration are obliged to report – with sending the personal data laid down in Subsection (1) Section 7 – to the Authority without delay the data, fact, circumstance indicating that the individual or organisation subject to financial restrictive measures has assets or economic resources covered by the financial restrictive measures within the territory of the Republic of Hungary.</p> <p>(2) The service providers and authorities running property registration are obliged to report – with sending the personal data laid down in Subsection (1) Section 7 – to the Authority without delay the data, fact, circumstance indicating that the individual or organisation subject to financial restrictive measures gains advantage from a transaction.</p> <p>(3) The Authority examines the report sent by the service providers in line with Subsection (1)-(2) a) in the case of domestic transaction within one working day b) in the case of non-domestic transaction within two working days.</p> <p>(4) The Authority examines the report sent by the authorities running registration in line with Subsection (1)-(2) within three working days.</p> <p>(5) The Authority on the basis of the examination laid down in Subsection (3)-(4) a) acts in accordance with Subsection (3)-(4) Section 3, and informs – besides the authorities determined by Subsection (3) Section 3 – the service providers or the authorities running property registration, or b) informs the service providers or the authorities running property registration that the requirements laid down in Subsection (3)-(4) Section 3 are not met.</p> <p>(6) The service provider after sending a report in accordance with Subsection (1)-(2) a) in the case of domestic transaction within one working day b) in the case of non-domestic transaction within two working days is obliged to refrain from carrying out the transaction that – on the basis of the report – is involved into the assets or economic resources covered by the financial restrictive measures unless it was informed by the Authority according to the Point b) Subsection (5).</p>
Recommendation of the MONEYVAL Report	Provide the FIU / Police / Prosecutor with an autonomous competence to freeze in cases of suspicious transactions possibly linked to FT
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers above and under Special Recommendation I.
Measures taken to implement the recommendations since the adoption of	The meet the Recommendation and the international obligations Section 24 of the AML/CFT Act was amended. Section 6 of the Act LXIII of 2008 on the Promulgation of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of

the first progress report	Terrorism, made at Warsaw on 16 May 2005, and on the Amendment of Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing provides for the implementation of the Convention's provisions. Under the new Section 24 of the AML/CFT Act actions shall be taken by the service provider at the request of the FIU (on own initiative or at the request of a foreign FIU) to suspend a transaction under the same conditions as for the suspension by the service provider itself. See answers also above and to Special Recommendation I.
Recommendation of the MONEYVAL Report	<i>Provide a sufficient period of freezing in order to do serious checks before having to start criminal investigations</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers above.
Measures taken to implement the recommendations since the adoption of the first progress report	If an individual or an entity is subject to financial restrictive measures ordered by the EU, the service providers shall report the funds and economic resources of these subjects according to the EFR Act. If these subjects make money transfers, the service providers shall suspend the performance of the transfers and report to the HFIU pursuant to the EFR Act. In the case of an internal money transfer, the money ordered to be transferred is blocked for one working day, in the case of an international money transfer, the fund is blocked for two working days. The one working day or two working days period does not include the day of the report. The HFIU has to conduct serious checks within the aforementioned period.
Recommendation of the MONEYVAL Report	<i>Provide clear procedures for de-listing and un-freezing also for the UNSCR</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answer under Special Recommendation I.
Measures taken to implement the recommendations since the adoption of the first progress report	As the UNSCRs are implemented into the domestic regulations through the system of European implementation (See answers above to Special Recommendation I) de-listing requests can be made to the responsible European body/committee. Section 6 of the EFR Act contains provisions for exemption procedure and unfreezing (granting specific authorization). If the Community act imposing financial restrictions allows exemption from the financial restrictive measure, exemption procedure shall be conducted. Petition addressed to the court shall be submitted to the HFIU. The HFIU shall inform the Minister responsible for tax policy on the submitted petition. If the financial restriction imposed by the EU is based on a UNSCR, pursuant to the given UNSCR, the HFIU initiates and conducts the required consultation procedure with the competent UNSC's Sanctions Committee. The HFIU shall inform the competent Hungarian court on the result of the consultation procedure and transmit the submitted petition for exempting, too. In a 'non-trial procedure', the competent court shall bring its decision on the exemption, with regard to its decision on ordering sequestration, within the period of 60 days after receiving the petition. The competent courts shall deliver its decision to the HFIU and the Minister responsible for tax policy, too. Based on the court's decision, the Minister responsible for tax policy shall notify the EU institutions and member states on granting specific authorization according to the Community acts.
(other) changes since the first progress report (e.g. draft laws, draft regulations or	

draft “other enforceable means” and other relevant initiatives)	
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Special Recommendation VIII (Non-profit organisations)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>The authorities need to conduct a review of the sector in order to be fully compliant with the FATF recommendations. That examination should look broadly at increasing the transparency in the sector, strengthening the legal basis for supervision, and oversight over NPO fundraising.</i>
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Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>The Action Plan laid down the task to review the NPO sector. This review of the sector of NPOs and the consultation are inseparable from the preparation of the new Civil Code of Hungary, which is currently under way. The publishing of the draft of the Book on Persons (which among others provides general rules on legal personality, and rules governing the associations and foundations [as most of the NPOs are associations and foundations in Hungary]) early this year opened a new forum for discussing the current situation of NPOs. One of the fundamental issues is the question of enhancing the efficiency of judicial supervisory proceedings. We expect to have many feedbacks on the registration proceedings of NPOs with legal personality as well in connection with the ongoing revision of the executive decrees of the Minister of Justice dealing with registration policy matters.</p> <p>As for the time being the public prosecutor’s office shall control legitimacy at non-profit organisations. In case the organisation carries on an activity that requires special conditions to be fulfilled, the competent public body shall control this activity. The court shall, by virtue of the petition of the prosecutor, suspend the organisation to pursue its activities, if the legitimacy of its activities cannot be assured otherwise.</p> <p>Auditing of accounts is compulsory at public foundations and at the other non-profit organisations that run undertakings, if their yearly revenues reach a particular amount, as it’s laid down in the Government Decree 224/2000. (XII. 19.).</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>The amendments of Act IV from 2006 on business associations stipulates that from 1st July 2007 no non-profit company can be established (registered).</p> <p>From 30th June 2009 only non-profit organisations registered as non-profit business associations are allowed to exist.</p>
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Recommendation of the MONEYVAL Report	<i>Authorities should consult widely with the sector on ways of improving transparency and reporting.</i>
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Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers above.
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Measures taken to implement the recommendations since the adoption of the first progress report	
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(other) changes since the first progress report (e.g. draft laws,	<p>Strengthening transparency of non-profit organizations Section 3 of the AML/CFT Act provides in line with the Third EU AML/CFT Directive special provisions for foundations as follows:</p> <p>r) ‘beneficial owner’ shall mean:</p>
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draft regulations or draft “other enforceable means” and other relevant initiatives)	<p>...</p> <p><i>rd) in the case of foundations:</i></p> <ol style="list-style-type: none"> 1. where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of twenty-five per cent or more of the property of the foundation; 2. where the individuals that benefit from the foundation have yet to be determined, the class of natural persons in whose main interest the foundation is set up or operates or 3. the natural person(s) who exercises control in the management of the foundation or exercises control over twenty-five per cent of the property of a foundation, or who is authorized to represent the foundation;
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Special Recommendation IX (Cash Couriers)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Identification, record keeping and reporting requirements should apply also in the case of FT.</i>
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Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>On the basis of the Action Plan an impact study has been prepared by the MoF in cooperation with the HCFG and the Ministry of Justice and Law Enforcement. The impact study has reflected to both the recommendations of the IMF/Moneyval Report and the legislative obligations of the EC Regulation on Controls of Cash Entering into or Leaving the Community (“cash control” regulation).</p> <p>This piece of legislation of the EU raises the SR IX of the FATF into the community legislation. Cash movements of a value of EUR 10 000 or more have to be declared according to the provisions of the „cash control” regulation. The MoF is drafting a new act in order to harmonise the domestic AML and CFT provisions with the „cash control” regulation until the deadline of its application. The new act will provide the legal basis for managing and processing data in an electronic database gained from the declarations.</p> <p>According to the legislative timetable of the Government, the bill shall be submitted to the Parliament in October 2006.</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>In order to enhance the enforcement of the EU legislation, an act has been passed by the Hungarian Parliament on the enforcement of the Regulation EC 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the community (Act XLVIII of 2007 – hereinafter referred to as Cash Control Act). According to the Regulation EC 1889/2005 (hereinafter referred to as Cash Control Regulation), the cash movements amounting or exceeding 10 000 EUR shall be declared. The border customs offices provide the HFIU with information on the cash movements and the HFIU is entitled to request information on cash declarations from the customs offices.</p> <p>Non-compliance of the obligation to declare has been penalized as a petty offence and a fine amounting to 150 000 HUF (c. 600 EUR) can be imposed.</p>
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Recommendation of the MONEYVAL Report	<i>The Hungarian Customs and Finance Guard (HCFG) should be given the authority to stop/restrain cash to ascertain whether evidence may be found for ML/FT.</i>
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Measures reported as of 5 September 2006 to implement the Recommendation of the Report	<p>The impact study has demonstrated that currently the HCFG has the authority to stop/restrain cash in the following cases. The Act LXIX of 1999 on minor offences and the Government Decree 218/1999 on certain minor offences give the authority to HCFG to seize immediately (equivalent to restraining) the money in case of failing to declare that.</p> <p>The impact study underpinned that the HCFG is authorised to seize the cash pursuant to the Act XIX of 1999 on Criminal Procedure regardless of being the cash declared. Applying this seizure requires having the suspicion on the basis of the Act on Criminal Procedure.</p>
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Measures taken to implement the recommendations since the adoption of	<p>According to the Cash Control Act (Section 3), the HCFG is authorised to check persons, their belongings (luggage) and vehicle of transport. The review, made after a year that the Cash Control Enforcement Act had come into force, highlighted that seizure of non-declared cash is only possible under the law of minor offences or criminal law, but the Cash Control Act itself does not authorize</p>
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the first progress report	HCFG to detain cash by administrative decision. The deficiency has been indicated to the MoF and an initiative was submitted, too. According to the initiative, the provisions in Act LXIX of 1999 on minor offences and the Government Decree 218/1999 on certain minor offences should be replaced by administrative legal provisions, and fines to the amount of a certain percent of the carried and non-declared cash should be imposed and collected at the scene.
Recommendation of the MONEYVAL Report	<i>Sanctions should be more effective and dissuasive.</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	As for having more effective and dissuasive sanctions the Ministry of Justice and Law Enforcement presently reviews the necessary alterations of the Government Decree 218/1999 on certain minor offences. In accordance with these alterations the upper level of the fine for failing to declare will be three times higher than it is at present.
Measures taken to implement the recommendations since the adoption of the first progress report	The Government Decree No. 32/2007 amended the Government Decree on certain minor offences and determined that the maximum fine for failing to declare is 150 000 HUF (ca. 600 EUR). The maximum amount of the fine has been tripled to the previous amount.
Recommendation of the MONEYVAL Report	<i>Immediate seizure should be available in the case of cash related to ML/FT</i>
Measures reported as of 5 September 2006 to implement the Recommendation of the Report	See our answers above
Measures taken to implement the recommendations since the adoption of the first progress report	Even though the Cash Control Act does not contain provisions to authorize the HCFG to seize the ML/FT related cash, immediate seizure (as precautionary measure) can be ordered and conducted according to the Act XIX of 1999 on Criminal Procedure.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

4. Specific Questions

1.	<p><i>Have there been any steps taken to harmonize section 9 of the AML Act with article 7 of the EU AML Second Council Directive, in particular:</i></p> <p><i>i.regarding the extension of the obligations under the section 9 to all service providers as listed in Section 1(1) of the Act?</i></p> <p><i>regarding procedures whereby service providers are required to file an STR in circumstances where to “suspend” a transaction could frustrate an ongoing investigation?</i></p> <p>Hungary is addressing this issue (review, as well as the necessary amendments in the AML Act and in the other relevant laws, regulations) in the context of the implementation of the Third EU AML/CFT Directive.</p>
2.	<p><i>With reference to paragraph 4 of Section 8 of the AML Act, have there been any changes introduced to bring it in full compliance with article 8 of the EU Directive, such as by introducing the tipping off prohibition for ongoing money laundering investigations?</i></p> <p>I. According to the Hungarian legislation the <u>financial institutions are not allowed to inform the concerned clients on any disclosure of data made for the request of the police, the investigating authority, the national security service or the public prosecutor’s office</u> in the course of a criminal procedure, secret information gathering or analysing of STRs. The relevant provisions are laid down in Sections 51, 52 and 53 of the Act CXII of 1996 on Credit Institutions and Financial Enterprises (indicated with bold italics in the text) as follows:</p> <p><i>“Section 51.</i> <i>(1) Bank secrets may only be disclosed to third parties, if</i> <i>a) so requested by the customer of the financial institution or his legitimate representative in a public document or in a private document with full probative force that expressly indicates the bank secrets relating to the customer that may be disclosed; it is not necessary to make the request in a public document or in a private document with full probative force if the customer provides a statement to that extent as an integral part of the contract with the financial institution,</i> <i>b) this Act grants an exemption from the obligation of bank secrecy,...</i> <i>(2) Based on the provisions of Paragraph b) of Subsection (1), the obligation to keep bank secrets shall not apply in respect of</i> <i>...d) investigating authorities and the public prosecutor's office, acting in a pending criminal procedure and seeking additional evidence,...</i> <i>f) organs authorized to use secret service means and to conduct covert investigations if the conditions prescribed in a separate act are provided for,...</i></p> <p><i>Section 52.</i> <i>Financial institutions shall satisfy the written requests of investigating authorities, the national security service and the public prosecutor's office without delay concerning its customer's bank account and the transactions on such account if it is alleged that the bank account or the transaction is associated with</i> <i>a) trafficking of narcotic drugs,</i> <i>b) terrorism,</i> <i>c) illegal trafficking in arms,</i> <i>d) money laundering,</i> <i>e) organized crime.</i></p>

Section 53.

(1) The financial institution shall not inform the customer affected on any disclosure of data made under Paragraphs d), f) and g) of Subsection (2) of Section 51, Subsection (7) of Section 51 and Section 52.

(2) With the exceptions set forth in Subsection (1), the agency requesting information shall be required to notify the customer affected regarding its receipt of information.”

II. The Hungarian authorities are addressing this issue concerning other service providers (review, as well as the necessary amendments in the AML Act and in the other relevant laws, regulations) in the context of the implementation of the Third EU AML/CFT Directive.

III. Otherwise, according to the provisions of the Act XIX of 1998 on the Criminal Procedure and the Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest the persons mentioned in Article 8 (4) of the AML Act (service providers, directors, employees, family members actively engaged in such businesses, designated persons) shall not be informed of the ongoing money laundering investigation by the authorities conducting the investigation (even though the criminal procedure is launched on the basis of an information included in the STR provided by the reporting institution.)

- The relevant provision is laid down in Section 74/B of the Act XIX of 1998 on the Criminal Procedure as follows:

“Disclosure of information, providing information to the general public in the course of criminal proceedings”

Section 74/B

...(5) [With the exception of the case specified in Section 74/A above,] information may be disclosed to any party having legal interest in conducting the procedure or in the result thereof, permission for the inspection of the documents or the provision of the necessary information – after the justification of the legal interest therein – shall be granted by the prosecutor prior to filing the bill of indictment, and by the presiding judge during the court procedure.”

[“Section 74/A

(1) Information to the press may be provided by the following persons: prior to the conclusion of the investigation, the member of the investigating authority authorised to do so in the relevant legal regulation; prior to the indictment, the prosecutor or the person authorised thereby; and during the court procedure, the person authorised by the Act on the Legal Status and Remuneration of Judges.

(2) The press shall be entitled to provide information on public court hearings.

(3) Disclosure of information to the press shall be refused if this would violate a state secret or official secret, or would jeopardise the successful conclusion of the proceedings in any way.”]

- According to Section 2 of the Act LXIII of 1992 the “*criminal personal data*” mean any personal data which originated – during criminal proceedings or prior to such proceedings in connection with the criminal offence or the criminal proceedings – by the organs authorized to conduct criminal proceedings or to investigate criminal offences or by the penal authorities and which can be related to the data subject, as well as personal data relating to previous criminal convictions. The “*criminal personal data*” belong to the category of “*special data*”. Section 3 of the Act laid down strict conditions concerning the processing of this kind of data (special data shall not be processed unless the data subject has given his written consent, or ordered by an Act in other cases etc.) and „*data processing*” means any operation or set of operation which is

	performed upon data, irrespective of the applied procedure (such as transfer, making public etc.).
3.	<p><i>Was there an assessment carried out on the effectiveness of the co-operation between the FIU and the Bar Association in its responsibilities of receiving STRs from the legal profession?</i></p> <p>In order to develop the effectiveness of the cooperation of FIU and the National Bar Association and the best practice of reporting, HPHQ (FIU) invited the Lawyer’s Bar representative to a training (mentioned above), where the failures and questions regarding STRs were discussed.</p> <p>At the end of 2005 one of the members of the FIU took part on a one-day conference which was hosted by the National Bar Association and the Bar Association of Budapest. Lawyers, representatives of the Bar Association, financial correspondents, prosecutors, judges and academic experts working on AML/CFT were present to discuss the problems and questions. The main objectives of the conference were to talk about the experience on the reporting practice, the usual problems of jurisdiction in criminal procedures, and the separation of the money laundering as a crime from other crimes, as well as the imposition of penal policy questions.</p>

Additional questions since the 1st progress report

Are investigations on organised crime now focusing more on potential ML offences and are they being more closely co-ordinated with ML investigations?

All investigations of financial related criminal offences concentrate on the way and origin of money or other assets and when there is a suspicion of ML, the authorities will automatically focus on ML offences.

Investigations on organised crime belong to the competence of Police (County HQs), while investigations on ML are under the HCFG’s. Of course, there is a close working relationship between these authorities, which – in case of ML – makes possible co-ordinated investigations, including but not limited to dissemination of STR data, access to each other’s databases, and carrying out joint actions.

Have the Hungarian authorities considered introducing more explicit requirements to require financial institutions to ensure their foreign branches and subsidiaries observe AML/CFT measures and inform the HFSA when they are unable to observe AML/CFT measures in foreign jurisdictions?

The AML/CFT Act gives clear regulations on this issue, as well as the AML/CFT Recommendation and Guidance and the Model Rules of the HFSA contain requirements for Hungarian financial service providers to apply the Hungarian standards in case of foreign branches and subsidiaries. Section 30 of AML/CFT Act:

***“Measures in Connection
with Branches and Subsidiaries Located in Third Countries***

Section 30

(1) The service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1 are required to apply in their branches and subsidiaries located in third countries measures at least equivalent to those laid down under Sections 6-11, Section 28 and this Section.

(2) The service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1 shall keep their branches and subsidiaries located in third countries informed concerning their internal control and information system (Section 31), and the contents of their internal policies (Section 33).

(3) Where the legislation of the third country does not permit application of such equivalent measures as referred to in Subsection (1), the service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1 shall so inform the competent body exercising supervision under Paragraphs a)-b) of Section 5, and the said competent body shall forward that information to the minister without delay.

(4) The minister shall inform the Commission and the other Member States of cases where the legislation of the third country does not permit application of the measures required under Subsection (1).

(5) Where the legislation of the third country does not permit application of the measures required under Subsection (1), the service providers engaged in the activities referred to in Paragraphs a)-e) and l) of Subsection (1) of Section 1 are required to take additional measures, such as to assess, evaluate and analyze their branches and subsidiaries located in third countries.

Have the authorities reviewed the tendering process for Gaming establishments to ensure that protections against the involvement of criminal associates is strong enough?

The present Hungarian legal background complies with the relevant recommendation: the supervisory authority of the Gaming establishments takes part in the authorization procedure following the tendering process.

On the one hand the relevant authorities, like Police are always represented in the evaluating team, which assesses the tenders, having the suitable operative measures to ensure that the owners or members of tendering companies will be chartered with care to be transparent for the authorities. On the other hand one of the criteria to have the authorization for gaming establishments is that a “personal compliance” should also be proved by tenderers, so persons once registered in the criminal record can be easily filtered out.

Since the current process is considered to be satisfactory, the tendering process have not been reviewed by the authorities.

Has guidance on CFT been issued for DNFBPs? And have the resources been increased for supervision of non self-regulated DNFBPs?

The HFIU as one of the competent supervisory authorities for DNFBPs has fulfilled this requirement by providing typologies in the Model Rules for accountants, tax experts and real estate agents.

The Model Rules for service providers trading in goods and in precious metals, prepared by the Hungarian Trade Licensing Office, also contains such typologies of suspicious transactions to serve as guidance for the service providers.

What procedures are in place to freeze assets under SR III which relate to so-called “EU internals”. Have any such orders been made?

In the case of EU internals, the AML/CFT Act provides authorization for the service providers to **suspend** transactions (for one day – domestic transfer, for two days – international transfer). The service provider shall inform the HFIU on the suspension.

AML/CFT Act Article 24

(1) *The service provider shall suspend a transaction where it knows, suspects or has reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted and if prompt action by the national financial intelligence unit is deemed appropriate and necessary to examine certain corresponding information, fact or circumstance that may suggest money laundering or terrorist financing. In this case, the service provider shall immediately notify the national financial intelligence unit to investigate the cogency of the report.*

(2) *The service provider shall dispatch the report concerning the transaction referred to in Subsection (1) in the form of a secure electronic message or by way of fax. If the liaison officer is of the opinion that any delay is likely to jeopardize the success of processing the report by the national financial intelligence unit, the report dispatched in the form of a secure electronic message or by way of fax shall be called in to convey the information contained in the message in advance.*

(3) *The national financial intelligence unit shall investigate the report:*

a) within one working day of receipt of the report if it pertains to a domestic transaction;

b) within two working days of receipt of the report if it pertains to a non-domestic transaction.

national financial intelligence unit shall - in the course of the investigation launched under Subsection

(3) - inform the reporting service provider in writing:

a) concerning the actions taken in accordance with the Act on Criminal Proceedings;

b) of the fact of having avoided to take any action pursuant to the Act on Criminal Proceedings.

(5) *The service provider shall carry out a suspended transaction upon receipt of notice from the national financial intelligence unit in accordance with Paragraph b) of Subsection (4), or following the expiry of the time limits specified in Subsection (3) in the absence of a notice from the national financial intelligence unit.*

(6) *The service provider - if acting in good faith - shall not be held liable for the suspension of a transaction if it ultimately proves to be unsubstantiated, and the transaction can be carried out on the basis of what is contained in Subsection (5).*

If the HFIU considers the suspension justified and comes to the conclusion that crime (being one of the offences mentioned in the AML/CFT Act and therefore the authorization for information dissemination is provided) has been committed, it initiates criminal procedure (investigation) with transferring the available information to the competent LEA.

Then, based on the provisions of the CPC (Act XIX of 1998), the LEA or the competent prosecutor can order **precautionary measure** regarding the certain asset/account and, later in the criminal procedure, if such crime is investigated which punishable by asset forfeiture, too, **sequestration** can be ordered by the competent court.

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

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The EU Third Directive and the Implementation Directive have been implemented by the AML/CFT Act which came into force on 15 December 2007.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 rd Directive ⁶ (please also provide the legal text with your reply)	<p>The definition of beneficial owner provided by the AML/CFT Act corresponds to the definition of the 3rd Directive. Point <i>r</i>) of Section 3 of AML/CFT Act:</p> <p style="text-align: center;"><i>“Interpretative Provisions</i></p> <p style="text-align: center;"><i>Section 3</i></p> <p>(...)</p> <p><i>r) ‘beneficial owner’ shall mean:</i></p> <p><i>ra) the natural person who owns or controls at least twenty-five per cent of the shares or voting rights in a legal person or business association lacking the legal status of a legal person, if that legal person or business association lacking the legal status of a legal person is not listed on a regulated market and is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards;</i></p> <p><i>rb) the natural person who has a dominant influence in a legal person or business association lacking the legal status of a legal person as defined in Subsection (2) of Section 685/B of Act IV of 1959 on the Civil Code of the Republic of Hungary (hereinafter referred to as “Civil Code”);</i></p> <p><i>rc) the natural person on whose behalf a transaction is carried out; and</i></p> <p><i>rd) in the case of foundations:</i></p> <p><i>1. where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of twenty-five per cent or more of the property of the foundation;</i></p> <p><i>2. where the individuals that benefit from the foundation have yet to be determined, the class of natural persons in whose main interest the foundation is set up or operates or</i></p> <p><i>3. the natural person(s) who exercises control in the management of the foundation or exercises control over twenty-five per cent of the property of a foundation, or who is authorized to represent the foundation;”</i></p>

Risk-Based Approach	
Please indicate the extent to which financial institutions	All financial institutions must apply risk-based approach to their regular customers, defining in their AML/CFT internal rules, where they apply minimum CDD requirements, and where they use maximum CDD requirements. Maximum CDD requirements include the birth date, place and mother’s

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

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

have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.

maiden name of the natural person customer; principal activity, name and position of authorized representatives, and identification data of the agent for service of process of non-natural persons as well. Risk based approach must be in the AML/CFT internal rules, which must be concrete – anybody reading the AML/CFT internal rules of a financial service provider must be able to decide, to what extent CDD requirements have to be applied at a specific customer.

The provisions of Sections 7 and 8 of the AML/CFT Act provides for additional data recording opportunity (maximum CDD requirements) when – upon special circumstances – service providers consider that recording of such data is necessary:

**“Customer Due Diligence
Measures**

Section 7

(1) In connection with what is contained in Subsection (1) of Section 6, service providers shall apply due diligence measures for identifying the customer, the customer’s agent, proxy or other authorized representative and verifying their identity.

(2) In the identification procedure, service providers are required to record the following particulars of customers:

a) in connection with natural persons:

aa) surname and forename (birth name);

ab) address;

ac) nationality;

ad) number and type of identification document;

ae) in respect of foreign nationals, the place of abode in Hungary;

b) in connection with legal persons and business associations lacking the legal status of a legal person:

ba) full name and abbreviated name;

bb) address of corporate headquarters and, for foreign-registered companies, the address of the Hungarian branch office;

bc) the registered number of legal persons listed in the companies register, or the number of the resolution adopted on the foundation (registration, admission into the register) of other legal persons, or their registration number.

(3) In addition to what is contained in Subsection (2), in the identification procedure service providers may record the following particulars of customers where it is deemed necessary for the identification of the customer, the business relationship and the transaction order, in the cases specified according to the internal policies referred to in Section 33 based on the nature of the business relationship or on the type and value of the transaction and on the customer’s circumstances, with a view to the prevention and combating of money laundering and terrorist financing:

a) in connection with natural persons:

aa) date and place of birth;

ab) mother’s name;

b) in connection with legal persons and business associations lacking the legal status of a legal person:

ba) the principal activity;

bb) name and position of authorized representatives;

bc) identification data of the agent for service of process.

(4) For the purposes of identification and verification procedures, service providers must require the following documents to be presented:

a) in connection with natural persons:

aa) personal identification document (official identity card) and official address card of Hungarian

citizens;

ab) passport or personal identity card for foreign nationals, if it embodies an authorization to reside in Hungary, or a document evidencing the right of residence or a valid residence permit;

ac) for natural persons below the age of 14, personal identity card and official address card, or passport and official address card;

b) for legal persons and business associations lacking the legal status of a legal person, in addition to the documents of the persons described in Paragraph a) who are authorized to act in its name and on its behalf, a document issued within thirty days to date, to verify:

ba) if a resident economic operator, that it has been registered by the court of registry, or that the application for registration has been submitted; if a private entrepreneur, that he has a private entrepreneur's license, or that the private entrepreneur has submitted an application to the competent regional notary for a private entrepreneur's license;

bb) for other resident legal persons whose existence is subject to registration by an authority or the court, the document of registration;

bc) for non-resident legal persons and business associations lacking the legal status of a legal person, the document proving that the person or body has been registered under the law of the country in which it is established;

c) the articles of incorporation (articles of association, charter document) of legal persons and business associations lacking the legal status of a legal person that have not yet been registered by the registrar of companies, court or appropriate authority.

(5) In the application of Paragraph c) of Subsection (4), the legal person or business association lacking the legal status of a legal person shall produce documentary evidence of having been registered by the registrar of companies, court or appropriate authority, within thirty days after the fact, and the service provider must enter the registered number or registration number into its records.

(6) For the purposes of identification and verification procedures, service providers must check the validity of the identification documents mentioned under Subsection (4).

Section 8

(1) In connection with Subsection (1) of Section 6, the customer is required to provide a written statement to the service provider as to whether he is acting in his own name or in the name and on behalf of the beneficial owner.

(2) If the customer's above-specified written statement indicates that he is acting in the name and on behalf of the beneficial owner, it shall contain the particulars of the beneficial owner specified in Subparagraphs aa)-ac) of Paragraph a) of Subsection (2) of Section 7.

(3) In addition to what is contained in Subsection (2), the service provider may request the customer to supply the particulars of the beneficial owner specified in Subparagraphs ad)-ae) of Paragraph a) of Subsection (2) and Paragraph a) of Subsection (3) of Section 7 where it is deemed necessary for the identification of the customer, the business relationship and the transaction order, in the cases specified according to the internal policies referred to in Section 33 based on the nature of the business relationship or on the type and value of the transaction and on the customer's circumstances, with a view to the prevention and combating of money laundering and terrorist financing.

(4) Where there is any doubt concerning the identity of the beneficial owner, the service provider shall request the customer to reconfirm the identity of the beneficial owner by means of a written statement.

(5) Where there is any doubt concerning the identity of the beneficial owner, the service provider must take measures to check the beneficial owner's identification data in records and registers which are publicly available in accordance with legal regulations.

Politically Exposed Persons

Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive⁷ are provided for in your domestic legislation (please also provide the legal text with your reply).

AML/CFT Act complies with the identifying criteria for PEP (foreign PEP as in the Directive). The definition of PEP is in accordance with the provisions of the 3rd Directive and the Implementation Directive.

Section 4 of AML/CFT Act:

“Section 4

(1) For the purposes of this Act, ‘politically exposed persons’ means natural persons residing in another Member State or in a third country who are or have been entrusted with prominent public functions within one year before the implementation of customer due diligence measures, and immediate family members, or persons known to be close associates, of such persons.

(2) For the purposes of Subsection (1), ‘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;

d) the head of the court of auditors, 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.

(3) For the purposes of Subsection (1), close relative shall have the meaning defined in Paragraph b) of Section 685 of the Civil Code, including domestic partners.

(4) For the purposes of Subsection (1), persons known to be close associates of politically exposed persons shall include the following:

a) any natural person who is known to have joint beneficial ownership of a legal person or business association lacking the legal status of a legal person, or any other close business relations, with a person referred to in Subsection (2);

b) any natural person who has sole beneficial ownership of a legal person or business association lacking the legal status of a legal person which is known to have been set up for the benefit de facto of the person referred to in Subsection (2).

The definition of “close relative” are contained in Point b) of Section 685 of the Civil Code:

“Section 685.

For the purposes of this Act

(...)

b) ‘close relative’ shall mean spouses, next of kin, adopted persons, stepchildren, foster children, adoptive parents, stepparents, foster parents, brothers, and sisters; relatives, furthermore, domestic partners, spouses of the next of kin, fiancées; next of kin, brothers, and sisters of a spouse; and spouses of brothers and sisters;”

From the 1st of January 2009:

“b) ‘close relative’ shall mean spouses, registered partners, next of kin, adopted persons, stepchildren, foster children, adoptive parents, stepparents, foster parents, brothers, and sisters; relatives, furthermore, domestic partners, spouses, registered partners of the next of kin, fiancées; next of kin, brothers, and sisters of a spouses, registered partners; and spouses, registered partners of brothers and sisters;”

⁷ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

“Tipping off”

Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.

Prohibitions are limited to the transaction report only.

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 provisions on prohibition of disclosure (no tipping off) of the AML/CFT Act implement the certain provisions of the Third EU AML/CFT Directive. The prohibition of disclosure obliges both the reporting entities and the HFIU. During the analytical work of the HFIU, disclosing the fact of sending/receiving an STR and the results of the analytical work is prohibited. In case of ongoing ML/TF investigations service providers may exchange data for the same transaction only. English text of AML/CFT Act:

“Prohibition of Disclosure

Section 27

(1) The notifier and the national financial intelligence unit shall not disclose to the customer concerned or to other third persons the fact that information has been transmitted in accordance with Section 23, the contents of such information, the fact that the transaction has been suspended under Section 24, the name of the notifier, or whether a money laundering or terrorist financing investigation is being or may be carried out on the customer, and shall ensure that the filing of the report, the contents thereof, and the identity of the person filing the report remain confidential.

(2) The prohibition laid down in Subsection (1) shall not include disclosure to the supervisory body mentioned under Section 5, including the investigating authority conducting the criminal proceedings.

(3) The prohibition laid down in Subsection (1) shall not prevent disclosure between institutions from Member States, or from third countries in connection with supervision on a consolidated basis conducted under the CIFE, the CMA and the Insurance Act, or on the supplementary supervision of a financial conglomerate, which impose requirements upon such institutions equivalent to those laid down in this Act, and are supervised for compliance with those requirements.

(4) The prohibition laid down in Subsection (1) shall not prevent disclosure between service providers engaged in the activities referred to in Paragraphs g)-h) and m) of Subsection (1) of Section 1 from Member States, or from third countries which impose requirements equivalent to those laid down in this Act, who perform their professional activities within the same legal person or a network.

(5) The prohibition laid down in Subsection (1) shall not prevent disclosure between service providers engaged in the activities referred to in Paragraphs a)-e), g)-h), l) and m) of Subsection (1) of Section 1, and shall not prevent disclosure between the two or more service providers involved provided that:

a) it is related to the same customer and the same transaction;

b) of the two or more service providers involved, at least one is engaged in activities governed by this Act, while the other service providers are situated in a Member State, or in a third country which imposes requirements equivalent to those laid down in this Act;

c) the service providers involved are engaged in the same activity referred to in Subsection (1) of Section 1; and

d) the service providers involved are subject to obligations as regards professional secrecy and personal data protection equivalent to those laid down in this Act.

(6) Where a third country meets the conditions laid down in Subsections (3)-(5) above, the service providers engaged in the activities referred to in Paragraphs a)-e), g)-h), l) and m) of Subsection (1) of Section 1 shall inform the competent body exercising supervision under Paragraphs a)-b), d)-e), g) of Section 5. The competent body exercising supervision under Paragraphs a)-b), d)-e), g) of Section 5 shall forward that information to the minister without delay.

(7) A The minister shall inform the Commission and the other Member States of the cases referred to under Subsection (6)."

“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.

Paragraph (1) of Section 2 of Act CIV of 2001 on Measures Applicable to Legal Persons under Criminal Law, as it is applicable from 1 September 2008, provides (non-official translation):

“Section 2

(1) The measures defined herein this Act are applicable to legal persons in the event of committing any intentional criminal offence defined in Act IV of 1978 on the Criminal Code (CC), if the perpetration of such a crime was aimed at or has resulted in gaining financial advantage for that legal person, and the criminal offence was committed by

a) the legal person’s executive officer or member entitled to represent it, its employee or officer, its manager, or the member of its supervisory board and/or their representatives, within the legal person’s scope of activity,

b) its member or employee within the legal person’s scope of activity, and it could have been prevented by the executive officer, manager, or the supervisory board, by fulfilling their control or supervisory obligations.

(2) Other than the cases defined in Paragraph (1) the measures defined in this Act shall be applicable even if committing the criminal offence resulted in gaining financial advantage for the legal person, and the legal person’s executive officer, or member entitled to represent it, its employee or officer, its manager, or the member of its supervisory board, had a knowledge on the perpetration of that criminal offence.”

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.

See our answers above.

DNFBPs

Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.

The reporting obligation applies to all natural and legal persons trading in goods if the payments amount or exceed HUF 3 600 000 (which is based on 240 HUF = 1 EUR rate).

6. Statistics

Money Laundering and Financing of terrorism cases

a) Statistics provided in the last progress report

2004 (for comparison purposes)												
	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	20	15	7	10	6	10	33	5.000.000	5	24.000.000	1	N/A
FT	2	N/A	2	N/A	2	N/A	2	N/A	1	450.000	-	-

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	32	39	3	10	1	1	1	2 billion 690 M Ft, 13 M 181 000 EUR, 594 000 USD, 68 500 GBP, 13 576 CHF, 1 vehicle	3	234.934 EUR	-	-
FT	-	-	-	-	-	-	-	-	-	-	-	-

Notes: exchange rates of 272Ft/EUR and 214Ft/USD

In the column of investigations such cases (and persons) are taken into consideration which started in year of 2005. The data in the other columns show prosecutions and convictions conducted in 2005, and proceeds seized in three cases in the year of 2005.

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	20	26	5	14	NA	NA	NA	NA	2	434.490 EUR	-	-
FT	-	-	-	-	-	-	-	-	-	-	-	-

Notes: exchange rates of 272Ft/EUR and 214Ft/USD

The preliminary data of the chart refer to the first 6 months of 2006. The first column refers to the cases started in the year of 2006, the data of the other columns show prosecutions conducted, and proceeds seized in two cases in the first six months of 2006.

Convictions for 2006 are not available, there are cases under process (at the court) at the time of the supplying of data.

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

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	79*	32	1**	20	5	5	79	1,400,000	N/A	N/A	79	1,400,000
FT	0	0	5	6	3	4	N/A	N/A	N/A	N/A	N/A	N/A

* all cases were conducted by the FIU, but 79 investigations were opened by the investigation department

** In 2006 one case 1135 criminal offence

*** 'Proceeds frozen' means funds under precautionary measures or sequestrations according to the Act on Criminal Procedure.

Note: Breakdown of statistics into cases regarding proceeds frozen, seized, confiscated are not available.

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	89**	131	10	9	10	19	89	4,226,803	89	1.626.082	89	6,000,000
FT	0	0	0	0	9	10	N/A	N/A	N/A	N/A	N/A	0

* In one case the Prosecutor designated the HCFG as a competent investigating authority since at that time the HCFG did not have competence to investigate the crime of money laundering according to the Act on Criminal Procedure. In that one particular case 22 persons are involved, other details of the case: 273.803 EUR - proceeds frozen, 1.626.082 EUR - proceeds seized.

** 'Proceeds frozen' means funds under precautionary measures or sequestrations according to the Act on Criminal Procedure.

Note: Breakdown of statistics into cases regarding proceeds frozen, seized, confiscated are not available.

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	12	29	1	2	12	14	12	7.037.877	12	4.580.479	N/A	N/A
FT	0	0	1	1	4	5	N/A	N/A	N/A	N/A	N/A	N/A

* according to statistics closed on 15 October, 2008

** 'Proceeds frozen' means funds under precautionary measures or sequestrations according to the Act on Criminal Procedure.

Note: Breakdown of statistics into cases regarding proceeds frozen, seized, confiscated are not available.

7. STR/CTR

a) Statistics provided in the last progress report

2004 (for comparison purposes)											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		13.335	2	14.118	2	7	-	6	-	6	-
insurance companies		83	-								
Notaries		35	-								
Currency exchange		456	-								
broker companies		17	-								
securities' registrars		-	-								
lawyers		-	-								
accountants/auditors		175	--								
company service providers		-	-								
others (please specify)		17	-								
Total		14.118	2								

Open investigations ML: 20

Covert investigations ML: 9

2005											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		9964	3	11382	3	32	-	3	-	1	-
insurance companies		142	-								
Notaries		61	-								
Currency exchange		1036	-								
broker companies		1	-								
securities' registrars		67	-								
lawyers		26	-								
accountants/auditors		25	-								
company service providers		-	-								
others (please specify)		60	-								
Total		11382	3								

Open investigations ML: 32
Covert investigations ML: 77

2006											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		4173	2	5197	2	20	-	NA	NA	NA	NA
insurance companies		52	-								
Notaries		23	-								
Currency exchange		846	-								
broker companies		7	-								
securities' registrars		41	-								
lawyers		6	-								
accountants/auditors		6	-								
company service providers		-	-								
others (please specify)		41	-								
Total		5195	2								

Open investigations ML: 20
Covert investigations ML: 48

Note: *The actual work has just started at the FIU regarding the development and the introduction of the new system which provides first of all the electronic format of sending and handling of STRs (the new system is being tested). The development of the technical background will make it possible in the future to handle and provide the complete information as required.*

Remark: in the chart above, only the criminal procedures are presented. The Hungarian FIU checks in case of every STR according to the two NPHQ internal regulations, so every time a new case „is made”. After that, the case is filed if no suspicion of ML or TF was found (the case is filed as closed). If the result of the above mentioned procedure indicates suspicion of ML or TF but the information is not enough to start a criminal investigation, a secret information gathering is launched in accordance with the Police Act. Then the case is filed due to the fact if no crime is found or in the other case due to the fact that the level of suspicion is enough to start a criminal procedure.

Regarding criminal statistics the following databases were used: the database of the National Police Head Quarters and the General Prosecutor’s Office, the database of the regional police headquarters.

In 2006 the Office of National Council of Justice has introduced and started to use a new technical system which has a great importance regarding statistics. It will be able to provide data of indictments and convictions of ML cases, if needed in a monthly period.

b) Please complete statistics since the adoption of the 1st progress report

Explanatory note:

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

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

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

“*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).

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	cases	persons	cases	persons		
commercial banks		7197	2	9999	2	51 (+48 launched covert investigations)	0	1*	20	5	6	5	5	3	4
insurance companies		185	0												
Notaries		40	0												
Currency exchange		1607	0												
broker companies		7	0												
securities' registrars		41	0												
lawyers		38	0												
accountants/auditors		2	0												
company service providers		578	0												
others (please specify and if necessary add further rows)		304	0												
Total	There was no legal provisions for threshold in 2006	9999	2												

*In 2006 one case 1135 criminal offence. Criminal liability for negligent non-reporting under Section 303/B of HCC is not in effect since June 2007.

** HCC Section 261.

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	cases	persons	cases	persons		
commercial banks		7675	5	9475*	5	88	0	10	9	0	0	10	19	9	10
insurance companies		180													
Notaries		40													
Currency exchange		1207													
broker companies		-													
securities' registrars		-													
lawyers		35													
accountants/auditors		2													
company service providers		56													
others (please specify and if necessary add further rows)		280													
Total	There was no legal provisions for threshold in 2007	9475	5												

* All cases were conducted but only 88 cases were notified to law enforcement

** HCC Section 261.

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	cases	persons	cases	persons		
commercial banks		7273	11	9303	11	6	0	1	2	1	1	12	14	4	5
insurance companies		112													
Notaries		8													
Currency exchange		898													
broker companies		43													
securities' registrars		308													
Lawyers		6													

accountants/auditors		9																	
company service providers		0																	
others (please specify and if necessary add further rows)		0																	
Saving Banks		304																	
Other Credit Institutions		85																	
Pension Funds		7																	
Post		2																	
Tax Experts		1																	
Casinos		0																	
Traders in Goods		3																	
Customs Offices		244																	
Total		9303	11																

* The cases related to EFR Act are included in this figure.

** 27 open criminal investigations were opened after the HFIU's notification in line with Section 26 of the AML/CFT Act. (6 of them related to money laundering.) The HFIU supported ongoing open criminal investigations with 177 cases. According to the database created in June, 2008 in the period of 1 June 2008 – 30 October 2008 the HFIU supported ongoing open criminal investigations with the dissemination of 110 STRs.

*** First half of 2008

**** HCC Section 261.

Note 1: data based on statistics closed on 1 December, 2008.

Note 2: Covert investigations were initiated with 27 STRs. (Not all of them related to money laundering.) The HFIU supported ongoing covert investigations with 1313 STRs

c) AML/CFT sanctions imposed by supervisory authorities.

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of the supervised entity in the financial sector (eg, banks, insurance, securities etc).

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

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

Credit institutions (Banks+savings/credit associates)

	2003-2004 for comparison	2005 for comparison	2006	2007	2008
Number of AML/CFT violations identified by the supervisor	10	11	4	2	5
Type of measure/sanction					
Written warnings	9				
Fines	1				1
Removal of manager/compliance officer					

Withdrawal of license				
Denunciations (FIU/LEA)			2	3
Other**	11	4		1
Total amount of fines (TEUR, HUF 269~EUR 1)	0	0	0	2.0
Number of sanctions taken to the court (where applicable)	0	0	0	0
Number of final court orders				
Average time for finalising a court order				

** Public resolution in writing, in which HFSA forces service provider to take corrective measures. Fines can be put on in public resolutions.

Financial institutions

	2003-2004 for comparison	2005 for comparison	2006	2007	2008
Number of AML/CFT violations identified by the supervisor	7	1	3	1	1
Type of measure/sanction					
Written warnings	5				
Fines			1		
Removal of manager/compliance officer					
Withdrawal of license	2				
Denunciations (FIU/LEA)				1	1
Other**		1	3		
Total amount of fines (TEUR, HUF 269~EUR 1)	0	0	7.44	0	0
Number of sanctions taken to the court (where applicable)	0	0	0	0	0
Number of final court orders					
Average time for finalising a court order					

**Public resolution in writing, in which HFSA forces service provider to take corrective measures. Fines can be put on in public resolutions.

Funds

	2003-2004 for comparison	2005 for comparison	2006	2007	2008
Number of AML/CFT violations identified by the supervisor	0	4	3	1	0
Type of measure/sanction					
Written warnings					
Fines		3***	2***	0	0
Removal of manager/compliance officer					
Withdrawal of license****				1	
Other**		4	3	1	
Total amount of fines (TEUR, HUF 269~EUR 1)		0.64	1.39		
Number of sanctions taken to the court (where applicable)		0	0	0	0
Number of final court orders					
Average time for finalising a court order					

** Public resolution in writing, in which HFSA forces service provider to take corrective measures. Fines can be put on in public resolutions.

*** Fines levied on the CEO of the fund.

**** With the withdrawal of licence, HFSA asked the registry court to start liquidation of the fund and then delete it from the register.

Insurance companies and intermediaries

	2003-2004 for comparison	2005 for comparison	2006	2007	2008
Number of AML/CFT violations identified by the supervisor	7	4	6	6	6
Type of measure/sanction					
Written warnings	7		1		
Fines		2	2	3	0
Removal of manager/compliance officer					
Withdrawal of license					
Other**		4	5	6	6
Total amount of fines (TEUR, HUF 269~EUR 1)		10.4	26.02	16.72	0
Number of sanctions taken to the court (where applicable)		0	0	0	0
Number of final court orders					
Average time for finalising a court order					

** Public resolution in writing, in which HFSA forces service provider to take corrective measures. Fines can be put on in public resolutions.

Investment companies

	2003-2004 for comparison	2005 for comparison	2006	2007	2008
Number of AML/CFT violations identified by the supervisor	6	6	0	3	0
Type of measure/sanction					
Written warnings	6				
Fines		4		3	0
Removal of manager/compliance officer					
Withdrawal of license					
Other**		6		3	
Total amount of fines (TEUR, HUF 269~EUR 1)		28.95	0	4.83	0
Number of sanctions taken to the court (where applicable)		0	0	0	0
Number of final court orders					
Average time for finalising a court order					

** Public resolution in writing, in which HFSA forces service provider to take corrective measures. Fines can be put on in public resolutions.

APPENDIX I

Recommended Action Plan to Improve the AML / CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> • Enlarge the scope of the ML offense so that it covers all the circumstances set forth by the Vienna and Palermo Conventions. • Harmonize Article 303 and 303A so that the same definition of “item” will be formally applicable to both provisions.
Criminalization of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> • There should be a separate provision for FT, particularly for the case of financing terrorist acts which are not to be committed or intended to be committed by a terrorist group.
Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • Consideration should be given to providing the FIU with statutory authorization to freeze assets and suspend transactions. • Consideration should be given to creating a system of administrative freezing, granting the FIU, Police and Prosecutor a reasonable period of time to check the facts of the case in detail, without immediately having to open a criminal investigation. • Much more consideration should be given to the taking away of the proceeds of crime. The number and amounts of seizures and confiscations should increase noticeably, given the high number of prosecutions for economic crime. Operational practice should more consistently and systematically link seizure/confiscation with investigations.
Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Create legal authority for the financial institutions to freeze upon suspicion of terrorist financing. • Provide the FIU, Police and Prosecutor with an autonomous competence to freeze in cases of suspicious transactions possibly linked to FT. • Provide a sufficient period of freezing in order to do serious checks before having to start criminal investigations. • Provide clear procedures for de-listing and un-freezing also for the UNSCR.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> • Placing responsibility for CFT matters with the FIU and establishing a clear obligation to report to FIU STRs related to FT. <p>Consideration should be given to:</p>

	<ul style="list-style-type: none"> Given the Police nature of the FIU and number of staff, placing the supervisory function over DNFBPs outside the FIU; The FIU continuing to upgrade its software; The analysis of STRs by the FIU identifying as much as possible underlying predicate offences; and Having the statistics of STRs compiled by the FIU provided in greater detail and containing references to predicate offence where possible.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	<ul style="list-style-type: none"> Strengthening the HCFG competences in AML/CFT, specifically placing more emphasis on the financial angle of the investigations. The investigations on organized crime should focus more on potential ML offenses and be more closely coordinated with ML investigations. Law Enforcement officials must gain more practical experience in ML investigation and prosecution through a more generalized and aggressive prosecution policy and a more innovative and daring use of the existing tools is necessary.
Cash couriers (SR IX)	<ul style="list-style-type: none"> Identification, record keeping and reporting requirements should apply also in the case of FT. HCFG should be given the authority to stop/restrain cash to ascertain whether evidence may be found for ML/FT. Sanctions should be more effective and dissuasive. Immediate seizure should be available in the case of cash and valuables related to ML/FT.
3. Preventive Measures– Financial Institutions	
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> Measures need to be taken to require full information for the identification of beneficial owners, for example by the AML Act and the supervisory rules by the HFSA. There should be explicit requirements regarding approval by senior management of continuing business relations with persons becoming PEPs after the establishment of a business relationship.
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> Ensure that, for the payment form in domestic ICS system, sufficient space for information on the originator (name, address and account number) should be allowed as planned.
Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> The authorities may consider requiring explicitly that financial institutions keep records of findings of screenings.

Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<ul style="list-style-type: none"> • A clear legal basis for the obligation to report suspicious transactions relating to the financing of terrorism should be established. • Further efforts are needed to improve the capabilities of financial institutions to detect STRs related to ML and FT. • Reporting STRs should be in electronic format.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> • The authorities may consider introducing more explicit requirements to require financial institutions to ensure their foreign branches and subsidiaries observe AML/CFT measures in Hungary and inform the HFSA when they are unable to observe AML/CFT measures in foreign jurisdictions.
The supervisory and oversight system–competent authorities and SROs (R. 17, 23, 29 & 30).	<ul style="list-style-type: none"> • The authorities should review the effectiveness of the current regime of imposing terms of imprisonment for negligent non-reporting of suspicious transactions under the Section 303/B of the HCC. • A clear legal basis for STR obligation relating to FT should be established to ensure effective supervisory oversight for CFT.
Ongoing supervision and monitoring (R.23, 29 & 32)	<ul style="list-style-type: none"> • A clear legal basis for STR obligation relating to FT should be established to ensure effective supervisory oversight for CFT.
4. Preventive Measures – Non financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • The rules and practices of notaries should be reviewed to ensure that the notary collects full CDD information for any third party to whom he or she may transfer money, valuables, or securities. • The beneficial owner identification process should be strengthened both in the AML legislation and in the various directives and guidelines, to require full information for natural and legal persons.
Monitoring of transactions and relationships (R.12 & 16)	<ul style="list-style-type: none"> • Enhanced due diligence for PEPs and wider and more systematic dissemination to DNFBPs of information about international compliance with the FATF standards are needed.
Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Active measures should be taken to increase the quantity and quality of STR reporting from the DNFBPs. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBPs that are not organized within SROs to overcome existing habits and to ensure that all service providers are aware of their responsibilities. • A clear legal basis for the obligation to report suspicious transactions relating to the financing of terrorism should be established.

Regulation, supervision and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> • The authorities should review the tendering process for Gaming establishments to ensure that protections against the involvement of criminal associates is strong enough. • Improved feedback to the DNFBPs should be part of ongoing awareness-raising and education efforts. • Issue guidance on CFT for DNFBPs. • Increase the resources available for supervision of non self-regulated DNFBPs.
5. Legal Persons and Arrangements & Non profit Organizations	
Non profit organizations (SR.VIII)	<ul style="list-style-type: none"> • The authorities need to conduct a review of the sector in order to be fully compliant with the FATF recommendations. That examination should look broadly at increasing the transparency in the sector, strengthening the legal basis for supervision and oversight over NPO fundraising. • Authorities should consult widely with the sector on ways of improving transparency and reporting.
6. National and International Cooperation	
The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Ratify and fully implement the Palermo Convention • Fully implement Vienna and UN Convention on FT • Provide for domestic legislation implementing the UN Resolutions
Mutual Legal Assistance (R.32, 36-38, SR.V)	<ul style="list-style-type: none"> • More detailed and precise statistics must be kept to track ML / FT cases. • Consideration should be give to asset sharing provisions.
Other Forms of Cooperation (R.32 & 40, & SR.V)	<ul style="list-style-type: none"> • More detailed and precise statistics must be kept to track ML / FT cases.

Acronyms

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AML Act	Act XV of 2003 on the Prevention and Combating of Money Laundering
AML/CFT Act	Act CXXXVI of 2007 on the Prevention and Combating of Money Laundering and Terrorist Financing
CDD	Customer Due Diligence
CPC	Criminal Procedure Code
DNFBP	Designated non financial businesses and professions
FIU	Financial Intelligence Unit
HCC	Hungarian Criminal Code
HCFG	Hungarian Customs and Finance Guard
HFSA	Hungarian Financial Supervisory Authority
KYC	Know-your-customer
LEA	Law Enforcement Authority
MoF	Ministry of Finance
NBI	National Bureau of Investigations
NPHQ	National Police Headquarters
NPO	Non-profit Organization
PEP	Politically exposed person
SRO	Self-regulated organisation
STR	Suspicious Transaction Report