



5 September 2006

MONEYVAL (2006) 16 Rev

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

HUNGARY

PROGRESS REPORT 2006

LIST OF ACRONYMS USED

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
CDD	Customer Due Diligence
CPC	Criminal Procedure Code
DNFBP	Designated nonfinancial 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
MoF	Ministry of Finance
NBI	National Bureau of Investigations
NPHQ	National Police Headquarters
NPO	Non-profit Organization
PEP	politically exposed person
STR	Suspicious Transaction Report

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

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 HCFCG 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 DNFBP with the assistance of other units (especially the supervision of the 23.000 local DNFBP). 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)

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 taken to implement the Recommendation of the Report	<p>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.</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Harmonize Article 303 and 303A so that the same definition of “item” will be formally applicable to both provisions.</i>
Measures taken to implement the Recommendation of the Report	<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 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>
(Other) changes since the last evaluation	

**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 taken 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: 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. Under this review it would be necessary:</p> <ul style="list-style-type: none"> • consultation with the financial institutions and the DNFBP 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.
(Other) changes since the last evaluation	

**Recommendation 5 (Customer due diligence)
II. Regarding DNFBP¹**

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 taken 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. 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.

¹ i.e. part of Recommendation 12.

	- Hungary is addressing these issues (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.
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 taken to implement the Recommendation of the Report	See our answers to Recommendation 5., regarding financial institutions.
(Other) changes since the last evaluation	

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

Rating: Compliant

Changes since the last evaluation	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.
-----------------------------------	---

**Recommendation 10 (Record keeping)
II. Regarding DNFBP²**

Changes since the last evaluation	See our answer above.
-----------------------------------	-----------------------

**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 taken to implement the Recommendation of the Report	<p>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.</p> <p>The Hungarian authorities responsible for AML/CFT issues organized several conferences, trainings and gave presentations for the service providers during the second half of 2005 and in 2006, as follows.</p> <p><u>NPHQ</u></p>

² i.e. part of Recommendation 12.

- 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.

HFSA

- 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)

MoF

- 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).

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.

[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.]

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. 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.

Recommendation of the MONEYVAL Report	<i>Reporting STRs should be in electronic format.</i>
Measures taken 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>
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting)	
II. Regarding DNFBP³	
Recommendation of the MONEYVAL Report	<i>Active measures should be taken to increase the quantity and quality of STR reporting from the DNFBP. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBP that are not organized within SROs to overcome existing habits and to ensure that all service providers are aware of their responsibilities.</i>
Measures taken 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 DNFBP 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 representatives of DNFBP 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</p>

³ i.e. part of Recommendation 16.

	<p>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 DNFBP and to improve the communication between DNFBP 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>
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 taken to implement the Recommendation of the Report	See our answers at Special Recommendation IV.
(Other) changes since the last evaluation	

Special Recommendation II (Criminalise terrorist financing)

Rating: Partially compliant

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

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

Rating: Non compliant

Recommendation of the MONEYVAL Report	<i>A clear legal basis for the obligation to report STs related to FT should be established</i>
Measures taken to implement the Recommendation of the Report	<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 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>
(Other) changes since the last evaluation	

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

Recommendation of the MONEYVAL Report	<i>Continued and enhanced measures should be taken to increase the quantity and quality of STR reporting from the DNFBP. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBP that are not organized within SROs to overcome existing habits and to ensure that all service providers are aware of their responsibilities.</i>
Measures taken to implement the Recommendation of the Report	<p>The IMF/Moneyval Report recommends increasing the quantity and the quality of STRs coming from the DNFBP. 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.</p> <p>The Action Plan requires an impact study to review the supervision of the DNFBP. The main aim of this impact study is drawing up options for enhancing supervisions of DNFBP in accordance with the Third EU AML/CFT Directive.</p> <p>The improvement of the quantity and the quality of STRs is focused by the Action Plan through trainings and consultations.</p> <p>Furthermore see our answer at recommendation 13 regarding DNFBP.</p>
Recommendation of the MONEYVAL Report	<i>DNFBP, 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 taken to implement the Recommendation of the Report	See our answer above.
(Other) changes since the last evaluation	

3. Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” NC (see also Appendix 1). Please, specify for each one 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 taken 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.</p> <p>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 DNFBP 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>
(Other) changes since the last evaluation	

Recommendation 35 (Conventions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Ratify and fully implement the Palermo Convention.</i>
Measures taken to implement the Recommendation of the Report	<p>The Action Plan laid down the obligation of ratification and full implementation of the Palermo Convention in its first part (legislative task).</p> <p>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.</p>
Recommendation of the MONEYVAL Report	<i>Fully implement Vienna and UN Convention on FT.</i>
Measures taken to implement the Recommendation of the Report	See our answers at Recommendation 1. and Special Recommendation II.
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>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 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>
(Other) changes since the last evaluation	

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>
Measures taken 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 DNFBP 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.
Recommendation of the MONEYVAL Report	<i>Provide the FIU / Police / Prosecutor with an autonomous competence to freeze in cases of suspicious transactions possibly linked to FT</i>
Measures taken to implement the Recommendation of the Report	See our answers above and under 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 taken to implement the Recommendation of the Report	See our answers above.
Recommendation of the MONEYVAL Report	<i>Provide clear procedures for de-listing and un-freezing also for the UNSCR</i>
Measures taken to implement the Recommendation of the Report	See our answer under Special Recommendation I.
(Other) changes since the last evaluation	

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>
Measures taken to implement the Recommendation of the Report	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

	<p>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>
Recommendation of the MONEYVAL Report	<i>Authorities should consult widely with the sector on ways of improving transparency and reporting.</i>
Measures taken to implement the Recommendation of the Report	See our answers above.
(Other) changes since the last evaluation	

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>
Measures taken 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>
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>
Measures taken 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>

Recommendation of the MONEYVAL Report	<i>Sanctions should be more effective and dissuasive.</i>
Measures taken 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.
Recommendation of the MONEYVAL Report	<i>Immediate seizure should be available in the case of cash related to ML/FT</i>
Measures taken to implement the Recommendation of the Report	See our answers above
(Other) changes since the last evaluation	

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><u>I. According to the Hungarian legislation the 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 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:</u></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></p>

(2) Based on the provisions of Paragraph b) of Subsection (1), the obligation to keep bank secrets shall not apply in respect of
...d) investigating authorities and the public prosecutor's office, acting in a pending criminal procedure and seeking additional evidence,...
f) organs authorized to use secret service means and to conduct covert investigations if the conditions prescribed in a separate act are provided for,...

Section 52.

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

- a) trafficking of narcotic drugs,
- b) terrorism,
- c) illegal trafficking in arms,
- d) money laundering,**
- e) organized crime.

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.

	<p><i>(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.”]</i></p> <p>- According to Section 2 of the Act LXIII of 1992 the “<i>criminal personal data</i>” 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 “<i>criminal personal data</i>” belong to the category of “<i>special data</i>”. 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 „<i>data processing</i>” means any operation or set of operation which is performed upon data, irrespective of the applied procedure (such as transfer, making public etc.).</p>
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>

5. Statistics

Please fill out - to the extent possible - the following tables:

a. Money Laundering and Financing of terrorism cases

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: on the 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 at 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: on the 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. STR/CTR

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.*

[Important fact is, notice: in the chart 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.

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)	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. • Consideration should be given to:

	<ul style="list-style-type: none"> Given the Police nature of the FIU and number of staff, placing the supervisory function over DNFBP 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)	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)	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)	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)	A clear legal basis for STR obligation relating to FT should be established to ensure effective supervisory oversight for CFT.
4. Preventive Measures—Nonfinancial 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)	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 DNFBP. This will require systematic and continued outreach and improved guidance on suspicious transaction reporting – especially to DNFBP 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 DNFBP should be part of ongoing awareness-raising and education efforts. • Issue guidance on CFT for DNFBP. • Increase the resources available for supervision of non self-regulated DNFBP.
5. Legal Persons and Arrangements & Nonprofit Organizations	
Nonprofit 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)	More detailed and precise statistics must be kept to track ML / FT cases.