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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

THIRD ROUND DETAILED ASSESSMENT REPORT
ON HUNGARY¹

ANTI-MONEY LAUNDERING
AND COMBATING THE FINANCING OF TERRORISM

COMPLIANCE WITH THE EUROPEAN UNION ANTI-MONEY LAUNDERING DIRECTIVES

Memorandum
prepared by Mr Herbert Z. LAFERLA

¹ Adopted by MONEYVAL at its 17th Plenary meeting (30 May – 3 June 2005)

COUNCIL OF EUROPE

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

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COMPLIANCE WITH THE EUROPEAN UNION ANTI-MONEY LAUNDERING DIRECTIVES

I. INTRODUCTION

1. In accordance with the procedures agreed by the Committee MONEYVAL and the International Monetary Fund (IMF) for the third round evaluation programme of MONEYVAL under the New Methodology, Hungary was evaluated by an IMF expert team as part of its FSAP programme between 21st February 2005 and 4th March 2005. Hungary and the IMF agreed that a representative of MONEYVAL joins the IMF team for part of the evaluation exercise to examine compliance with the European Union anti-money laundering directives where these differ from the FATF 40-Recommendations and therefore fall within the remit of the MONEYVAL examinations. Mr Herbert Zammit LaFerla, Director, Financial Stability Division, Central Bank of Malta was the MONEYVAL expert evaluator. The MONEYVAL representative joined the IMF expert team in Budapest for two days from 21st – 22nd February 2005. Prior to the visit the Hungarian authorities had submitted a comprehensive reply to the MONEYVAL Mutual Evaluation Questionnaire (MEQ) and copies of the relevant legislation and other documents.
2. A specific MONEYVAL meeting, which included officials from the Ministry of Finance, the Hungarian Financial Services Authority, the National Bank of Hungary, the Financial Intelligence Unit and the Gaming Board², was also attended by the IMF expert team. The MONEYVAL representative participated jointly with the IMF expert team in the kick-off meeting with representatives of the main authorities and the following IMF specific meetings: Association of Chartered Accountants; Hungarian Police including the FIU; Hungarian Supreme Court; the Chairman of the Anti Money Laundering Inteministerial Committee (AMLIC) which included representatives of the Tax and Financial Control Administration (APEH) and the Hungarian Customs and Finance Guard; and the Chamber of Auditors.

² The Bar Association, which is a receiving body for STRs filed by the legal profession, could not attend this meeting. However, the IMF team later held meetings with the Association.

3. The MONEYVAL evaluation was based on the European Union Council Directive of 10 June 1991 on the prevention of the use of the financial system for the purposes of money laundering (91/308/EEC) as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 (hereinafter both referred to as the “EU AML Second Council Directive”); and the FATF 40-Recommendations 2003. The evaluation was also based on the laws, regulations and other documentation supplied by the Hungarian Authorities, including the replies to the MEQ and information obtained during the on-site visit.
4. Money laundering as a criminal offence was enacted into the Hungarian Criminal Code in 1994 as part of a major revision of the rules concerning economic crimes. The purpose of the revision was to broaden the means and techniques used to fight organised crime and to fulfil other international obligations. On the preventive side, the new Act XV of 2003 on the Prevention and Combating of Money Laundering (hereinafter “the 2003 AML Act”) replaced Act XXIV of 1994 on the Prevention and Impeding of Money Laundering as amended by Act LXXXIII of 2001. The 2003 AML Act was enacted for Hungary to comply with the EU AML Second Council Directive.

II. COMPLIANCE WITH THE EU AML SECOND COUNCIL DIRECTIVE

5. Prior to the on-site visit MONEYVAL had identified seven Articles in the EU AML Second Council Directive that differed, mostly in their mandatory aspect, from the FATF 40-Recommendations:
 - (i) Article 2a on the applicability of the AML obligations;
 - (ii) Article 3 on identification procedures;
 - (iii) Article 6 on reporting suspicious transactions and facts which might be an indication of money laundering;
 - (iv) Article 7 on suspected transactions and the authority to stop/suspend a transaction;
 - (v) Article 8 on tipping off;
 - (vi) Article 10 on reporting of facts that could contribute suspicious transactions by supervisory authorities;
 - (vii) Article 12 on extension of AML obligations.

6. The following sections address the findings of the on-site examination. They first describe the differences between the identified articles of the EU AML Second Council Directive and the relevant FATF 40-Recommendations. Following an analysis of the findings of the on-site visit and conclusions on compliance and effectiveness, recommendations and comments are made as appropriate.

6.1 **Article 2a: Applicability of AML obligations**

<p><i>Description</i></p>	<p>Article 2a of the EU AML Second Council Directive lists the types of institutions and legal or natural persons, acting in the exercise of certain professions and businesses that are subject to the Directive. The Article specifies the type of activities of the legal profession for which the obligations become applicable. In the case of auditors, external accountants and tax advisors the obligations are applicable to their broad activities in their respective professions.</p> <p>FATF Recommendation 12, which extends the AML obligations to designated non financial businesses and professions (DNFBP), excludes applicability to auditors and tax advisors whilst it limits the applicability to external accountants under circumstances similar to those applied to the legal profession. Indeed FATF Recommendation 16(a) <i>strongly encourages</i> countries to extend the <i>reporting</i> requirement (note the further limitation) to the rest of the professional activities of accountants, including auditing – but makes no reference to tax advisors.</p> <p>Also, the applicability of the AML obligations to dealers in high value goods under the EU AML Second Council Directive, in giving some examples, lends itself to a broader interpretation of application. Again, FATF Recommendation 12 limits the application to dealers in precious metals and precious stones. This is further confirmed in the definition of DNFBP in the Glossary.</p>
<p><i>Analysis</i></p>	<p>Section 1 of the Hungarian 2003 AML Act lists the natural and legal persons subject to the obligations arising under the Act. The obligations under the Act are applied to accountants, and tax consulting services (S.1(1)(h)) and to auditing (S.1(1)(g)) in their entire professional activities. In the case of the legal profession (S.1(1)(l)) Sections 14 and 15 of the Act provide special provisions relating to attorneys and notaries public through which the obligations under the Act are applied in specific circumstances as defined by the EU AML Second Council</p>

	<p>Directive. The Hungarian Authorities advised that accountants have to be registered by the Ministry of Finance while tax advisors need to have a special qualification, obtained following an intensive two year course, in order to exercise the profession – very often practised by accountants. Furthermore, where lawyers act as tax advisors the special provisions of the 2003 AML Act under Sections 14 and 15 would not apply.</p> <p>Reference to dealing or trading <i>in high value goods</i> under the Hungarian 2003 AML Act throughout this Report is to be read in accordance with the definition in Section 1 of the Act referring to <i>persons who trade in precious metals, goods made from either thereof, jewellery, cultural assets, works of art, or sell such assets in auctions or as commission agents.</i></p> <p>The obligations under the 2003 AML Act are triggered at the threshold of two million forints (approx. Euro 11,000) as established by Section 3. The threshold is also applicable in situations not only where a transaction is carried out in a single operation but also where it involves several operations or transactions that appear to be linked i.e. structured transactions.</p> <p>The Ministry of Finance (MoF) in co-operation with the National Police Headquarters (“ORFK”), has issued various directives which provide guidance on the implementation of the 2003 AML Act for those service providers who are not subject to state or professional supervision as required by Section 12 of the Hungarian 2003 AML Act. Foremost amongst these reference could be made to:</p> <ul style="list-style-type: none"> - Directive 7002/2003 for activities in real estate transactions; - Directive 7003/2003 for accounting (book keeping) activities; - Directive 7004/2003 for chartered / tax consultancy and tax advisory services; - Directive 7005/2003 for trading in high value goods; <p>Section 11(4) of the Hungarian 2003 AML Act requires those agencies exercising state or professional supervision over service providers to issue guidelines and model rules in co-operation with the MoF and the ORFK.</p>
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	Thus for example, the Chamber of Auditors has issued Sample Regulations for the auditing profession whilst the Gambling Supervision Authority has issued Sample Regulations for casinos.
<i>Conclusion</i>	Section 1 of the Hungarian 2003 AML Act is in full compliance with Article 2a of the EU AML Second Council Directive. Application to the various obliged persons and entities is considered positive although the Hungarian authorities, as for most other jurisdictions, face certain difficulties in the aspect of monitoring the practical implementation by the various and numerous DNFBPs such as those dealing with high value goods.
<i>Recommendations and Comments</i>	No further recommendations.

6.2 Articles 3(3) and 3(4): Identification requirements - Derogation

<i>Description</i>	<p>By way of derogation from the mandatory requirement for the identification of customers by persons and institutions subject to the Directive, the third paragraph of Article 3 of the EU AML Second Council Directive removes the identification requirement in cases of insurance activities where the periodic premium to be paid does not exceed Euro 1,000 or where a single premium is paid amounting to Euro 2,500 or less. Furthermore, Paragraph 4 of the same Article 3 provides for discretionary identification obligations in respect of pension schemes where relevant insurance policies contain no surrender value clause and may not be used as collateral for a loan.</p> <p>FATF Recommendation 5, in establishing customer identification and due diligence, does not provide for any similar derogation. It however provides for a general discretionary application of the identification procedures on a risk sensitivity basis. Therefore, in certain circumstances, where there are low risks, countries may allow financial institutions to apply reduced or simplified measures. Indeed, the Interpretative Note to Recommendation 5 quotes the same instances as the EU AML Second Council Directive as examples for the application of simplified or reduced customer due diligence.</p>
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<i>Analysis</i>	Under the Hungarian 2003 AML Act, customer identification and customer due diligence are mandatory for the service providers when establishing business relations; when carrying out one-off or occasional transactions of two million forints or above or when data, facts or circumstances may suggest money laundering irrespective of the identification threshold of two million forints as established by Section 3 of the Act. However, Paragraph 6 of Section 3 of the Hungarian 2003 AML Act lifts the obligation of identification to insurance and mutual insurance fund providers under circumstances as determined by the EU AML Second Council Directive. Such instances are monitored and examined by the insurance supervisor during on-site examinations.
<i>Conclusion</i>	The Hungarian law is in compliance with the provisions of Articles 3(3) and 3(4) of the EU AML Second Council Directive.
<i>Recommendations and Comments</i>	Although there are no recommendations to be made with respect to compliance with the EU AML Second Council Directive, it is worth noting that compliance to the FATF Recommendation 5 in such instances, as a minimum, requires reduced or simplified measures. Hence, in fully adopting the derogation of the mandatory identification requirements under the EU Directive, the <u>minimum</u> requirements under the FATF Recommendation 5 would not be achieved.

6.2.1 Articles 3(5) and 3(6): Identification requirements - Casinos

<i>Description</i>	<p>Paragraph 5 of Article 3 of the EU AML Second Council Directive requires the identification of all casino customers if they purchase or sell gambling chips with a value of Euro 1,000 or more. However, Paragraph 6 of the same article provides that casinos subject to State Supervision shall be deemed in any event to have complied with the identification requirements if they register and identify their customers immediately on entry, regardless of the number of gambling chips purchased.</p> <p>FATF Recommendation 12 applies customer due diligence and record keeping requirements to designated non-financial businesses and professions. In the case of casinos, these requirements are applied when customers engage in financial transactions equal to or above the applicable designated threshold. The Interpretative Note to Recommendation 5 establishes the designated threshold at Euro 3,000, irrespective of whether the</p>
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	<p>transaction is carried out in a single operation or in several operations that appear to be linked. Furthermore, in the Methodology Assessment, under the Essential Criteria for Recommendation 12, the FATF defines, by way of example, <i>financial transactions</i> in casinos. These include the purchase or cashing in of casino chips or tokens, the opening of accounts, wire transfers and currency exchanges. Identification requirements under the FATF - 40 Recommendations for casinos are likewise applicable to internet casinos.</p>
<i>Analysis</i>	<p>In Hungary all casinos are subject to the state supervision exercised by the Hungarian Gaming Board. Therefore, according to Paragraph 5 of Section 3 of the Hungarian 2003 AML Act casinos are obliged to identify their customers in the course of entry into the area of the casino by taking a record of all the data as determined by Section 5(1)(a) and (b) of the Act. Therefore, once all customers are registered and identified immediately on entry, the purchase or cashing in of casino tokens and the opening of accounts are not subject to the identification process. In addition casinos are required to operate an internal control and information system that assists in the identification of customers. To this effect, the Gambling Supervision Authority has issued Sample Regulations with the objective of ensuring that business associations operating casinos and subject to the scope of the 2003 AML Act apply norms for the prevention of money laundering that are in accordance with uniform principles. Finally, the Gaming Act prohibits internet casino gambling activities.</p>
<i>Conclusion</i>	<p>Having adopted procedures for the identification of all customers upon entry to casinos that are all subject to State Supervision, Hungary is in compliance with the provisions of Article 3(6) of the EU AML Second Council Directive.</p>
<i>Recommendations and Comments</i>	<p>No further recommendations. However, it is worth noting that there are wide divergencies in the identification requirements for casino customers as provided for in the EU AML Second Council Directive and the FATF - 40 Recommendations. These divergencies exist also in the scope of the identification in the sense that whereas Article 3(5) of the EU Directive provides for identification of customers purchasing or cashing chips, the FATF - 40 broaden this scope to <i>financial services</i> which, as indicated above, include various other activities of a financial nature.</p>

6.3 Article 6: Reporting of Suspicious Transactions

<p><i>Description</i></p>	<p>Further to the reporting of suspicious transactions paragraph 1 of Article 6 of the EU AML Second Council Directive provides for the reporting obligation to include facts which might be an indication of money laundering. FATF Recommendation 13 places the reporting obligations on suspicion or reasonable grounds for suspicion that funds are the proceeds of a criminal activity.</p> <p>Furthermore, paragraph 3 of Article 6 of the EU AML Second Council Directive provides an option for member States to designate an appropriate self-regulatory body (SRB) in the case of notaries and independent legal profession as the authority to be informed on suspicious transactions or facts which might be an indication of money laundering. FATF Recommendation 16 imposes the reporting obligation under Recommendation 13 on DNFBPs but does not directly provide for an option on the disclosure receiving authority. This is only provided for in a mandatory manner in the Interpretative Note to Recommendation 16. Also, probably because the FATF identifies accountants within the same category as the legal profession, the Interpretative Note extends the option to external accountants.</p> <p>Finally, the same paragraph 3 of Article 6 of the EU Directive further requires that where the option of reporting through an SRB has been adopted for the legal profession, Member States are required to lay down appropriate forms of co-operation between that SRB and the authorities responsible for combating money laundering. The FATF Recommendations do not directly provide for such co-operation but the Interpretative Note to Recommendation 16, although in a non-mandatory manner, makes it a condition that there should be appropriate forms of co-operation between SRBs and the FIU where reporting is exercised through an SRB.</p>
<p><i>Analysis</i></p>	<p>Paragraph 1 of Section 8 of the Hungarian 2003 AML Act requires designated officers to file a report without delay in the event of noticing any information, fact or circumstances that may suggest money laundering. The Hungarian Authorities interpret this provision to include both a suspected transaction and facts that might be an indication of money laundering. Hence, a report would still be filed if transactions per se are not suspected of money laundering but other circumstances indicate possible money laundering. Finally, it is worth noting that the 2003 AML Act imposes the internal reporting</p>

	<p>obligation to the designated officer who shall report to the FIU not only on directors, managers, and employees of a service provider but also on “assisting family members”. The Hungarian authorities explained that this applies to DNFBP where, under Hungarian law, a member of a family who assists in a family business is considered as an employee.</p> <p>Sections 14 and 15 of the Hungarian 2003 AML Act deal with Special Provisions to Attorneys and Notaries Public. Section 14 establishes the circumstances under which the identification and reporting procedures as prescribed apply to these professions. Section 15 establishes the reporting procedures for the legal profession through the regional bar association which is required to forward the report to the FIU. Employees of attorneys and notaries public are required to file the report with their employer (attorney or notary public) who shall forthwith report to the regional bar association and the regional chamber of notaries public. The FIU representatives informed that the process does not cause delay in the report reaching the FIU since the regional bar associations are not authorised to take any action on the reports and hence forward all reports to the FIU immediately these are received. Indeed in some cases the legal professionals even report directly to the FIU.</p> <p>As to the co-operation between the bar association and the FIU there are no legal provisions in the Hungarian legislation. The FIU however informed that there is an annual meeting with the Bar Association. The meeting primarily deals with reporting procedures and improvements thereto.</p>
<p><i>Conclusion</i></p>	<p>The Hungarian law is compliant with the EU AML Second Directive as regards the reporting obligation under Article 6(1) and the adoption of reporting through an SRB under Article 6(3). There are no legal provisions for co-operation between SRBs and the FIU and hence the mandatory element of Article 6(3) of the EU Directive is not present. It is further opined that in practice the reporting through the Bar Association may cause delays, whilst the co-operation between the Bar Association and the FIU may not be satisfactory and effective.</p>

<i>Recommendations and Comments</i>	As indicated by the FIU, the Bar Association has a very passive role in the reporting process where it simply acts as a post office. There are instances where reports by the legal profession are filed directly with the FIU. The Hungarian authorities may therefore wish to review the effectiveness of the process. Should the authorities decide to retain these procedures then there is a further need to re-assess the effectiveness of the co-operation between the Bar Association and the FIU and provide statutory provisions to put such co-operation on a mandatory basis.
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6.4 Article 7: Suspected Transactions – Refrain / Suspension

<i>Description</i>	<p>Article 7 of the EU AML Second Council Directive requires that institutions and persons subject to the Directive refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the authorities who may stop the execution of the transaction. Furthermore where to refrain from undertaking the transaction is impossible or could frustrate efforts of an investigation, the Directive requires that the authorities be informed (through an STR) immediately the transaction is undertaken.</p> <p>FATF Recommendation 13, which imposes the reporting obligation where there is suspicion or reasonable grounds to suspect that funds are the proceeds of a criminal activity, does not provide for the same eventualities as provided for in Article 7 of the EU Directive. FATF Recommendation 5 partly addresses this matter but under circumstances where a financial institution is unable to identify the customer or the nature of the business relationship. However, whereas Recommendation 5 is mandatory in this respect, it does not provide for the power of the authorities to stop a transaction. Furthermore, the reporting of such a transaction is not mandatory. Paragraphs 1- 3 of the Interpretative Note to Recommendation 5 seem to be more mandatory in filing an STR in such circumstances.</p>
<i>Analysis</i>	Under Hungarian law the suspension of a transaction suspected of money laundering is addressed through Section 9 of the 2003 AML Act. Service providers are required to suspend a transaction where there is suspicion of money laundering and to immediately notify the FIU to investigate the report. Under Section 9 a service provider may complete the transaction if the FIU does not contact it within 24 hours from the filing of the report.

	<p>Section 9 basically addresses the suspension of a suspected transaction by the service provider himself for 24 hours unless the FIU takes the necessary action. The initiative to “suspend” a transaction is therefore undertaken by the service provider rather than the authorities. The Hungarian Authorities have advised that the FIU can still stop the transaction in accordance with the rules of Act XIX of 1998 on Criminal Proceedings. The fact that a service provider “suspends” the transaction may be interpreted as “refraining”, though temporarily, from undertaking the transaction. However, whereas the EU AML Second Council Directive imposes the provisions of Article 7 on all “institutions and persons” subject to the Directive, Section 9 of the Hungarian 2003 AML Act limits this obligation to certain “categories” of service providers; mainly those providing financial services. It thus excludes all DNFBPs.</p>
<i>Conclusion</i>	<p>In general, Section 9 of the Hungarian AML Act transposes the principles of Article 7 of the EU Directive, but does so in an indirect manner and consequently does not completely reflect the provisions of Article 7.</p>
<i>Recommendations and Comments</i>	<p>The Hungarian Authorities may wish to revise the provisions of Section 9 accordingly not only to extend the obligations thereunder to all service providers as listed in Section 1(1) of the Act, but also to provide for procedures whereby service providers are required to file an STR in circumstances where to “suspend” (i.e. refrain from undertaking) a transaction, could frustrate an ongoing investigation. Thus, Section 9 of the Act would be better harmonized with Article 7 of the EU AML Second Council Directive.</p>

6.5 Article 8: Tipping off

<i>Description</i>	<p>Article 8(1) of the EU AML Second Council Directive prohibits institutions and persons subject to the obligations under the Directive and their directors and employees from disclosing to the person concerned or to third parties either that an STR or information has been transmitted to the authorities or that a money laundering investigation is being carried out. Furthermore Article 8(2) provides an option for Member States not to apply this prohibition (tipping off) to notaries, independent legal professions, auditors, accountants and tax advisors.</p>
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	<p>FATF Recommendation 14 imposes a similar prohibition on financial institutions, their directors, officers and employees. Recommendation 16 extends this prohibition to all DNFBPs. However, the prohibition under Recommendation 14(b) is limited to the transmission of an STR or related information. It does not therefore cover ongoing money laundering investigations. Furthermore, the FATF Recommendations do not provide for an option for certain DNFBPs to be exempted from the “tipping off”. The Interpretative Note to Recommendation 14 exempts tipping off only where such DNFBPs seek to dissuade a client from engaging in an illegal activity.</p>
<i>Analysis</i>	<p>Paragraph 4 of Section 8 of the Hungarian 2003 AML Act imposes the prohibition of disclosing information regarding the performance of the reporting obligation (interpreted to refer to the filing of STRs), the contents of the STRs and the identity of the person filing the report to any third person or the customer himself. The prohibition is imposed on “those who are service providers including the directors, employees or family members actively engaged in such businesses”. Furthermore, the prohibition does not cover knowledge of an ongoing investigation. The Act does not seem to have adopted the tipping off exemption for certain DNFBPs as provided for under paragraph 2 of Article 8 of the EU Directive.</p>
<i>Conclusion</i>	<p>Although paragraph 4 of Section 8 of the Hungarian 2003 AML Act addresses the “tipping off”, the provisions are not in full compliance with Article 8 of the EU Directive.</p>
<i>Recommendations and Comments</i>	<p>The Hungarian Authorities may wish to reconsider paragraph 4 of Section 8 with the objective of including the tipping off prohibition for ongoing money laundering investigations.</p>

6.6 Article 10: Reporting by Supervisory Authorities

<i>Description</i>	<p>Article 10 of the EU AML Second Council Directive imposes an obligation on supervisory authorities to inform the authorities responsible for combating money laundering if, in the course of their inspections carried out in the institutions or persons subject to the Directive, or in any other way, such supervisory authorities discover facts that could constitute evidence of money laundering. The Directive further requires the extension of this obligation to supervisory bodies that oversee the stock, foreign exchange and financial derivatives markets.</p>
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	<p>In providing for the regulation and supervision of financial institutions and DNFBPs in Recommendation 23 and in providing for institutional arrangements (Recommendations 26 –32) the FATF-40 do not provide for an obligation on supervisory authorities to report findings of suspicious activities in the course of their supervisory examinations.</p>
<i>Analysis</i>	<p>In the replies to the MEQ, under Item 1.6 paragraph 7 (page 17) it is indicated that the HFSA has filed 10 STRs up to 2003. Furthermore, in the reply to Item 3.10 (page 57) of the MEQ it is stated that <i>If the HFSA suspects a possible crime committed by, or against a financial institution, it must report it to the police (or in ML cases, the FIU)</i>. In the course of the on-site visit the FIU confirmed that there is such an obligation, although at the time it could not indicate the relevant legal basis.</p> <p>Further enquiries have indicated the legal basis under Section 171(2) of the Act No XIX of 1998 on Criminal Procedures. Although the Act requires the lodging of a <i>complaint concerning a criminal offence coming to their cognizance within their scope of competence</i>, this is interpreted by the Hungarian authorities to include also <i>suspicion or facts that could indicate money laundering</i>. Indeed in such cases, the report (complaint) is required to be filed with the FIU. Furthermore, Section 171(2) applies to <i>Members of the authority and official persons and if prescribed by a separate legal regulation, public bodies....</i> The Hungarian authorities interpret this to include the HFSA, Tax Authorities, Customs Authority, and the Gaming Board as <i>authorities</i> whilst the Chambers (Chamber of Auditors, Chamber of Notaries, and Bar Association) are recognized as <i>public bodies</i>. Currently there is no <i>separate legal regulation in the case of public bodies</i> and hence the latter are not obliged to report. Furthermore, the Hungarian AML Act requires the Customs Authority to report suspicious transactions of cross-border cash movements despite the provisions of Section 171(2) which, according to the Hungarian authorities, apply <i>directly</i> to the Customs Authority.</p>
<i>Conclusion</i>	<p>The scope of the provisions of Section 171(2) of the Hungarian Act on Criminal Procedures broadly reflects the principles of the provisions of Article 10 of the EU Directive.</p>

<i>Recommendations and Comments</i>	Although the Hungarian legislation provides for supervisory authorities to lodge a report with the appropriate authorities concerning knowledge of criminal offence, the Hungarian authorities, who are currently preparing major legislative changes regarding the reporting obligation for public bodies, may wish to re-assess the overall applicability of these provisions within the scope of the prevention of money laundering.
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6.7 Article 12: Extension of AML obligations

<i>Description</i>	<p>Article 12 of the EU AML Second Council Directive provides for a mandatory obligation on Member States to ensure that the application of the provisions of the Directive are extended, in whole or in part, to professions and categories of undertakings, other than the institutions and persons listed in Article 2a, that are likely to be used for money laundering.</p> <p>FATF Recommendation 20 imposes a similar obligation but in a non-mandatory way by requiring countries to consider applying the Recommendations to categories of businesses or professions other than DNFBPs.</p>
<i>Analysis</i>	The Hungarian AML Act lists the businesses and persons subject to the provisions of the Act (Section 1(1)). This is in full compliance with Article 2a of the EU Directive – refer to Section 6.1 of this Report. The Act does not specifically include any provisions for extending the obligations to other categories of businesses or professions. However, this does not mean that the Hungarian authorities will not consider extending the obligations should the need arise, possibly by amending Section 1(1) of the Act. Indeed, it may be noted that Section 8(1) of the Act extends the reporting obligation to “assisting family members” as listed in item (n) of Section 1(1) of the Act – refer also to Section 6.1 of this Report.
<i>Conclusion</i>	There is nothing to indicate that the Hungarian authorities will not extend the obligations under the AML Act to other categories of businesses and professions.

<p><i>Recommendations and Comments</i></p>	<p>The Hungarian Authorities have advised that according to the fundamental principles of the Hungarian legal system, the willingness of the Government to extend the AML obligation to other categories of business and professions cannot be entrenched in the law. The Hungarian authorities may therefore wish to consider other ways of ensuring the adoption of Article 12 of the EU Directive. This could be done, for example, by imposing a statutory obligation on the FIU (or other authority as appropriate) to advise the Government in this regard. Thus, the willingness of the Government to extend the obligation would be more transparent.</p>
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III. CONCLUSIONS

7. On the basis of the examination of the divergencies of the relevant Articles of the EU Directive from the FATF-40 Recommendations, although, as indicated in paragraph 6 of this Report some minor issues remain outstanding from the full implementation of the relevant points of the Directive, the Hungarian 2003 AML Act has transposed the EU AML Second Council Directive to a high degree. On the basis of the limited assessment these relevant articles appear to be effectively implemented.
8. The Hungarian authorities may however wish to re-examine the transposition of Articles 7, 8 and 10 for further harmonization of the 2003 AML Act to the EU Directive.
9. In the process, the Hungarian authorities may also wish to re-assess the effectiveness of the co-operation between the FIU and the Bar Association in its responsibilities of receiving STRs from the legal profession.