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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 SLOVENIA [1]

ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

Memorandum
prepared by the Secretariat
Directorate General of Legal Affairs DG I

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

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LIST OF ACRONYMS USED

AML	**Anti-Money Laundering**
CCP	**CODE OF CRIMINAL PROCEDURE**
CDD	**Customer Due Diligence**
CFT	**Combating the Financing of Terrorism**
CTC	**UN Counter Terrorism Committee**
CTIF-CFI	**FIU Belgium**
CTR	**Cash Transaction Reports**
DNFBPs	**Designated Non-Financial Businesses and Professions**
ETS	**European Treaty Series [CETS = Council of Europe Treaty Series 1.1.2004]**
FATF	**FINANCIAL ACTION TASK FORCE**
FIU	**Financial Intelligence Unit**
IN	**Interpretative Note**
ISA	**Insurance Supervisory Agency**
KDD	**Centralna klirinško depotna družba d.d. – Central Securities Clearing Corporation Inc. (i.e. supervised entities)**
LPML	**LAW ON PREVENTION OF MONEY LAUNDERING**
MOUs	**Memoranda of understandings**
NPOs	**Non-profit organisations**
OMLP	**Office for Money Laundering Prevention**
PC	**Penal Code**
PEPs	**Politically Exposed Persons**

SIT	**Slovenian Tolar**
SMA	**Securities Market Agency**
SOVA	**Slovene Intelligence and Security Agency**
STR	**Suspicious Transaction Reporting systems**
SR	**Special Recommendation**
SROs	**Self Regulatory Organisations**
UNSC Resolutions	**United Nations Security Council Resolutions**

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I. PREFACE

1. The evaluation of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Slovenia was based on the Forty Recommendations of the FATF (2003) and the 9 Special Recommendations on financing of terrorism of the FATF, together with the two Directives of the EC (91/308/EEC and 2001/97/EC), in accordance with MONEYVAL's terms of reference and procedural rules. The evaluation was based on the laws, regulations, and other materials supplied by Slovenia during the on-site visit from 30 January 2005 to 5 February 2005 and subsequently. During the on-site visit, the evaluation team met with officials and representatives of all relevant Slovenian Government agencies and the private sector. A list of the persons and bodies met is set out in Annex 1 to the mutual evaluation report.

2. The evaluation team comprised Mr Boudewÿn VERHELST, Deputy Director CTIF-CFI, Attorney General, Gulden Vlieslaan, 55, B – 1060 Brussels (Legal Examiner); Mrs Izabela FENDEKOVA, Licensing Officer, Banking Supervision Division, National Bank of Slovakia (Financial Examiner); Mr Paolo COSTANZO, Ufficio Italiano dei Cambi, Italy (Financial Examiner); Mrs Marketa HLAVINOVA, Legal Expert of the International Co-operation Department of the Financial Analytical Unit, Ministry of Finance of the Czech Republic (Law Enforcement Examiner); and the MONEYVAL Secretariat. The examiners reviewed the institutional framework, the relevant AML / CFT Laws, regulations and guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and financing of terrorism through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation, and the effectiveness of all these systems.

3. This report provides a summary of the AML / CFT measures in place in Slovenia, as at the date of the on-site visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). It also sets out Slovenia's levels of compliance with the FATF 40 + 9 Recommendations (see Table 1). Compliance or non-compliance with the EC Directives has not been considered in the ratings in Table 1.

II. EXECUTIVE SUMMARY

1. The third evaluation of Slovenia by MONEYVAL took place from 30 January 2005 to 5 February 2005. The evaluation was based on the Forty Recommendations of the FATF and the 9 Special Recommendations of the FATF, together with the two Directives of the EC (91/308 EEC and 2001/97/EC).

2. The evaluation team comprised Mr Boudewÿn VERHELST (legal examiner, Belgium), Mrs Izabela FENDEKOVA (financial examiner, Slovakia), Mr Paolo COSTANZO (financial examiner, Italy), Mrs Marketa HLAVINOVA (law enforcement examiner, Czech Republic) and the MONEYVAL Secretariat. The examiners reviewed the institutional framework, the relevant AML/CFT laws, regulations and guidelines and other requirements, and the regulatory and other systems in place to deter money laundering and financing of terrorism through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs), as well as examining the capacity, the implementation and the effectiveness of all these systems.

3. The Office for Money Laundering Prevention (OMLP), the FIU, remains the crucial and leading body in this area, in both the national and the international contexts in Slovenia. It performs many varied functions and activities from the preparation of legislation to galvanising the system as a whole to perform effectively.

4. In the international context also, the FIU is highly regarded and often provides important technical assistance and expertise to newer FIUs in the region, and beyond.

5. The main actors in the Slovenian AML/CFT regime have been heavily engaged in the preparation of new AML/CFT instruments internationally (the third EU Directive and the revision of the Strasbourg Convention [ETS No. 141]). The examiners were advised that the internal Slovenian legislative agenda would then be directed towards harmonising domestic law with the provisions of these new instruments, and to bring domestic legislation into line with the new standards on the countering of the financing of terrorism.

The situation of money laundering and the financing of terrorism

6. In Slovenia, the major sources of domestic criminal proceeds are fraud, abuse of economic power, tax evasion, unjustified acceptance of gifts, abuse of office or official duties, acceptance of a bribe, unlawful manufacture of and trade in weapons and explosive materials. The number of economic offences against property, and drugs offences are increasing and the Slovenian authorities recognise that, accordingly, the demand for money laundering will grow.

7. Money laundering investigations are based both on domestic and foreign predicate offences. In other countries within the region, smuggling of cigarettes, alcohol and human beings and trafficking in drugs, business and tax frauds are increasing and so they expect Slovenia to remain a target for money laundering. Banks appear to be the most used financial intermediary for money laundering and make the most reports.

8. Money laundering has been criminalised since 1995 and, despite the overall strength of the legislative framework, only 2 money laundering cases had been concluded in the courts (resulting in acquittals) and no final convictions had been achieved at the time of the on-site visit.

9. The Slovenian authorities have, as yet, had no experience of the offence of financing of terrorism, which was made a separate criminal offence in March 2004. Prior to that, the Slovenian authorities considered financing of terrorism could have been prosecuted by using the aiding and abetting articles of the Penal Code. No criminal charges or indictments have been filed in this respect and no freezing orders made under either the United Nations Security Council or European Union Resolutions. Notwithstanding that, Slovenia had (on 21 June 2002) amended a pre-existing Law on Restrictive Measures, which entitles the Slovenian Government to adopt restrictive measures, such as freezing accounts in all cases in which Slovenia is bound to adopt such measures, as a member of the United Nations or other international organisations. Since 1 May 2004, on accession to the European Union, Slovenia is obliged to follow relevant European legislation on the freezing of terrorist assets.

Overview of the financial sector and DNFBPs

10. As at 31 October 2004, there were 19 banks operating in Slovenia, 2 savings banks and 2 savings and loan undertakings, supervised by the Bank of Slovenia, which also supervises the 136 foreign exchange offices. The number of exchange offices is decreasing.

11. There are numerous other financial institutions operating in Slovenia. These include 156 public companies issuing securities, 29 active participants in the securities market (11 of them banks and 18 stockbroking companies), 11 management companies, managing 20 mutual funds, and 5 mutual pension funds. The Securities Market Agency (SMA) is now responsible for checking anti-money laundering compliance in this sector. Insurance market participants include 13 insurance companies, 2 reinsurance undertakings and 4 pension companies, licensed and supervised by the Insurance Supervision Agency.

12. The following types of non-financial businesses operate in Slovenia, and have anti-money laundering obligations on an analysis of potential risks: organisations performing payment transactions, post offices, pawnbrokers offices and legal and natural persons involved in safekeeping and the travel agency business. At the time of the on-site visit, there were 320 travel organisations (some offering foreign exchange services), 1,135 real estate agents and 252 traders in precious metals and stones. The OMLP has an indirect supervisory role in respect of organisations without a direct supervisor. They also have an indirect supervisory role in respect of the 5 professions separately covered in the preventive law (lawyers, law firms, notaries, audit companies, independent auditors and legal and natural persons performing bookkeeping services or tax advisory services). The most numerous of these are the 3081 legal and natural persons performing accountancy services, and the 933 lawyers. The other chambers are smaller: 67 notaries public; and 41 audit companies. The professional bodies in Slovenia have no AML/CFT competence.

13. There were, at the time of the on-site visit, also 14 concessions for casinos granted to six joint stock companies. The State Office for Gaming Supervision is the principal casino supervisory body.

14. There are numerous non-profit organisations (NPOs) that meet the functional FATF definition of non-profit organisations. These include, but are not confined to associations and foundations. There were 19, 246 associations registered in Slovenia on 31 December 2004 and 153 foundations are registered.

15. The Companies Act provides that companies acquire the character of a legal person upon their entry in the court register. The prevailing legal form in the financial market is either the joint stock company or the limited liability company. On 31 December 2004, there were 40048 limited liability companies and 1172 joint stock companies. Other legal entities which provide data to be entered in the court register include unlimited companies and partnerships (some partners have unlimited liability, others have limited liability). So-called "dormant partnerships" are not legal entities and as a consequence data on a "dormant partnership" is not available in the court register. The court register is available on the internet and banks and credit institutions and other financial institutions have access to it through concessions. Membership in most joint-stock companies is transparent from the registry at the Central Securities Clearing Corporation and is publicly accessible. If bearer shares (which can be used to establish joint stock companies) are issued, holders, as a rule, would not be transparent and/or accessible. The existence of such companies is marginal at present, but should the situation change in the future, the responsible authorities will need to propose the adequate changes to the current policy.

16. Since the second round evaluation, numerous steps have been taken by Slovenia to meet recommendations made in that report. In particular, the lack of a clear obligation on supervisory authorities to monitor compliance with the Law on Prevention of Money Laundering (LPML), identified in the second report, was remedied in the last amendments to the preventive law - in July 2002. The July 2002 amendments prescribed new identification procedures, which ensured that bearer passbooks are no longer considered as deposits, but are treated as transaction accounts. All transactions and customers with bearer passbooks (that come into a bank) are now identified. The current market share of these passbooks is considered to be marginal.

17. Since the last evaluation, strategic goals and programmes have also been developed in connection with the investigation of economic crime in general and were agreed by the Government in June 2003 in the Strategy of Economic Crime in the Republic of Slovenia. This strategy includes the investigation of money laundering.

Legal systems and related institutional measures

18. On the repressive side, the basically sound and comprehensive money laundering offence, in A 252 Penal Code remained basically unchanged since the second evaluation, save for amendments to the penalties. It covers the mandatory and physical elements in the Vienna and Palermo Conventions. It has a wide "all crimes" predicate base, which includes extraterritorial offences (subject to dual criminality). It goes beyond the mandatory international standards by including negligent money laundering in the mental element. Self laundering is also covered (the absence of which had hitherto caused legal problems). It is also an offence to which corporate criminal liability can be applied. The requirement to prove the intent to conceal the assets – even if compliant with the international standards – is a potential extra burden which may sometimes incapacitate the prosecution. Case law is needed to define the extent of this requirement and to interpret the concept of "concealment". If this proves to be a problem, the criminalisation of knowing use of proceeds should be considered, insofar as it is not contrary to the constitutional principles or basic concepts of the legal system.

19. The seizure and confiscation regime under Slovene law is basically comprehensive and well-balanced. Direct and indirect proceeds are subject to compulsory seizure and confiscation, and equivalent value confiscation is possible. The seizure and confiscation regime is thus firmly imbedded in the law and covers all criminal proceeds and instrumentalities. A definition of "property benefits" which includes substitute assets and investment yields would enhance the transparency and solidity of the confiscation regime. Consideration could also usefully be given to provisions in some serious proceeds-generating offences, which require an offender to demonstrate the lawful origin of the property. Ineffective implementation, however, of the current legal framework has resulted in an absence of money laundering related confiscation, which negatively affects the system. No statistics were submitted on confiscation in other criminal offences.

20. Given the strength of the legislative framework, the range of police powers, and firm institutional co-ordination with the FIU, it was disappointing to see, as noted above, that there had been no final convictions in the courts for the money laundering offence. Prosecutions still founder on the proof of the predicate offence and no statutory alleviation of this evidential requirement was being considered. At the time of the on-site visit, there were nonetheless several prosecutions pending. The slow speed of the judicial process was acknowledged and serious efforts need to be made to speed up cases. In its reports to Government over the last 4 years, the OMLP has highlighted the lack of speed in respect of court decisions, which they recognised as diminishing the effectiveness of the anti-money laundering system as a whole. The judges, with whom this team met, acknowledged this problem and indicated that they were working to speed up the system.

21. Slovenia has ratified the UN Convention on the Suppression of Terrorist Financing. It implements the UN Security Council Resolutions and the EU Regulations on the freezing of terrorist related accounts, though the practical implementation of these requirements needs further elaboration. The account holding institutions need clear guidance and instructions concerning their rights and obligations under the freezing mechanisms, such as in the case of errors, namesakes or requests for unfreezing and for access for basic expenses.

22. Slovenia made terrorist financing a separate criminal offence in A 338a Penal Code from 30 March 2004. It meets the requirements of the 1999 UN Convention, so far as funding of terrorist acts is concerned. The offence is not wholly in line with SR II and its interpretative note in respect, in particular, of the funding of terrorist organisations and individual terrorists. This issue would benefit from explicit coverage. There is no practice as yet with A 388a, so its effectiveness is difficult to judge.

23. LPML is robust and largely in line with the applicable international standards. It covers all the relevant aspects in respect of organisations (financial institutions) and designated non-financial businesses and professions. Areas of non-financial activities beyond those covered by the EU and the FATF provisions have been identified as exposed to risks and made subject to the AML/CFT provisions.

24. There are not yet any obligations in the law to report suspicions of terrorist financing, though amendments to the legislation are proposed after the introduction of the 3rd EU Directive. The absence of this in the law is the real shortcoming as regards the observance of relevant international standards. Nonetheless, the FIU does take certain measures in the financing of terrorism area. In accordance with the Act Amending the Restrictive Measures Act of 2001, it checks the names from the UN and other relevant lists in its databases. If the FIU identifies someone from a list, it would use its powers prescribed in the LMLP and it would report.

25. The Slovenian FIU, the OMLP, was established in December 1994 as a constituent body of the Ministry of Finance, though is operationally independent and has a powerful central role in the anti-money laundering system. It is the national centre for receiving, requesting and analysing and disseminating data and information received from organisations and others bound under the law to report cash transactions exceeding 5.000.000 SIT (approx. 21 000 Euros), transfers of cash and other negotiable instruments across the border (3.000.000 SIT) and all suspicious transactions, irrespective of the amount. It has the power to temporarily postpone transactions for no longer than 72 hours and it has issued 27 such orders, and in all cases except one (which was withdrawn by the OMLP), a judge subsequently issued a freezing order. The FIU has access, on a timely basis, to all relevant financial, administrative and law enforcement information that it requires, and can also request necessary additional information from reporting parties to properly undertake its functions. The financial and manpower resources of OMLP have increased since 2002. At the time of the present on-site visit, they had 16 staff members, with one position open. Statistical data available to the team confirmed the efficiency of the unit, though the examiners consider that the OMLP's resources could be further strengthened in relation to their role in monitoring of organisations with no prudential supervisor, and monitoring of the professions. OMLP resources could also be increased for the handling of CTRs. The examiners considered that the CTRs received could be further exploited, as few cases had been opened on the basis of them.

26. The OMLP has been a member of the Egmont Group since 1996 and participates in its activities very actively. When exchanging information with its foreign counterparts, the OMLP follows the Egmont Principles for Information Exchange.

27. In the last 3 years, banks and savings banks account for most of the cases opened by the OMLP, on the basis of STRs received. Other organisations and professions have hardly reported, despite the preparation of indicators in most sectors and training seminars supported by the FIU. Though the broad framework for reporting is in place, more work still needs to be done. Indeed, the FIU (and all those monitoring the system collectively) need to be assured that guidelines and indicators have been issued in each of the relevant sectors to support the implementation of LPML (and the directives under it). Equally, none of the guidance issued so far related to the financing of terrorism and this needs to be addressed urgently in all sectors.

28. The OMLP sent in 2002-2004, 11, 10 and 9 files on money laundering respectively to the Criminal Police Directorate / State Prosecution and 18, 15 and 24 pieces of written information respectively, in respect of other serious offences.

29. The FIU collects comprehensive statistics from all relevant agencies and makes an annual report to Government on the workings of the anti-money laundering system. On the basis of this, the Government can request action from specific departments.

30. The role of the police in the overall anti-money laundering system is detection and investigation of money laundering activities. There appears to have been general training on anti-money laundering issues and police powers are adequate. Since the last evaluation, on the basis of recommendations made, an officer within the General Police Directorate was appointed who co-ordinates the investigations of money laundering cases by various police units on both national and regional levels, and who co-operates directly with OMLP. The co-ordinator works in the Division for Financial Crime. The number of officers involved in money laundering investigations at the central level seems arguably to be about adequate to deal with the cases that come from the FIU but not for much proactive money laundering investigation. Though some police-generated money laundering enquiries have taken place, the police have a basically reactive stance on money laundering investigation, based on notifications from the FIU, rather than focusing on the pursuit of money laundering on their own initiative in major proceeds-generating cases. Shortly before the on-site visit, in October 2004, the General Police Directorate issued a Guide stipulating that financial investigation should become a necessary part of each investigation in defined proceeds-generating cases. It was unclear if the resource implications of this new stipulation had been fully considered, and, if not, they should be reviewed. It may be that on a cost/benefit analysis, a specialised Assets Recovery Unit, as recommended by the previous evaluation team, would better meet Slovenia's needs in this area. Either way, more resources are required to focus on police-generated money laundering cases or a re-orientation of the law enforcement effort giving more priority to properly resourced asset detection and recovery.

31. There are now 6 State Prosecutors who deal with the money laundering issue (the Group of State Prosecutors dealing with special cases), besides the district State prosecutors, with whom the police can liaise. Prosecutors should give guidance to the police, particularly as to levels of evidence which may be required when money laundering is being investigated and prosecuted autonomously, and they should work closely with the Police in early stages of cases. The State Prosecution Service should review the numbers of trained prosecutors to ensure that they can handle the likely increases in money laundering caseloads and related confiscation issues, arising from the new police stipulation on financial investigation.

Preventive measures – Financial institutions

32. With regard to the provisions defining the scope of financial institutions subject to anti-money laundering measures, all the relevant actors in the financial sector are encompassed. No exceptions are made on the ground of a perceived lower degree of risks. However, the application of existing measures varies in different circumstances depending on the identified risks, having regard to the nature of the customers and to the nature of the activities carried out.

33. The obligation set out in Criteria 5.7 of the AML / CFT Methodology, which requires financial institutions to conduct ongoing due diligence on the business relationship should be in law or secondary legislation.

34. In practice, the application of identification procedures varies. Supervisory bodies and supervised entities interpret the provisions differently, which could substantially undermine effective implementation. The way in which beneficial ownership identification is established, according to LPML, is that a client must declare to the organisation whether he acts on his own or on someone else's behalf. It seems this is done generally without a written statement, unless there is a suspicion that the person does not act on his own behalf. More clarification and guidance and a uniform and co-ordinated approach on this issue across the financial sector is strongly advised. The Slovenian authorities have manifested an intention to implement enhanced measures on politically exposed persons once the 3rd EU Directive is in place. Guidance needs to be given on this urgently.

35. There are no provisions addressing the issues of CDD performed relying on third party introduction. Although, so far as the examiners were aware, third party introduction was rarely used and the lack of provisions in this area could be interpreted as a strength in the CDD regime.

36. There are no particular restrictions preventing competent authorities from accessing information which may be limited by financial institution secrecy or confidentiality. Any specific limitations are lifted when forwarding data to LPML, complemented by "safe harbour" provisions. The exceptions for lawyers (and other professions) to report, as transposed from the EU legislation, appear particularly broad without specific interpretation as to how to apply it.

37. Record-keeping requirements, under FATF Recommendation 10 fully meet the standards. So far as SR VII is concerned, identification procedures are applied for wire transfers above the FATF *de minimis* threshold, and the relevant provision(s) should be reviewed (though if a transaction is suspicious, no threshold applies).

38. LPML and the relevant directive (8 November 2002) provide for a number of measures on internal procedures, policies and controls. The examiners consider that the room for discretion in the procedure for the appointment of the compliance officer should be reduced, and more precise and binding requirements imposed dealing with the position the compliance officer should occupy in the organisation's hierarchy. In the context of the existing provisions, it is intended that he/she should have free and immediate access to information needed to perform his/her duties. A general requirement is needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.

39. Progress has undoubtedly been made on supervisory oversight since the 2nd evaluation, particularly in the banking sector, but given the lack of reporting outside the banking sector, the Securities Market Agency and the Agency for Insurance Supervision need to remain vigilant in supervisory checks. Perceptions of the risks of money laundering still need further strengthening across the whole financial sector.

Preventive measures – Designated non-financial businesses and professions

40. DNFBPs, like financial institutions, are subject to CDD, record-keeping and STR requirements. There are special identification threshold and record-keeping requirements for legal or natural persons organising auctions or trading with arts (when carrying out cash transactions – or several connected cash transactions) exceeding 3 million SIT. For casinos, identification is obligatory when a person enters the premises or conducts transactions over 3 million SIT or cash transactions over 5 million SIT (when the transactions are carried out at the cashier's desk). For professionals, identification is required when performing the activities set out in the FATF Recommendations, when they establish the business relationship, and in the case of transactions (or linked transactions) over 3 million SIT, and always in the case of suspicions of money laundering. The same concerns in relation to the identification of beneficial owners and the lack of coverage of politically exposed persons, as were raised in the context of financial institutions, apply also for DNFBPs. Slovenia's CDD regime for casinos complies with the 2nd EU Directive (identification on entry).

41. More emphasis on identifying unusual rather than suspicious transactions in the context of DNFBPs is required (in the context of FATF Recommendation 11).

42. Supervision of this sector is shared between the FIU and the State Office for Gaming Supervision, which is now explicitly required to supervise the compliance of casinos with LPML. Thus, the majority of organisations and professions are subjected mainly to the control of OMLP. The basic feature of this control system is that it is done without on-site inspections. The internal control unit within the organisation has a duty to prepare an annual report with prescribed content, which is delivered to the OMLP regularly. The FIU analyses these reports and is authorised to ask for additional information.

43. There is a basically sound sanctioning system in place, but the speed of the application of sanctions by the courts calls into question their overall effectiveness. The licensing and supervisory structure of DNFBPs is basically compliant with international anti-money laundering standards, but this does not yet cover CFT issues. The risks in this extensive sector have yet to be fully assessed. The examiners consider that more work is required to create an effective system for monitoring and ensuring compliance with AML/CFT standards throughout this sector, and that more resources are required, as noted earlier, for the FIU in this regard.

Legal persons and arrangements and non-profit organisations

44. The transparency regime of corporate vehicles is mostly founded on the information contained in the court register.

45. As to the beneficial ownership of companies, notwithstanding Article 38(1) (14) LPML, there is no general obligation to disclose the relevant information to the Register of Companies. This could cause difficulties in identifying the underlying interests and the actual controllers of legal persons, especially for bigger companies. The level of transparency of companies ownership appears high. There is a need to acquire updated information on the beneficial ownership and controlling shareholders particularly in respect of the larger companies and joint stock companies.

46. There has been no special review of the risks, from the point of view of terrorist financing, inherent in the registration and creation of associations and foundations, or any risk-based review of the threats which may be posed by other non-profit organisations, which do not have the legal characteristics of associations or foundations. Similarly, no guidance had been given to financial institutions with regard to CDD and STR reporting where the client is an NPO. A review, as required by SR VIII, should be undertaken urgently, and consideration given to effective and proportional oversight of the NPO sector, guidance to financial institutions on CDD and STR issues in relation to this sector and consideration should be given to if and how further measures need taking in the light of the Best Practice Paper for SR VII.

National and international co-operation

47. At the operational level, it is understood that national co-operation is good among the supervisory bodies and the OMLP and between the OMLP and the Police, the Tax Authority, the Foreign Currency Inspectorate, the State Prosecution Office and the Secret Service. There is also understood to be good co-operation between Self regulatory organisations (SROs) and the OMLP, though it was acknowledged that more work still needs to be done to strengthen the ties with SROs of DNFBPs.

48. The mutual legal assistance framework, both in money laundering and in terrorism financing cases, is comprehensive and complete. Everything is in place to render effective and timely assistance in investigations, seizures and confiscations, and in practice, there are no indications to the contrary. The establishment of an asset forfeiture fund should however be the subject of proper consideration.

49. There is still room to improve the statistics by making them more specific and detailed, especially in respect of the MLA requests related to money laundering and predicate offences, including how many outgoing and ingoing requests have been executed or refused.

50. The FIU has a broad capacity to exchange information and is doing so very effectively. It was less clear whether any information exchange agreements between supervisors include AML/CFT issues and how much AML/CFT exchanges are taking place independently of the FIU by the regulators. The Slovenian authorities should satisfy themselves that the supervisory bodies are exchanging information on request (and otherwise) with their counterparts. Annual statistics on this should be kept which show whether requests were granted or refused.

MUTUAL EVALUATION REPORT

1. GENERAL

1.1. General Information on Slovenia

1. The Republic of Slovenia (hereafter "Slovenia") is located in Central Europe between the Eastern Alps and the Adriatic Sea. Slovenia has borders with Austria, Italy, Hungary and Croatia. Its population is approximately 2 million.

2. After World War II, Slovenia was a republic within the Socialist State of the former Yugoslavia. In 1991, after a short 10 day war, Slovenia established its independence. It is now a parliamentary democratic republic.

3. Historic ties to Western Europe, a strong economy and a stable democracy have assisted in its transformation to a modern State, which acceded to both NATO and the European Union in May 2004. Slovenia has a written Constitution, and a civil law based legal system. Since its accession to the European Union, supranational laws and regulations, where they are directly binding, apply (in this context, the 1st and 2nd EC Directives on Money Laundering Prevention).

4. The judicial branch comprises a Supreme Court (judges are elected by the National Assembly on the recommendation of the Judicial Council), Constitutional Court (with judges elected for nine year terms by the National Assembly and nominated by the President). The Supreme Court is active in the process of legislative change and can also influence legal practice through its opinions in money laundering cases.

5. Privatisation of the economy was finished by 2002, except in some sectors. Slovenia's Gross Domestic Product (GDP) has shown moderate growth, as reflected in the table set out beneath:

GDP / YEAR	**2000**	**2001**	**2002**	**2003**
GDP Mill. EUR	20.740	21.925	23.492	24.592
GDP year growth in %	3,9	2,7	3,3	2,5
GDP per capita	10.425	11.007	11.775	12.319

6. Structural reforms to improve the business environment have allowed for greater foreign participation in Slovenia's economy. Recent statistics covering Slovenia's balance of payments situation 1995 - 2002 have been provided, and are also set out beneath:

Balance of payments in mil. USD	**1995**	**1998**	**1999**	**2000**	**2001**	**2002**
GOODS	-954	-792	-1235	-1139	-619	-243
Export of goods	8350	9091	8623	8808	9343	10473
Import of goods	-9304	-9883	-9858	-9947	-9962	-10716
SERVICES	583	501	353	450	502	556
Export of services	2027	2025	1875	1888	1960	2292
Import of services	-1444	-1524	-1522	-1438	-1458	-1736
INCOME	201	56	64	26	19	-71
Receipts	406	413	427	434	463	488
Expenditure	-204	-357	-363	-408	-443	-559
CURRENT TRANSFERS	95	117	120	115	129	133
Receipts	248	300	335	341	390	451
Expenditure	-152	-182	-215	-225	-261	-318
CURRENT ACCOUNT	**-75**	**-118**	**-698**	**-548**	**31**	**375**

7. As a European Union member, any structural elements set out in paragraph 7 of the AML/CFT Methodology 2004, which might significantly impair implementation of an effective AML/CFT framework are being addressed by the Slovenian authorities. For example, principles of transparency and good governance are respected in Slovenia and necessary legal standards have been adopted in this context. In particular, Slovenia adopted in February 2003 an "Act on Access to Information of Public Character", which establishes a procedure allowing its citizens free access to such information, subject to state security and other issues of confidentiality.

8. There is also, as will be seen later in this report, a proper culture of AML/CFT compliance generally shared and reinforced by Government, financial institutions, designated non-financial businesses and professions, including trade groups and SROs.

9. Numerous measures have been taken to combat corruption. A Resolution on Anti-Corruption Policy was issued in June 2004, as an attachment to the Public Integrity Act, which was adopted by Parliament in December 2003. The 1992 Act on Incompatibility of Holding Public Office with a Profit Making Activity was a cornerstone of public administration, until it was replaced in 2004 with a new Prevention of Corruption Act, which established a new Commission on Prevention of Corruption, which is an independent governmental body. Public officials in general, and police officers, prosecutors, judges and lawyers, auditors, accountants and several other professions have detailed Codes of Conduct. Slovenia is an active member of the Group of States against Corruption (GRECO).

1.2. General situation of money laundering and financing of terrorism

10. Recorded domestic criminal offences for the last five years are set out beneath:

RECORDED CRIMINAL OFFENCES					
	2000	**2001**	**2002**	**2003**	**2004***
CO AGAINST PROPERTY	***50.882***	***54.872***	***54.853***	***55.231***	***30.597***
Theft	19.408	24.165	23.980	24.695	12.631
Burglary	15.962	15.617	16.431	16.947	10.464
Fraud	2.546	2.816	2.273	2.167	1.385
Robbery	515	579	527	349	275
Theft of vehicles		691	815	615	357
Concealment		859	1.170	1.588	937
Approximate economic loss or damage	**16,3 billion SIT**	**19,1 billion SIT**	**14,8 billion SIT**	**14,1 billion SIT**	**18 billion SIT**
CO of ECONOMIC NATURE	***6.337***	***7.215***	***8.527***	***7.168***	***3351***
Business fraud		771	2.079	1.672	1.004
Issuing of an uncovered cheque, misuse of a credit card		1.865	2.516	2.687	981
Tax evasion		121	99	83	55
Forgery		448	520	477	263
Abuse of authority or rights		333	185	201	111
Approximate economic loss or damage	**13 billion SIT**	**12 billion SIT**	**17 billion SIT**	**11 billion SIT**	**8 billion SIT**
OTHER CO					
Production and trafficking with drugs	1.370	1.140	1.164	775	559
Illegal migration	871	720	548	406	234
Production and trafficking with arms	199	173	175	148	70
Falsification of money	2.171	1.857	1.857	1.177	971
Corruption	41	58	51	54	11
Extortion	321	377	474	327	213
Smuggling	25	10	3	4	3
TOTAL	**67.618**	**74.794**	**77.218**	**76.643**	**41.586**
Approximate economic loss or damage	**30 billion SIT**	**34 billion SIT**	**33 billion SIT**	**27 billion SIT**	**28 billion SIT**
Source: Annual police reports from 2000, 2001, 2002, 2003 and police report for first half of 2004 (6 months)					

11. The following offences are the major sources of domestic criminal proceeds: fraud; abuse of economic power, tax evasion, unjustified acceptance of gifts, abuse of office or official duties, acceptance of a bribe, unlawful manufacture and trade in narcotic drugs; illegal crossing of the state border; and illegal manufacture of and trade in weapons and explosive materials. Money laundering investigations are based both on domestic and foreign predicate offences. The Slovenian authorities have noted that the numbers of economic and property criminal offences and drugs offences are increasing, and the demand for money laundering will therefore grow. In other countries within the region smuggling of cigarettes, alcohol and human beings, trafficking in drugs, and business and tax frauds are also increasing, so they expect Slovenia to remain a target for the perpetration of laundering offences. Slovenia is also a minor transit point for drugs and precursor chemicals bound for Western Europe.

12. The most common ways in which money is laundered are considered to be the following:

- misuse of non-resident accounts of foreign legal and natural persons in Slovenia;
- misuse of non-resident accounts of off shore companies in Slovenia and abroad;
- misuse of Western Union for money laundering deriving from criminal offences of illegal migration;
- misuse of Western Union, couriers and "straw men" for money laundering deriving from criminal offences of trafficking in drugs;
- structuring of transactions (smurfing);
- loans in cash given to legal persons by individuals;
- use of "straw men";
- non-reported transfers of cash when crossing the border.

13. In the cases analysed by the FIU (the Office for Money Laundering Prevention – hereafter "OMLP"), banks are the most used for money laundering among financial and credit institutions. In some cases, savings banks, brokerage houses, and exchange offices were also used. The types of domestic groups involved in money laundering operations are thought to be those involved in trafficking in drugs and illegal migration. Groups from the neighbouring ex-Yugoslav Republics involved in predicate criminal offences of abuse of economic power and some groups from the ex-Soviet Union Republics are also considered to be involved in money laundering operations. As will be seen beneath, however, only two cases of acquittal and no final convictions have been made in money laundering prosecutions, although money laundering has been criminalised since 1995.

14. The preventive AML system is based on both Cash Transaction Reporting (CTR) and suspicious transaction reporting (STR) systems. The examiners noted, as will be seen beneath, that the system of CTR reporting can lead to an over-reliance by market participants on automatic reporting, and less attention being paid to suspicions relating to concrete financial products or services, even though in most obliged entities lists of indicators are prepared and widely disseminated within the sectors.

15. One potential money laundering vulnerability is the difficulty of identification and verification of owners and beneficial owners in companies with bearer shares. Though the existence of such companies is marginal at the moment (about 1 % of all existing companies) the possibility for misuse remains.

16. Turning to the financing of terrorism, Slovenia, as an independent country, first met the problem of freezing funds in respect of events connected with the war in the former Yugoslav Republics, and with sanctions brought against the Federal Republic of Yugoslavia and against persons and entities in parts of Bosnia and Herzegovina, then under control of Bosnian Serb forces. On 11 May 2001, Slovenia adopted a Law on Restrictive Measures (which was amended on 21 June 2002), and which entitles the Slovenian Government to adopt restrictive measures (such as freezing accounts) in all cases in which Slovenia is bound to adopt such measures as a member of the United Nations or other international organisations. On the basis of this legislation an interdepartmental working group was set up for the implementation of restrictive measures and for the following of activities relating to the fight against terrorism. The work of this group is co-ordinated by the Ministry of Foreign Affairs. Members of the Working Group include SOVA (Security Service), Ministry of the Interior (Police), Ministry of Justice, Ministry of Finance (OMLP and Customs administration), Ministry of the Economy, Ministry of the Environment and Spatial Planning, Ministry of Defence and Ministry of Transport. Since 1 May 2004, Slovenia is obliged to follow relevant European legislation on freezing of terrorist assets. No freezing orders have been made under the United Nations and the European Union Resolutions related to financing of terrorism.

17. The Slovenian authorities have had no experience of the offence of financing of terrorism, which was made a separate criminal offence (see beneath) in Article 388a on 30 March 2004. Prior to that, the Slovenian authorities considered financing of terrorism could have been prosecuted by using the aiding and abetting articles of the Penal Code. No criminal offence of financing of terrorism has been detected by the competent Slovenian authorities and no criminal charges or indictments have been filed in this respect.

1.3 Overview of the Financial Sector and DNFBPs

Financial Sector

18. Credit institutions (banks, savings banks, savings and loan undertakings) are licensed and supervised by the Bank of Slovenia. Banks dominate Slovenia's financial sector. At the end of October 2004 they formed 99.5% of the credit institutions market, measured by total assets (as opposed to 98.6% at the end of 2002), with savings banks and savings and loan undertakings making up the remainder. Savings banks formed 0.4% of the market (0.3% at the end of 2002), and savings and loan undertakings 0.1% (1.1% at the end of 2002).

19. On 31 October 2004 there were 19 banks operating in Slovenia, 2 savings banks and 2 savings and loan undertakings. The number of banks decreased by one in 2004, but the number of savings banks remained the same. The number of savings and loan undertakings has fallen. The reason for this was the need to bring their operations into line with the Banking Act. There were 25 savings and loan undertakings in operation at the end of 2002, but only 8 at the end of 2003. During the last two years a large number of them merged with the Association of Savings and Loan Undertakings, and to a lesser degree savings and loan undertakings were taken over by banks or underwent voluntary liquidation and bankruptcy.

20. Banking services comprise taking of deposits and granting credits. According to the first paragraph of Article 6 of the Banking Act other financial services are:

- factoring,
- financial leasing,
- issuing of guarantees and other commitments,
- lending, including consumer credits, mortgage credits, and financing of commercial transactions,
- trading in foreign means of payment, including foreign exchange transactions,
- trading in financial derivatives,
- collection, analysis and provision of information on the creditworthiness of legal persons,
- mediation in sales of insurance policies, in accordance with the law governing the insurance sector,
- issuing of electronic money,
- issuing and administering other means of payment (e.g., debit and credit cards, travellers' cheques, bankers drafts),
- safe custody services,
- mediation in the conclusion of loan and credit transactions,
- services in connection with securities, in accordance with the law governing the securities market,
- advice to companies on capital structure, industrial strategy and related questions,
- administering pension funds in accordance with the law governing pension funds,
- performance of payment services,
- performance of depositary services.

21. There are numerous other financial institutions operating in Slovenia, the major activities of which are described beneath.

22. Securities Market participants are licensed and supervised by the Securities Market Agency). They comprise public companies, investment firms (i.e. stockbroking companies), management companies, investment funds, mutual funds, mutual pension funds, the Ljubljana Stock Exchange and the Central Securities Clearing Corporation.

23. At December 31, 2003 the number of the licensed financial institutions in the Securities Market was as follows:

- 156 securities issuers with the status of public companies; the number had not increased in the year 2003;

- 29 active authorised participants in the securities market (11 of them were banks and 18 were investment firms, i.e. stockbroking companies). The figures had not changed compared with December 2002;
- 11 management companies managing 20 mutual funds; the total book value of their assets increased by 67% to 2002;

- 5 mutual pension funds. This number increased by November 2004 to 7 mutual pension funds, managed by 5 managing companies, i.e. banks, insurance companies and KAD (Capital Company of Pension and Disability Insurance Institution). The total book value of assets at the end of 2003 was 12 billion SIT (€ 50 million).

24. No direct cash payments from clients to licensed companies are allowed (in line with secondary legislation on record-keeping in investment firms and in management companies). All the payments are made in non- cash ways or through banks.

25. Insurance market participants are licensed and supervised by the Insurance Supervision Agency. They comprise:
- 13 insurance undertakings;

- 2 reinsurance undertakings;

- 4 pension companies;

- Slovene Export Corporation;

- Slovene Insurance Association - Guarantee Fund;

- Pension Fund Management Company (First Pension Fund);

- Insurance agencies and brokerage companies (more than 500);

- Insurance agents and brokers.

26. Debit cards to raise money and buy products and services are connected to the immediate debiting the card owner's bank account and are issued only by banks, licensed and supervised by the Bank of Slovenia. Credit cards for buying products and services are issued also by other legal entities, mostly commercial ones. These legal entities report to the FIU. There were 20 such legal entities at the time of the evaluation visit. Cards are based on a credit relationship on a monthly basis, and the buyer pays all purchases once a month. These cards are not used to raise cash.

27. Legal persons that provide as their exclusive or principal activity other financial services (mentioned in Article 6 of the Banking Act) also operate in Slovenia. Some of these services are regulated and supervised in accordance with provisions in special laws (e.g. investment services, payment services, insurance mediation etc.), some of these are not (e.g. factoring, leasing, lending to non-consumers etc.) Lending to consumers is regulated in the Consumer Credits Act, which provides that non-banking lenders must obtain a license from *the Office for Consumer Protection* and that the Market Inspectorate at the Ministry of Economy supervises them. There are 229 (non-banking) legal entities performing lending to consumers. It is also possible that these legal entities perform lending via intermediaries (credit brokers), which are also supervised by the Market Inspectorate. The number of them is not available.

28. There are also 1915 credit brokers which intermediate between banks and customers. These credit brokers are legal and natural persons that, within the framework of their activities, business or profession mediate in the conclusion of credit contracts and are authorised to so do by the creditor through a contract. They are indirectly supervised by the Bank of Slovenia, which supervises internal auditing of the banks, which also comprises auditing of the activities of the banks via credit intermediaries. According to the general rule in the Consumer Credits Act, intermediaries are also supervised by the Market Inspectorate. Credit intermediaries of the banks must comply with conditions prescribed by the Bank of Slovenia under the *Decree on the conditions to be met by banking credit intermediary.*

29. Foreign Exchange offices are licensed and supervised by the Bank of Slovenia. Moreover, in line with the secondary legislation issued by the Central Bank, there is a requirement for each foreign exchange office to enter into a contract with a commercial bank, which is also responsible for controlling the conduct of operations of the foreign exchange office. Their number is also decreasing - in 2004, there were 136 foreign exchange offices.

30. "Safekeeping" is covered by LPML. This means the lease of safe boxes or deposit boxes for the purpose of keeping money, securities, valuables and other movable property for clients. At the time of the evaluation visit, only 9 banks performed safekeeping activities.

DNFBPs

31. The major DNFBPs are as follows:

- Travel organisations, namely legal entities licensed under the Development of Tourism Law to organise tours and tourist excursions and/or sell tours and tourist excursions. At the time of the evaluation visit, there were 320 travel organisations, some of them also offering foreign exchange services;

- Real estate agencies: At the time of the evaluation visit there were 1.135 real estate agencies;

- Traders in precious metals and precious stones and products: At the time of the evaluation visit there were 252 legal and natural persons performing such operations;

- Organisers of auctions;

- Traders in works of art;

- Notaries public**:** namely public officers appointed in accordance with the Law on Notaries with the power to administer oaths, certify affidavits, take acknowledgments, take depositions or testimony, etc. At the time of the evaluation visit, there were 67 notaries public;

- Lawyers: i.e. independent legal professionals authorised under the Attorneys Law to practice law. At the time of the evaluation visit, there were 933 lawyers;

- Audit companies and certified auditors providing auditing services: at the time of the evaluation visit there were 41 audit companies;

- Legal and natural persons performing accountancy services: at the time of the evaluation visit, there were 3.081 legal or natural person performing accountancy services;

- Tax advisory services and certified tax advisors**:** at the time of the evaluation visit there were 166 natural persons with licences for providing tax advisory services.

32. The Slovene Institute of Auditors is the sole regulator for the audit profession but is also one of the two tax advisors' and accountants' professional associations. The number of members on 29 November 2004 was as follows:

- 41 Auditing firms;
- 202 Certified Auditors (approximately half of them are active in profession);
- 43 Tax Advisors;
- 121 Accountants.

33. Casino games, supervised by the Office for Gaming Supervision, can only be organised in casinos by a company with its seat in the Republic of Slovenia, to which a concession has been issued by the Government of the Republic of Slovenia. According to the Gaming Act, the Government can issue a maximum 15 concessions for casinos and 45 concessions for gaming halls.

34. Up to 1 December 2004, 14 concessions for casinos had been granted to 6 joint-stock companies. 40 concessions for gaming halls had been granted to 37 companies and 26 gaming halls are in operation.

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

35. The prevailing legal form in the financial market is either the joint stock company or the limited liability company. On December 31, 2004 there were 40048 limited liability companies and 1172 joint stock companies.

36. **The Companies Act** provides that companies acquire the character of a legal person upon their entry in the court register. Prior to entry in the court register contractual rules under civil law apply to relations between company members.

37. An application for the first entry of a company in the court register must contain:

- the registered name;
- the activity;
- the registered office and
- other data determined by law for certain forms of a company.

38. The original or a certified copy of the founding act and the act appointing the management, where not already determined in the founding act, must be submitted together with the application.

39. Part II of The Companies Act determines possible forms of companies and specific data, which must be entered into the Court register for each form of a company:

- **An unlimited company** is a company formed by two or more persons who are liable for the obligations of the company with all their assets. An unlimited company is formed by means of a contract concluded by the company members. An application for entry in the court register must also state the name, profession and address or the registered name and registered office of each company member. All the company members must submit an application. There were 3631 unlimited companies registered in the court register at 8.12.2004.

- **A limited partnership** is a company formed by two or more persons in which at least one of the partners is liable for the liabilities of the company with all his assets (a general partner) and at least one partner is not liable for the liabilities of the company (a limited partner). An application for entry in the register must contain in addition to the data required for an unlimited company also details of the limited partners and the amount of their contributions. The publication of the entry of the company in the register shall state only the number of limited partners and not details about them. There were 1439 limited partnerships registered in the court register as at 8.12.2004.

- **A dormant (or silent) partnership** is formed by a contract on the basis of which a dormant partner through a contribution of assets in the undertaking of another person obtains the right to participate in its profit. A dormant partnership is not registered in the court register and therefore data on a dormant partner is not available.

- **A public limited company** (a joint stock company, of which there were 1305 registered in the court register at 8.12.2004) is a company, which has subscribed capital divided into shares. A public limited company is liable to creditors for its obligations with all its assets. Shareholders are not liable to creditors for the obligations of the company. A public limited company may be formed by one or more natural or legal persons (founders) who adopt the company's articles of association. The articles of association, which must be drawn up in the form of a notary record, must determine:
  - the name and address or the registered name and registered office of each founder;
  - the registered name and registered office of the company;
  - the activity of the company;

- the value of the subscribed capital, the nominal and issue value of the shares, the number of shares of each nominal value, and where there is more than one share class also the share class and the number of shares issued in each particular class;
- whether the shares are bearer or registered shares;
- the number of members of the management board and the supervisory board, if the company has one, or the act in which this number is determined;
- the form and method of announcements of importance for the company or for the shareholders;
- the duration of the company;
- the method of dissolving the company.

- **a limited partnership with share capital** is a company in which at least one partner is liable for the liabilities of the company with all his assets (general partner) while the limited shareholders who have a share in the subscribed capital are not liable for the liabilities of the company to the creditors. There was 1 limited partnership with shares registered in the court register at 8.12.2004.

- **a limited liability company** is a company whose subscribed capital is made of subscribed contributions by company members. The value of the contributions may differ. There were 43667 limited liability companies registered in the court register at 8.12.2004. This is the most common form of company.

40. **The Law on the Court Register** determines that the "main book" and the collection of documents compose the court register. The main book is designed for entry and publication of legally relevant facts, for which the law prescribes entry in the court register. Documents, which are the basis for the entry in the main book, and documents, for which the law prescribes entry in the court register, are set out in the collection of documents.

41. Subjects, which must be entered in the court register, are all the companies stated above. Cooperative societies, establishments or institutions and other legal or natural persons have to be entered into other primary registers.

42. For all subjects, the following data must be entered:

- uniform identification number;

- name and surname or registered name;

- registered office (street, house number, town and postal code);

- form of the company;

- activity and business with the cipher and name of the subclass of the National Classification of Activities;

- date of the founding act;

- regarding founders, company members or members of subject of entry: uniform identification number, name and surname or registered name, address or registered office, country of residence or registered office of the founder, company member or member, type and extent of responsibility for obligations of the subject of entry, date of entrance and withdrawal;

- regarding persons, authorized for representing the subject of entry or its parts: uniform identification number, name and surname, address, type of representative (procurator, member of management board, liquidator etc.), limits of authorization for representation, date of granting and cassation of the authorization;

- regarding parts of subject of entry, which must be entered in the court register: uniform identification number, name or registered name, registered office;
- duration of the subject of entry if it is founded for a limited time;

- data on composition procedure, liquidation or bankruptcy procedure;

- regarding other forms of cassation of the subject of entry: legal basis and data on eventual legal successor;

- other data determined by the law.

43. When the subject (of entry) is a public limited company, a limited partnership with share capital or limited liability company, the following additional data must be entered in the court register:

- regarding members of supervisory board: uniform identification number, name and surname, date of the appointment and recall;

- the value of the subscribed capital, its increase and decrease;

- restructuring and the contract, which is the legal basis for restructuring.

44. Changes to data must be entered in the court register as well.

45. Any person may request verified copies of the registration and documentation from the Court Register.

46. The Court Register is available also on the Internet. Banks / credit institutions and other financial institutions and non-financial institutions have access to it through concessions.

47. In the case of limited liability companies and institutions, membership in companies is transparent from the court register.

48. Membership in most joint-stock companies (those that issue registered shares as dematerialised securities) is transparent from the registry at the Central Securities Clearing Corporation (Centralna klirinško depotna družba d.d.) and is publicly accessible. If bearer shares were issued holders thereof would, as a rule not be transparent and/or accessible.

49. Joint-stock companies that are obliged to issue their shares as dematerialised securities are: all banks, insurance companies, stockbroking companies and trust companies and all other companies, whose shares were first sold according to the public bid procedure.

50. Information concerning the ownership and control of a joint-stock company that does not issue its shares as dematerialised securities is transparent from the share register maintained by the company itself, but is accessible to company's shareholders upon request solely. If bearer shares were issued holders thereof would, as a rule, not be transparent and/or accessible.

51. Generally, it is obligatory to give the information on the first owners and subsequent changes as well, and the FIU and the law enforcement bodies do have the access to this information but the information on the beneficial ownership is not required at this stage.

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities

52. The main actors in the Slovenian AML / CFT regime have been heavily engaged in the preparation of new AML / CFT instruments internationally (the Third EU Directive and the revision of the Strasbourg Convention - ETS N° 141). The internal Slovenian legislative agenda will then be directed towards harmonisation of domestic law with the provisions of these new instruments. An amendment to the LPML is planned for later in 2005, particularly to bring domestic legislation in line with the new standards on the countering of the financing of terrorism.

53. Strategic goals and programmes have been developed in connection with the investigation of economic crime in general and were agreed by the Government in June 2003 in the Strategy of Economic Crime in the Republic of Slovenia. This includes the investigation of money laundering. The document contains the following strategic goals and programmes:

- Punctual adaptation of legislation
- Improvement of co-operation between different state institutions
- Assurance of systematic approach to preventive work
- Improvement of professional qualification of staff
- Improvement of staff structure in units for economic crime investigations.

54. Shortly before the on-site visit new stipulations in the field of investigation of criminal proceeds and confiscation were made, which are discussed at paragraph 163 beneath.

55. In its reports to Government over the last four years, the OMLP has highlighted the lack of speed in respect of court decisions, which diminishes the effectiveness of the AML system as a whole in Slovenia, and the Judges, with whom the team met, acknowledged that this was a fair criticism, and indicated that they were working to speed up the process.

56. The OMLP would like to see more specially trained or specialised law enforcement staff dealing with their reports, though no specific plans were drawn to the attention of the evaluation team in this regard. The mechanism for evaluating the effectiveness of the system as a whole is through the Annual Report of the FIU, which is discussed beneath.

b. The institutional framework for combating money laundering and terrorist financing

57. The following are the main bodies and authorities involved in combating money laundering or financing of terrorism on the financial side:

- **The Ministry of Finance**. This Ministry manages the budget and state finances, monetary funds and national debts, and has a regulatory role for the financial system. In accordance with the Organisation and Competence of Ministries Act, it is charged with tasks in the following areas: the monetary, banking and foreign exchange systems; financial relationships with foreign countries; the AML system; the system of taxes, contributions, duties, Customs duties and other types of public incomes. They are also responsible for: systems of insurance, securities, funds and other financial organisations; the system of gaming activities; the public expenditure system and the budget, including public procurement and the system of accountancy, auditing and financial operation, as well as joint tasks of the country's administrative bodies and governmental services in conducting financial and accountancy services. There are 7 constituent bodies: the Tax Administration, the Customs Administration, the OMLP (the FIU), the Office for Gaming Supervision, the Foreign Exchange Inspectorate, the Public Payments Administration, and the Budget Supervision Office.

- **The Ministry of Foreign Affairs** co-ordinates the work of the Interdepartmental Anti-Terrorism Working Group, set up under the Act amending the Restrictive Measures Act of 2005 for the implementation of restrictive measures, and for following activities related to the fight against terrorism.

- **The Bank of Slovenia** is the Central Bank, which is (among other duties) responsible also for banking (prudential) supervision. This task is performed by the Banking Supervision Department (comprising licensing and on-site and off-site supervision). The Bank of Slovenia is the licensing body for banks and foreign (non-EU) banks branches. The Bank of Slovenia is also a supervisory authority for foreign exchange operators (licensing, on-site and off-site inspections), e-money institutions and other non-banking payment providers and it also performs the oversight of payment systems. Beyond its tasks defined in the Banking Act, and other relevant laws, it is now empowered by the LPML (Article 41) to supervise the implementation of the legal obligations imposed by the LPML within its field of competence.

- **The Securities Market Agency (SMA)** is also now explicitly stated as a supervisory body responsible for checking the compliance of the capital market players with the LPML. Otherwise, the SMA has the authority to licence, control and impose remedial measures on the licensed entities.

- **The Insurance Supervision Agency** is responsible for licensing insurance undertakings, pension companies, insurance agents and brokers, and for licensing insurance agencies and brokerage companies. It is the supervisory body explicitly mentioned in the LPML (Article 41), which means that implementation of the relevant legal provisions have to be checked by this agency in all supervised entities.

- **The Slovene Institute of Auditors** supervises auditors and auditing firms. The LPML has given the Institute some additional responsibilities, such as checking the compliance with the identification, record keeping and reporting of suspicious transactions obligations (based on Article 41).

- **The State Office for Gaming Supervision** is the principal casino supervisory body and as such it is included in the Art. 41 of the LPML as one of the authorities controlling the implementation of the LPML provisions.

58. All the supervisory bodies are obliged under Article 42 of the LPML to report to the OMLP if there is reasonable evidence of non-compliance with the LPML provisions.

59. **The FIU (OMLP)** is the central body in the system. It performs tasks relating to the prevention and detection of money laundering. It performs the role of a clearing house between the institutions in the financial system, on the one hand, and the judicial bodies and the police on the other. The office receives, collects, analyses and transmits data in accordance with LPML.

60. Relevant ministries and law enforcement bodies include:

- **The Ministry of Justice.** This Ministry is responsible for the preparation of amendments to the existing laws (Penal Code, Law on Criminal Procedure, Law on Execution of Penal Sanctions and the Law on the liability of Legal Persons for Criminal Offences. This Ministry is also responsible for bi-lateral or multilateral agreements with foreign countries, and serves as the Central Authority for international assistance in criminal matters, except under Council of Europe Convention ETS 141, where the OMLP is the Central Authority.

- **The Police Service** is a body within the Ministry of the Interior. It is none-the-less operationally independent. The Unit for Economic Crime Investigation, within the General Police Directorate, has among its responsibilities the investigation of money laundering cases. The organised crime section also deals with money laundering cases. There is also within the Organised Crime Section, a specialised drugs unit, which deals specifically with illicit drug trafficking. On 1st April 2000, specialised anti-corruption units were established within the Police Criminal Directorate, as well as on a regional level. Police agencies are also active through INTERPOL and EUROPOL channels and bi-lateral agreements. Within the Organised Crime Section of the General Police Directorate, there is a Counter Terrorism Division, which is responsible for the prevention, detection and investigation of terrorist offences, including financing of terrorism.

- **The Slovene Intelligence and Security Agency (SOVA)** collects, evaluates and disseminates intelligence. AML / CFT issues feature in its work and they co-operate with OMLP.

- **State Prosecution** is an independent body under the Constitution. Within it, a **Group of State Prosecutors for Special Matters** was formed, on the basis of the Law on State Prosecution. This Group was entrusted with the prosecution of organised crime cases. The criminal offence of money laundering has been added to its responsibilities – particularly international criminal offences of money laundering. It co-operates closely with OMLP and the Police, and also maintains direct contacts with foreign prosecution authorities to facilitate international legal assistance. National criminal offences of money laundering are usually dealt with by **District Prosecutors**, also within State Prosecution. One of the Public Prosecutors at the Attorney General's Office of the Republic of Slovenia is responsible for monitoring the work of District Public Prosecutors in the money laundering area.

c. Approach concerning risk

61. No relevant financial institution or designated non-financial business or profession has been excluded from AML / CFT coverage on the basis of an assessment of low risk. Indeed, as will be seen below, the Slovenian authorities have gone beyond the FATF standards and, in line with the EU Directive, have added other DNFBPs to the list of currently required obliged entities under the FATF Recommendations and EU legislation, on the basis of perceived potential risk. Risk is however taken into account in respect of the degree of internal controls required in different institutions and levels of supervision undertaken, etc. These issues are taken up further at Section 3.1 beneath.

d. Progress since the last mutual evaluation

62. In the legal field, the 2nd Round Mutual Evaluation Report made several recommendations, including:

- Clarifying, if necessary by means of legislation, the evidentiary requirement for a money laundering conviction, particularly in relation to the predicate offence. The Courts at the time seemed reluctant to accept circumstantial evidence. It is understood that discussions on this issue took place, but which were inconclusive at the time of the progress report in 2003. In answer to this questionnaire, it was indicated that it is within each judge's free evaluation of proof to decide whether necessary standards are met, and it was emphasised that circumstantial evidence is common in Slovenia. As far as the examiners are aware no clarificatory written guidance for the Public Prosecutors on this has been issued, though training and discussions have taken place within the State Prosecution Service. The Courts receive their guidance through the Supreme Court decisions.

- On confiscation, it was suggested that consideration be given as to whether a civil law procedure with a less demanding degree of proof and / or possibly some reversal of the burden of proof would be more conducive to better results in terms of confiscation. There is now the possibility of an "*in rem*" procedure in money laundering and corruption cases in certain situations (see beneath), but reversal of the burden of proof is not being considered.

63. In the financial field, the Second Round Mutual Evaluation report made several recommendations:

- As the lack of a clear obligation on supervisory authorities to monitor the compliance of the LPML in the supervised entities was identified, a recommendation was made to amend the LPML, in order to give powers to control the obligations under the preventive law to the respective supervisors. This was implemented by the last amendment of the LPML in July 2002 in Article 41.

- In foreign exchange operators' licensing procedures", the checking of the "fitness and properness" of management and owners was missing. This was addressed by introducing this concept (including pro-active checks with the Ministry of Justice) in an amendment to the Foreign Exchange Law (new Articles 49.a and 49.b were added), which entered into force in August 2003. Subsequently all existing foreign exchange operators had to obtain a new licence under the new regime within a six month period.

- The lowering of the threshold in identification of clients was recommended in respect of foreign exchange operators. However, the same threshold still applies (3.000.000.- SIT or € 12.500.-).

- In relation to the existence of bearer passbooks in the banking system, this issue was addressed by:

    1. Bearer passbooks are no longer considered as deposits. Since July 2002, LPML prescribed the new identification procedures and banks consider them as transaction accounts. All transactions and customers are now identified (Paragraph 10 of Article 5 LPML). Thus every bearer that comes into a bank is identified and also every transaction made is identified. These passbooks are issued and can be used only in the branch where they were issued / opened. No other bank can do business with a particular bearer passbook.

    2. Data about the number of such passbooks is to be contained in the annual report on internal control, which is forwarded to the FIU, in line with the secondary legislation in force since 2002. The OMLP requests every year data on numbers of bearer passbooks and the data is forwarded to the Bank of Slovenia. The Bank of Slovenia has implemented intensive supervisory measures in 2004 on this segment of the market and analysed the current situation. It is considered that the current market share of these passbooks is marginal.

- Obligation to identify and verify the real beneficial ownership of legal entities was missing; these requirements were introduced by the last amendment of the LPML in July 2002 (in particular, Articles 6 and 38, para. 1 [14]).

64. On the law enforcement side, the evaluators particularly recommended:

- A more asset-oriented approach in law enforcement, and consideration of a specialised asset recovery confiscation unit. As noted earlier, there is now a new focus on asset recovery, but no separate unit (see beneath).

- Establishment of a small but dedicated AML Unit within the Police at central and regional level to improve the follow-up of cases forwarded by the OMLP to the Police. The Slovenian authorities have reported that since the Second Evaluation report, within the General Criminal Police Directorate, one officer was appointed, who co-ordinates the investigations of money laundering offences between different Police units at the state and regional levels and who co-operates directly with the OMLP and other State institutions. Also two officers were appointed at each regional level (there are 11 Police Directorates) to perform financial investigations (including money laundering criminal investigations) and all have been subject to specialised training programmes in financial investigation.

- Urgent need of prosecutors to bring more cases to court. The prosecution authorities report that they took this advice seriously and more cases were brought to court. This is discussed beneath.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1. Criminalisation of Money Laundering (R.1 & 2)

2.1.1. Description and Analysis

65. The money laundering offence is criminalised by Article 252 of the Penal Code in the following terms:

"(1) Whoever accepts, exchanges, stores, freely uses, uses in an economic activity or in any other manner determined by the law conceals or attempts to conceal by money laundering the true origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be sentenced to imprisonment for not more than five years.

(2) Whoever commits the offence under the preceding paragraph and is simultaneously the perpetrator of or participant in the criminal offence with which the money or property under the preceding paragraph were acquired shall be punished to the same extent.

(3) If money or property from the first or second paragraph of this Article is of considerable value, the perpetrator shall be sentenced to imprisonment for not more than eight years and punished by a fine.

(4) If the offences under the preceding paragraphs have been committed by criminal association for committing such offences, the perpetrator shall be sentenced to imprisonment for not less than one and not more than ten years, and punished by a fine.

(5) Whoever should and could have known that the money or property had been acquired through the commission of a criminal offence, and who commits the offences from the first or third paragraphs, shall be sentenced to imprisonment for not more than two years.

(6) Money and property from preceding paragraphs shall be confiscated."

66. From a first reading of the provision, the following characteristics can immediately be deduced:

- The article clearly reflects the "all crimes" approach, where all criminal offences ("*a criminal offence*") which generate proceeds can be predicates to money laundering;

- Except for negligent money laundering, which is expressly provided for in para. (5) ("*should and could have known*"), the moral element is wilfulness ("*knowledge*") and intent to somehow obscure the illegal origin of the proceeds ("*conceals or attempts to conceal*");

- The law does not expressly state that the intention can be inferred from objective factual circumstances;

- It also has dealt with a controversy of the past in respect of the so-called "self laundering", as para. (2) now unequivocally penalises such conduct;

- The penalty has been brought up to European Union standards (minimum 4 years);

- Confiscation of the proceeds is mandatory.

67. Furthermore, the offence has a continuous character, lasting until the laundering activity is terminated, which has a direct impact on the statute of limitations (5 years for simple/negligent money laundering and 10 years for the aggravated offence). Case law has also confirmed that the terms *"money and property"* are sufficiently broad to cover both direct and indirect proceeds. A conviction for the predicate offence is not required, but jurisprudence still demands identification and proof of specific predicate criminality. However, it does not matter if the predicate is a domestic or foreign offence (extraterritoriality). The condition for the latter is the existence of dual criminality. According to the judiciary, this would even apply when the predicate activity does not constitute an offence in the other country but would be a punishable act in Slovenia, even if this eventuality had not occurred yet. The appropriate ancillary offences (aiding, abetting, etc…) are covered in Articles 22 to 29 of the Penal Code.

68. Corporate criminal liability is covered by Article 33 Penal Code and Article 25 of the Liability of Legal Persons Act 1999. Civil and administrative liability also applies to legal persons. Beside criminal penalties, other sanctions can be imposed if necessary and where appropriate, such as dissolution of the legal person (Article 12 Liability of Legal Persons Act), voiding of contracts (Article 100 Code Criminal Procedure), and prohibition to exercise certain professions (Article 67 Penal Code).

2.1.2 Recommendations and Comments

69. The basically sound and comprehensive money laundering offence covers the mandatory physical and mental elements required by the Vienna and Palermo Conventions. The terms *"determined by law"* and *"by money laundering"* (in Article 1) nonetheless, lack of precision may cause problems of interpretation. All relevant authorities, however, agreed that this wording referred to the Law on the Prevention of Money Laundering (Annex 2 A), more specifically to the money laundering conduct and phases [set out in Article 1 (2) LPML].

70. The absence of an express reference in the criminal legislation to inferences being capable of being drawn from objective factual circumstances (as an evidentiary basis for the intent) was not perceived as a real problem, though the prosecution would prefer clear and unequivocal language bearing in mind the many difficulties they experienced in securing

convictions. The principle itself however had already been accepted by the jurisprudence in a financial crime case, so it was assumed also to apply in money laundering cases. The Slovenian authorities also underlined that with the ratification of the Palermo Convention, Slovenia accepted the principle of allowing a Court to infer the intent from objective factual circumstances.

71. A potentially greater challenge to the prosecution is the requirement to prove the intent to conceal the origin of the assets. Even if compliant with the relevant international standards, it constitutes an extra burden that may sometimes incapacitate the prosecution. Again, case law is needed to define the extent of this requirement and to properly interpret the concept of "concealment". If the problem proves to be real, the Slovenian authorities should consider simply penalising the knowing use of proceeds, insofar as this is not contrary to the constitutional principles or basic concepts of the legal system.

72. Similarly, as proof of the mental element of knowledge can cause large evidential difficulties, the Slovenian authorities may wish to consider an alternative mental element, based on suspicion, with appropriately lower penalties so that a full range of mental elements is available in these offences (subjective knowledge, subjective suspicion, and objective negligence).

73. Most importantly, it was again unfortunate to see that still no final money laundering convictions had been secured since the inception of the anti-money laundering regime. There are various causes, but the main reason appears to lie in the controversy around the money laundering provision in a previous formulation (before 1999) in respect of the all-crimes nature of the offence and the self-laundering aspect. As this has been resolved with the present amended text, there is hope that the present cases under indictment or pending before the court will lead to positive results. The proof of the predicate offence will remain the major challenge for a successful prosecution, however, as long as the prerequisite of demonstrating the specific predicate criminal activity is not softened to a condition simply requiring proof of the illegal origin as a logical consequence of the all-crimes coverage of the money laundering offence. Further discussion of this issue appears at paragraph – Article 2.6.2.

2.1.3 Compliance with Recommendations **1 and 2**

	Rating	Summary of factors underlying rating
R.1	**Largely compliant**	Although there is a broad and firm legal basis to enable successful prosecutions of money laundering, no final convictions have been secured. Even if this situation is not the result of a deficient legislative framework, but rather of the hesitant attitude of the courts in respect of the proof of the predicate offence, it negatively affects the efficiency of the system.
R.2	**Compliant**	

2.2. Criminalisation of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

74. Since 30 March 2004 the offence of financing of terrorist activities is penalised by Article 388a of the Penal Code as follows:

"(1) Whoever provides or collects money or assets in order to partly or wholly finance commission of the criminal offences from Articles 144, 330, 331, 352, 353, 354, 355, 360, 388, 389 or 390 of this Code, or any other violent act whose objective is to destroy the constitutional order of the Republic of Slovenia, cause serious disruption to public life or the economy, cause death or serious physical injury to persons not actively involved in armed conflict, to intimidate people or force the state or an international organisation to carry out an act or not to carry out an act, shall be sentenced to imprisonment for not less than one and not more than ten years.

(2) Whoever commits an offence from the preceding paragraph shall be subject to the same penalty even if the money or property provided or collected was not used for commission of criminal offences specified in the preceding paragraph.

(3) If an offence from the preceding paragraphs was committed within a criminal association, the perpetrator shall be given a prison sentence of at least three years.

(4) Money and property from the preceding paragraphs shall be confiscated."

75. The provision is inspired by the UN Convention for the Suppression of the Financing of Terrorism 1999, ratified by Slovenia in July 2004, particularly by Article 2 of the said Convention. As such, the article targets the funding intended for terrorist activity (*"finance commission of the criminal offences ..."*) without it being necessary that the funds were actually used for such activity. The focus on terrorist activities in the legislative formulation, however, misses the funding of terrorist organisations and individual terrorists (terms that are not defined by law anyway), independent of any specific or intended terrorist activity. Furthermore, even if for the application of this article it is indifferent as to whether the funds were used or not for a terrorist act, it does not necessarily follow from the wording that the assets also do not need to be linked to a specific terrorist act [SRII.1.c(ii)].

76. The terms *"money or assets"* are sufficiently broad to cover any kind of funding as determined by the UN Convention, whether from licit or illegal origin. The attempt, aiding, abetting and other ancillary offences as set out in Article 2 (5) of the said Convention are covered by Articles 22 to 29 of the Penal Code. The all-crimes predicate coverage of the money laundering offence in Article 252 Penal Code thus also includes the offence of financing terrorist activity. It is irrelevant where the terrorist activity occurs or is supposed to occur, as long as the Slovene Courts have jurisdiction *ratione loci et materiae* over the act of financing itself.

77. The law is silent on the question of whether the intention (the moral element of the offence) can be inferred from objective factual circumstances. Jurisprudence on this issue in the context of terrorist activity financing is as yet non-existent. Corporate criminal liability applies, as well as the same range of civil and administrative sanctions as with the money laundering offence (see above 2.1.1.). Confiscation of the funds used or intended to be used is mandatory.

2.2.2 Recommendations and Comments

78. No terrorist activity funding prosecutions or investigations having taken place yet, there is no case law or practice on the exact scope of Article 388a PC in respect of terrorist organisations and individuals. It was argued that funding of terrorist organisations was covered by the penal provisions of aiding and abetting criminal organisations (Article 297 PC). It may be that the jurisprudence may eventually take the approach to focus solely on the intention of the person providing the funding, so that the preparatory conduct is sufficient on its own. But even then the formulation of the terrorist activity funding offence in Article 388a PC still raises doubts as to its compliance with Special Recommendation II and its Interpretative Note and this may impair its effectiveness, in particular:

- the enumeration of the terrorist related criminal offences in Article 388a appears not to fully correspond with the list of the IN to SR.II (*quid* protection of nuclear material, acts against the safety of fixed platforms?) [IN 2c (i) and (ii)];

- funding of terrorist organisations and individual terrorists cannot be based solely on the aiding, abetting or conspiracy concept [IN, 2 (d) and 4.];

- the article does not expressly state that the funds need not be linked to a specific terrorist act(s) [IN, 6.].

79. Article 388a PC should thus be brought fully in line with the international standards, including an express reference on the proof of the intentional element based on objective factual circumstances.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**Largely compliant**	- In the absence of relevant jurisprudence the effectiveness and scope of Article 388a is difficult to judge. The article is largely drawn from the United Nations Terrorism Financing Convention, but its formulation is not wholly in line with SR II and its Interpretative Note.

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

80. Article 252 (6) Penal Code expressly provides for the mandatory confiscation of the laundered assets (object of the money laundering offence). As for terrorist funding related assets, mandatory confiscation is provided by Article 388a (4) Penal Code.

81. The general confiscation regime is regulated by Article 69 and Articles 95 to 98 of the Penal Code (Annex 2 B):

- Proceeds from crime are confiscated according to Articles 95 and 96 PC;
- Instrumentalities (used in or intended for use in any relevant offence) are subject to confiscation in principle when they belong to the perpetrator. This last condition does not apply in cases of public security or morality, or if the rights of the injured party are affected, and it can be overruled totally by an express provision in the law (Article 69 PC);
- Equivalent value confiscation is applied when confiscation of the proceeds is in any way impossible, or when the proceeds have been intermingled (Article 96 (1) PC).

82. The term *"Money, valuables and any other pecuniary gains"* is sufficiently broad to encompass both direct and indirect proceeds, including substitute assets and investment yields (though these last two are not expressly provided for and there is no case law on the point). In principle it does not matter where the assets are located, or by whom they are held. The rights of *bona fide* third parties are fully ensured by art. 500 and 504 CCP, allowing them to intervene during and after the confiscation procedure.

83. According to Article 96 (3 and 4) PC, proceeds are confiscated from persons (including legal persons – see Article 98) who received them free of charge or for less than their real value, if such persons knew or could have known that they were dealing with criminal proceeds. If the receiver is a close relative, confiscation is applied unless it is proven that the *"full price"* has been paid. This again raises the question about the legislator's intention in what is a special and rather confusing provision. In such cases the receiver should be considered guilty of knowing or negligent money laundering anyway, and consequently the assets are subject to mandatory confiscation *per se*. The price paid for the criminal assets is not a constituent element of the offence of money laundering and is irrelevant as such. It was explained that this is meant to alleviate the burden of proof for the prosecution in these cases, as it is up to the defendants to prove that they have paid the full amount. In any case, the perpetrator acting in full knowledge would be subject to the confiscation measures of Article 96 (1).

84. Subject to court control (urgent) provisional and conservatory measures can be taken unilaterally by the law enforcement authorities in all cases where evidence needs to be secured and whenever confiscation is mandatory or possible (Articles 148, 164, 220 (1) and (4) Code of Criminal Procedure – see Annex 2 C). Equivalent value seizure is possible and subject to a court order. In the context of the preventive regime the Slovene FIU also has the power to freeze suspected proceeds for 72 hours.

85. Actions can be voided according to Article 100 CCP and more generally by applying Article 252 PC (Annexe 2 D) against the person involved as an accessory to money laundering.

86. Confiscation is primarily conviction based and is imposed together with the pronouncement on the guilt of the defendant. There is however the possibility of some form of *in rem* confiscation, in money laundering matters, without a criminal conviction. Article 498a CCP determines that the court can also impose confiscation when conviction is made impossible (for instance in case of death or absconding of the defendant) if *"legal indications"* of money laundering *"are proven"*. No reversal of the burden of proof in confiscation procedures is presently being considered.

87. Finally, property of criminal organisations can indeed be subject to confiscation as criminal proceeds.

2.3.2 Recommendations and Comments

88. The seizure and confiscation regime under Slovene law is basically comprehensive and well-balanced. It is firmly imbedded in law and covers all forms of criminal proceeds and instrumentalities. All eventualities are properly addressed, including the situation where a conviction is made impossible.

89. Some remarks however:

- A definition of *"property benefits"* to the effect that the concept unequivocally also comprises all substitute assets and investment yields would enhance the transparency and solidity of the confiscation regime;

- Article 96 (3 and 4) of the Penal Code may create confusion, as it may be considered redundant or can be construed as exempting from confiscation objects that have been paid for at their real value, even if the buyer knew their criminal origin; in practice, this has not caused problems so far.

- Consideration could usefully be given to provisions in some serious proceeds-generating offences, which require an offender to demonstrate the lawful origin of the property.

2.3.3 Compliance with Recommendations 3

	Rating	Summary of factors underlying rating
R.3	**Largely compliant**	Absence of money laundering and terrorist financing related confiscations negatively affects the system.

2.4 Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

90. Slovenia implements both the UNSC Resolutions 1267(1999) and 1373(2001), and the relevant EU Regulations on the freezing of terrorist related accounts. They are transposed in regulations and bylaws through the Ministry of Foreign Affairs, which can issue bylaws which fall under their responsibility. The Ministry is also in charge of the updating of lists, though they conceded they were basically a "post box". They send the lists to the FIU and the Bank of Slovenia. The lists are published in the Official Gazette and on the Internet. The Foreign Office also has a reporting duty to the United Nations CTC and is supposed to coordinate the anti-terrorist measures in an interdepartmental working group on terrorism countermeasures. These measures have not resulted in any freezing of funds yet.

91. The financial institutions and all other legal or physical persons are obliged to notify the Interdepartmental Group at the Ministry of Foreign Affairs of any event that relates to the implementation of the United Nations Resolutions or European Union Regulations (Article 2a of the Restrictive Measures Act and bylaws issued in accordance with this Act). They must also disclose to the FIU whenever they suspect terrorism related money laundering and if necessary notify the law enforcement authorities to take the appropriate conservatory action.

92. Basically the organisation of an adapted and specific procedure stops there. In theory the freezing actions can be challenged in court, but otherwise there are no specific procedures in place that regulate the delisting of persons and organisations, nor the unfreezing of the accounts or assets, except in the case of official delisting by the UN or EU. No guidance has yet been given to the relevant entities on the further handling of the accounts and the problems that may arise in that respect. Access to frozen funds for basic or necessary expenses is left at the discretion of the institution.

93. Finally the seizure and confiscation regime, as described in item 2.3 above, applies *mutatis mutandis* to terrorism-related funds (Article 388a PC).

2.4.2 Recommendations and Comments

94. The administrative procedure for freezing accounts of names on the respective lists without delay, and answers to the numerous practical problems following the implementation of the United Nations Resolutions and European Union Regulations needs further elaboration. The account holding institutions have no guidance as to what needs to be done after an account has been frozen, except that they have to report to the Interdepartmental Working Group at the Ministry of Foreign Affairs. The institutions should be given clear guidance and instructions concerning their rights and obligations under the freezing mechanisms, such as in the case of errors, namesakes, or requests for unfreezing and for access for basic expenses.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**Largely compliant**	The administrative procedure on the freezing of suspected terrorism related accounts is incomplete and needs further development to ensure fairness, uniformity and legal security.

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26, 30 and 32)

2.5.1 Description and Analysis

95. The Slovenian financial intelligence unit (the OMLP) was established in December 1994 as a constituent body of the Ministry of Finance and has a powerful central role in the anti-money laundering system in Slovenia. It performs duties related to the prevention and detection of money laundering activity and performs various other duties, as stipulated in Chapter III of the Law on the Prevention of Money Laundering (hereafter LPML).

96. Firstly, the OMLP is the national centre for receiving, requesting, analysing and disseminating of data and information received from organisations which are obliged under the law to report cash transactions exceeding 5.000.000 SIT (app. 21 000 EUR), transfers of cash and other negotiable instruments across the border (3.000.000 SIT) and all suspicious transactions, irrespective of the amount. The obliged entities are not required to report suspicions of financing of terrorism to the OMLP under the law, though an amended law, which *inter alia* would include this was scheduled for later in 2005.

97. The OMLP may issue a written order temporarily postponing a transaction if it believes that there exist "well founded reasons" to suspect money laundering. The temporary postponement of a transaction may last no longer than 72 hours. The level of proof is higher than is required for submitting a case to the police, where "a reason to suspect" is sufficient. The OMLP is obliged to inform the Police and Public Prosecutor's Office about orders temporarily postponing transactions. These authorities are statutorily obliged to act "very promptly" after receiving such notifications and shall, within 72 hours of the temporary postponement "take measures in accordance with their competencies". In the case of a need to gather additional information, during pre-criminal procedure or during the criminal procedure period or due to other justified reasons, the OMLP is empowered to give instructions to the obliged entity on the procedure with the persons involved in the transaction (e.g. what to say to a client).

98. If the OMLP finds within the 72 available hours that the reasons for suspicion of money laundering no longer exist, it shall inform the obliged entity, which may then execute the transaction immediately.

99. The OMLP has issued 27 such orders temporarily postponing a transaction and so far in 26 cases a judge subsequently issued a freezing order. In one case, the OMLP withdrew its previously issued order within 72 hours.

100. The OMLP may also start investigating a case in which a transaction or a particular person raises a suspicion of money laundering also on the basis of a substantiated written initiative from the Police, the court, Public Prosecution Office, the Slovene Intelligence and Security Agency, the Bank of Slovenia, Agency for the Securities Market, Agency for Insurance Supervision or the inspectorate bodies of the Ministry of Finance (Article 20 of the Law). In practice the Police make use of this power reasonably frequently in the early stages of cases to obtain bank information.

101. The OMLP also participates in drawing up the list of indicators for recognising suspicious transactions. They send to the obliged subjects general indicators and ask them to elaborate on this basis the sector specific indicators, which are subsequently approved in writing by the OMLP.

102. The Ministry of Finance has issued eight bylaws prepared previously by the OMLP. Two of them deal with the method of forwarding data to the OMLP. These secondary legislative acts set out for the obliged subjects more details on ways to send reports (both STRs and CTRs) to the OMLP, forms on which they should be submitted and also details on protection of forwarded data.

103. The FIU has access, on a timely basis, to all relevant financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STRs.

104. The OMLP has direct access to police databases (databases of criminal records, citizens, cars), Dun & Bradstreet, Register of Companies kept by the Ministry of Justice, and commercial databases run by commercial companies. Due to technical issues (the question of the certificate number – one person / one certificate is required by the Bank of Slovenia), which depend on a decision of the FIU, direct access to the database of the Bank of Slovenia is planned to be enabled by the end of June 2005.

105. So far as obtaining further information in the course of their analysis is concerned, the OMLP may, if it considers that there exist reasons for suspicion of money laundering activity in connection with a transaction or a certain person, demand under Article 15 from any of the "organisations" listed in Article 2 the information listed in Paragraph 1 of Article 38 of the LPML, data on the state of property and on the bank deposits of such a person as well as all other data and information needed for money laundering detection. The organisation is obliged to forward the documentation, data or information within 15 days, though this deadline can be extended if the documentation to be sent is extensive. Equally they can allow OMLP direct access electronically to data and information.

106. The OMLP can also request information, under Article 18 of the LPML, similar documentation, data, and information from a lawyer, a law firm, a notary, an audit company, an independent auditor and legal or natural persons performing accountancy services or tax advisory services on the same basis as organisations and subject to the same deadlines, etc. These professionals (covered by the EU Directives) are the subject of a regime in Chapter IV of LPML, which is separate from "organisations" as defined in Article 2. Equally further information can be demanded of State bodies and organisations with public authorisations (public bodies). There appear to be no sanctions provided for failure to respond to an OLMP demand by State bodies but, apparently, this has never happened so far. That said, the ability to obtain further information appears very comprehensive.

107. If the OMLP considers on the basis of data, information and documentation obtained under the LPML that there exists reason for suspicion of money laundering in connection with a transaction or a certain person, it shall under Article 22 (1) notify in writing and submit necessary documentation to the competent authorities (i.e. the Criminal Police Directorate and the State Prosecution Office). In practice the OMLP direct their reports to the Police body within the Criminal Police Directorate that they consider relevant, as well as to the State Prosecution Office. They also are obliged, under Article 22 (3) to notify the competent authorities of certain specified offences, including bribery, criminal association and other criminal offences for which the law prescribes a prison sentence of five or more years, if they consider there are reasons to suspect the commission of such offences from information and documentation obtained by them under the LPML.

108. As noted earlier, the OMLP has an indirect supervisory role in respect of organisations without a direct supervisor (Article 15 [3]) and in respect of the following five professions covered in the EC Directive (lawyers, law firms, notaries, audit companies, independent auditors, and legal and natural persons performing bookkeeping services or tax and advisory services). The relevant professional bodies in Slovenia

have no AML / CFT competence. The OMLP can, in both cases, request data and information to perform offsite controls, but do not perform on-site visits. Resources devoted to supervision in the FIU amount to two persons, working off-site.

109. OMLP is statutorily obliged to provide feedback, under Article 23. When their investigations are completed they are required, as a duty, to notify in writing the initiator of the report, unless they consider such action would jeopardise further procedures. OMLP also gives information about typologies and case studies in the framework of seminars and professional training (see beneath).

110. It has functions, in addition, under Article 24:

- Proposing new legislation on prevention and detection of money laundering;
- Participating in drawing up the lists of indicators for recognising suspicious transactions;
- Participation in professional training of relevant obliged persons and State bodies – this is a major commitment of resources;
- Publishing at least annually statistical data on money laundering and informing the public about the issue.

111. Under Article 25, it reports at least once annually on its work to the Government.

112. Without clear statutory authority, the FIU none-the-less provides firm institutional co-ordination at operational level. In particular, it collaborates closely with police and State Prosecutors on cases which have emanated from reports passed to them by the FIU.

113. While neither the LMPL, nor any other law, provides for a specific AML co-ordination body, the OMLP's Annual Report contains an analysis of the whole AML system and proposes to the Government that certain measures in this context should be taken to improve the system. In recent years the Government, after consideration of the OMLP report, has issued decisions with instructions for tasks for different bodies. The OMLP was authorised to inform those bodies of the decision and act as co-ordinator. In this way the OMLP, in practice, co-ordinates the system, and keeps relevant bodies (State and Judicial) informed of the money laundering situation, exposes issues and problems and publicises new legal and international developments, and training possibilities. The other way in which the OMLP measures the effectiveness of the system is through the collection of relevant statistics. Under Article 29 of the LPML, to enable the centralisation and analysis of all data relating to money laundering, courts, Public Prosecution Offices and other State authorities are obliged to forward to the OLMP data on offences provided by the law and data on criminal offences of money laundering generated by the Criminal Police. The statistics kept by OLMP are comprehensive, including: STRs received (differentiated according to the type of reporting entity); breakdowns of STRs analysed and disseminated; STRs resulting in investigation, prosecution, or convictions for money

laundering, financing of terrorism or an underlying predicate offence; on CTRs received; on money laundering and financing of terrorism investigations, prosecutions and convictions, statistics on the predicate offences; statistics on property frozen, seized and confiscated and on mutual legal assistance requests and requests for international co-operation made or received by the FIU. As noted, the FIU is also the Central Authority for the Strasbourg Convention.

114. Looking at the years since the Second Evaluation report was adopted (June 2002), the number of STRs received by the FIU was:

- 2002 - 134
- 2003 - 73
- 2004 - 112.

115. The reason for the decline in STRs in 2003 was unclear, given the increased number of obliged entities. The range of obliged entities that reported STRs is set out in the table beneath:

Number of money laundering cases opened in the OMLP on the basis of STRs received from reporting entities in 2002, 2003 and 2004

Reporting Entity	2002	2003	2004
1. ORGANISATIONS (Article 2 of the LPML)	47	41	83
Banks	41	37	73
Saving banks		2	2
Organisations performing payment transactions			
Exchange Offices	1		
Post Office	1		
Stock Exchange			
Brokerage Houses	2	2	3
Investment companies	1		1
Leasing organisations	1		
Casinos			3
Tourist Agencies			1
Real Estate organisations			
2. PROFESSIONS (Article 28 of the LPML)	2	5	1
Audit companies	1	2	
Accounting companies	1	2	
Notaries		1	1

116. The number of CTRs received was:

- 2002 - 35,550
- 2003 - 31,217
- 2004 - 37,445.

117. The number of cases opened in the FIU on the basis of STRs received from reporting entities was as follows:

- 2002 - 49
- 2003 - 46
- 2004 - 84.

118. Reports on suspicious transactions by OMLP provided to the Criminal Police Directorate / State Prosecution Office in the years 2002 – 2004 under Article 22 (1) were:

- 2002 - 11
- 2003 - 10
- 2004 - 9.

119. Other written information provided to the Criminal Police Directorate under Article 22 (3) in respect of other serious criminal offences, except money laundering, was as follows:

- 2002 - 18
- 2003 - 15
- 2004 - 24.

120. The following cases were concluded in OMLP because no suspicion of money laundering or serious criminal offences were found:

- 2002 - 86
- 2003 - 58
- 2004 - 59.

121. The examiners were advised that only a small number of cases was opened in the FIU on the basis of CTRs.

122. While the FIU is a part of the Ministry of Finance, it appears to be sufficiently independent. It has its own decisive authority stipulated by the LPML and it is not under undue influence from the Ministry of Finance or other authorities.

123. Information held by the OMLP is securely protected and all information provided to the FIU database is immediately classified as an “official secret”. Information may only be disseminated in cases prescribed by the LMPL.

124. The OMLP has been a member of the Egmont Group since 1996, and participates in its activities very actively. When exchanging information with its foreign counterparts (foreign FIUs) the OMLP follows the Egmont Principles for Information Exchange between Financial Intelligence Units for Money Laundering Cases.

125. The financial and manpower resources of the OMLP have increased since 2002. At the time of the present visit OMLP had 16 staff members; 1 position was open at that time. They consider they have basically adequate human resources. Nevertheless they intend to seek some further positions, particularly for IT issues (they had already asked for these positions). The evaluators believe that the OMLP could consider also strengthening its staff in relation to other activities, such as supervision and the further analysis of CTRs. The FIU indicated that with two or three additional staff they could work more intensively with the CTRs and generate more reports.

126. The requirements regarding the professional background and professional skills of the employees of the OMLP are prescribed in the internal act of the Ministry of Finance (Regulation on the Internal Organisation and Employment System) which contains a description of the basic knowledge, education and skills requirements.

127. According to the OMLP, ensuring the integrity of staff is one of the most important issues for its daily operations. There is a general codification of requirements for public servants on integrity standards, which are applicable also to the OMLP's employees. This is the basic regulation. In addition to this, the OMLP has adopted an internal policy that any new employees must have a background check performed by police, before they are employed and their integrity has to be assessed. Moreover, according to the Law on Secret Data, all OMLP employees undergo a special procedure and are then allowed to access or work with different confidential documents, based on a license given to them by the Ministry of Interior.

128. The relevant and regular training for combating money laundering and financing of terrorism of the staff is a part of the normal working process of the OMLP. It is realised through participation in relevant seminars abroad, through in-office training, and by obtaining relevant working materials and publications.

129. The financial and technical resources appear to be adequate.

2.5.2. Recommendations and Comments

130. The OMLP is the crucial and central body in the system of combating money laundering in Slovenia. It performs many varied functions and activities in this area from the preparation of legislation to galvanising the AML / CFT system as a whole to perform effectively. The staff of the FIU are all highly skilled, and very dedicated to their work. The activity of the unit is very efficient as results from relevant statistical data confirm. The OMLP is thus the leading body in this area, in both the national and the international contexts. Indeed, in the international context, the FIU is especially highly regarded and often provides important technical assistance and expertise to newer FIUs, in the region and beyond.

131 According to the Slovenian legislation the obliged entities are not required to report suspicions of financing of terrorism to the OMLP so far, and the LPML does not contain provisions relating to financing of terrorism. This fact is the real shortcoming as regards the observance of relevant international standards. The evaluators were told that amendments are planned to be introduced to the LPML in 2005 in connection with the implementation of the 3rd European Union Directive on money laundering and that financing of terrorism would be included. This is urged.

132 Nonetheless the OMLP does take certain measures in the financing of terrorism area. In accordance with the Act Amending the Restrictive Measures Act of 2001, it checks the names from the UN and other relevant lists in its databases, including the database of foreign requests. If the FIU identifies someone from a list, it would report this fact to the Interdepartmental Working Group for the Implementation of Restrictive Measures and for the following of Activities relating to the Fight against Terrorism, established at the Ministry of Foreign Affairs. If the financing of terrorism appears as the predicate offence for money laundering, the OMLP would inform the relevant authorities of its suspicion that the criminal offence of financing of terrorism may have been committed. So far this has not happened.

133 The evaluators advise that the OMLP could be further strengthened in human resources in relation to supervision and handling of CTRs.

134 As regards supervision, there are only two employees working on indirect supervision (off-site), which seems to be low in the light of the large number of obliged subjects. If the OMLP is to have a real role in supervision of the DNFBPs then it needs to be resourced, in the examiners' view, to undertake, as required, effective monitoring - which might include on-site visits. The resource implications of this should be further considered by the Slovenian authorities.

135 The OMLP receives substantial numbers of cash transaction reports, either from obliged entities or from Customs. However, there have been few cases opened on the basis of CTRs. The evaluators consider that if there could be designated one further analyst to deal specifically with these reports their exploitation would be higher and more efficient.

136 Lastly, the evaluators have another general comment in respect of the effectiveness of the system as a whole, on which the FIU reports annually. Perhaps because of the importance and pro-activity of the FIU, the examiners noted a tendency among other bodies towards over-reliance on the FIU in ensuring that the AML / CFT issue is properly addressed in Slovenia. The FIU cannot do it all. As noted below, it is disappointing that the effectiveness of the FIU, over many years now, has still not translated into real results on the prosecutorial side. As noted below, for a variety of reasons, there are still no final convictions. Careful analysis of the reasons for this, collectively by all parties on a regular basis, might, in the examiners' view, be helpful.

2.5.3 Compliance with Recommendations 26, 30 and 32

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	**Largely compliant**	Under Slovenian legislation the obliged entities are not required to report suspicions of financing of terrorism to the OMLP [2].
R.30	**Partially Compliant**	Staff of high integrity and training in FIU, though some more resources could be applied for supervision and analysis of CTRs.
R.32	**Compliant**	

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 and 32)

2.6.1 Description and Analysis

Police

137. The Police is an independent body, located within the Ministry of Interior. The Ministry of the Interior establishes the developmental, organisational, personnel policies and other basic parameters of Police work, and is responsible for Police financing and investment. The Ministry also co-ordinates and harmonises police information and telecommunication systems with the systems of other state bodies. The Ministry of Interior also directs and monitors the performance of police tasks.

138. The Police perform their tasks at three levels: the state, regional and local levels. Organisationally, the Police comprises the General Police Directorate, Police Directorates and police stations. The Police headquarters are in Ljubljana. The Police Service is headed by the Director General of the Police, who also supervises the work of the General Police Directorate.

[2] See also the discussions and compliance rating in respect of SR.IV below.

139. Pursuant to the Law on the Police, the Police Service performs the following tasks:

- to protect people's lives, their personal safety and property;
- to prevent, detect and investigate criminal offences and misdemeanours, to detect and arrest perpetrators of criminal offences and misdemeanours and of other wanted persons and their hand-over to competent authorities, as well as to collect evidence and investigate the circumstances that are important for the establishment of property benefit resulting from criminal offences and misdemeanours;
- to maintain public order;
- to protect state borders and perform border control;
- to implement duties set forth in the aliens legislation;
- to protect particular individuals, bodies, buildings and districts;
- to protect particular work premises and classified information of the state bodies unless otherwise prescribed by law;
- to carry out the tasks set forth in this Act, other acts and implementing regulations.

The tasks in the preceding paragraph are carried out by uniformed and criminal police officers and by specialist police units organised within the General Police Directorate, police directorates and police stations.

140. The role of the police in the overall anti-money-laundering system is detection and investigation of money laundering activities, and the focus has largely been on responding to notifications from the OMLP rather than pursuing money laundering offences independently of an STR.

141. Based on the Law on Police (effective from July 1998), and the Rules on Organisation and Systematisation of the Police (which were adopted at the end of 1999 and became effective on 1 April 2000), there was created the Economic Crime Section under the General Police Directorate, within the Criminal Investigation Police. This section includes the Financial Crime Division, which is primarily responsible for conducting preliminary investigation in money laundering cases as well as in other economic crimes. The Financial Crime Division centrally has four officers in all. The same organisational structure exists at the regional level.

142. Since the last evaluation, on the basis of recommendations made by the previous evaluators, there was appointed an officer within the General Police Directorate, who co-ordinates the investigations of money laundering cases by various Police units on both the national and regional levels and who co-operates directly with the OMLP. This coordinator works in the Division for Financial Crime. In this Division four persons were in place at the time of the visit. In any event, only one of these persons deals with money laundering cases, and only as a part of his wider duties.

143. Further officers have been appointed at regional levels, two in each of the eleven Police Directorates, who are responsible for financial investigations (including money laundering offences). All these officers underwent various specialised educational programmes, seminars and courses focused on the area of financial investigation.

144. The coordinator at the General Police Directorate receives all the notifications of suspicions of money laundering from the OMLP. According to the circumstances, the investigation is initiated in the central Financial Crime Division, or sent for investigation to the regional Financial Crime Unit.

145. In the framework of the previous evaluation, it had been recommended that the Slovenian authorities consider the establishment of a special unit within the Police, dealing with asset recovery and confiscation issues. The representatives of the Police informed the present evaluators that this idea was being considered. However taking into account the size of the country and the number of citizens and police officers, they preferred to promote financial investigation as a routine part of a proceeds-generating investigation, rather than create a new unit.

146. For financing of terrorism, there is the Counter Terrorism and Extreme Violence Division in the Organised Crime Section, which is responsible for the prevention, detection and investigation of terrorist criminal offences (including financing of terrorism). There are five officers designated to deal with combating financing of terrorism.

147. There is also a specialised drugs unit within the Ministry of Interior, Organised Crime Section, which deals directly with drug trafficking cases. On 1 April 2000, specialised anti-corruption units had been established within the Police Criminal Directorate as well as on a regional level. It was unclear whether any of these units yet routinely follow the proceeds of these crimes with a financial investigation, which may lead to money laundering offences and confiscation.

148. According to Article 159 of the Criminal Procedure Code, the Police are authorised to postpone the arrest of a suspect and the execution of other measures provided by the Criminal Procedure Code when investigating a criminal offence (including money laundering and financing of terrorism) with a view to discovering a major criminal activity but only if, and as long as, the lives and health of third persons are not thereby endangered. Permission to postpone these measures shall, upon a properly reasoned proposal by the internal affairs agency, be granted by the public prosecutor with appropriate jurisdiction.

149. When investigating criminal offences and prosecuting the perpetrators of criminal offences, as well as for tracing, seizing and confiscating the property acquired through or owing to the commission of criminal offences, a wide range of special investigative methods and means may be used, such as secret surveillance, monitoring of electronic and other kinds of communications, undercover operations. The Criminal Procedure Act (CPA) regulates these special techniques. The relevant provisions have been changed in 2004 with amendments of SIMS, previously defined in the Law on Police. On using special investigative techniques Police keeps statistics for internal use and for the Parliamentary scrutiny. Since the last Evaluation there were no controlled deliveries of cash proceeds.

150. According to some interlocutors the conditions for permission to use such procedures are sometimes considered as too restrictive. The relevant time limits prescribed are not, however, considered as an obstacle to their use.

151. These special techniques are not used very often during the investigation of money laundering, but more often when investigating underlying predicate offences.

152. The establishment of a temporary working group is the usual procedure when investigating large and complex cases. No groups of financial investigators specialised in investigating the proceeds of crime attached to money laundering cases has been established.

153. As regards international co-operation, the Police co-operates generally with INTERPOL and EUROPOL and also has direct contacts with its foreign counterparts, in particular from neighbouring countries (Italy, Croatia, and Austria).

154. The Police, as such, do not review the money laundering and financing of terrorism methods, techniques and trends themselves. Nevertheless, as noted, they are provided with such information in the scope of their contacts with the OMLP, in particular in the framework of training activities organised in collaboration with OMLP.

155. As regards access of the police to information kept by financial institutions (such as transaction records, identification data obtained through the CDD process, account files and business correspondence) it should be obtained on an application of the public prosecutor to the investigating judge. The Criminal Procedure Code (Article 156) stipulates that the investigating judge may, upon a properly reasoned proposal of the public prosecutor, order a bank, savings bank or savings-credit service to disclose to him information and send relevant documentation. Disclosable documentation includes the deposits, statement of account and account transactions or other transactions by the suspect, the defendant and other persons who may reasonably be presumed to have been implicated in the financial transactions or deals of the suspect or the defendant, if such data might represent evidence in criminal proceedings or is necessary for the seizure of objects, or the securing of a request for the seizure of property benefits, or the seizure of property whose value is equivalent to the value of property benefits. The relevant institution is obliged to send the required data to the investigating judge immediately and it must not disclose this fact to their clients or third persons. It is understood that such applications can be made at any stage in the investigative process. None-the-less, the police indicated that they also sometimes approach the FIU under Article 20 of the LPML to obtain such information.

156. The powers to search persons and premises or seize and obtain records, documents or information are also realised via the investigating judge and evidence obtained is admissible in an investigation of both money laundering and financing of terrorism cases.

157. Furthermore the Police are, of course, authorised to take witnesses' statements for use in investigations and prosecutions of money laundering, financing of terrorism, and other underlying predicate offences, or in related actions.

158. Turning to the human resources available to relevant police units dealing with money laundering cases, the representatives of the Police stated that, in their opinion, they have sufficient numbers of staff in order to deal with notifications from the OMLP, though they do not have enough human resources to regularly generate money laundering cases themselves. As noted, historically few money laundering investigations were generated by the police on their own initiative. At the time of the on-site visit, however, there were eight current investigations. Three had been referred by OMLP; five were said to be police generated. The predicate offences included abuse of office, fraud and acceptance of a bribe.

159. The officers of the Financial Crime Division have mostly economics or legal qualifications and many of them came to the police from the banking, insurance or securities sectors. They underwent the common police training and, in addition, all investigators participate in an annual seminar, organised by the Criminal Police Directorate, which among other topics focuses on the issue of money laundering and financial investigation.

160. The money laundering coordinator attended several specific seminars on the issue of money laundering organised by Phare, Europol and Interpol. Some of the officers in the regions also participated in specific money laundering training. Nevertheless it seems that their participation on training is more accidental than systematic.

161. Some seminars on the issue of combating money laundering have been organised in co-operation with the OMLP.

162. The Police have not so far had internal discussions or received training as regards the required levels of evidence for prosecution of money laundering, nor received any specific guidelines from public prosecutors in this regard. Nevertheless police officers investigating particular money laundering cases co-operate very closely with the "Special Group of Public Prosecutors", and consult with them on the level of evidence required in a specific case and receive concrete instructions from them.

163. In October 2004, the General Police Directorate issued a Guide stipulating that financial investigation should become a necessary part of each investigation meeting the following conditions: it concerns a crime producing proceeds; special investigative techniques were used and the proceeds / financial loss is over € 30.000. This guide is now mandatory for all criminal investigators. In such circumstances therefore a police investigator is now obliged to conduct financial investigations and propose the temporary seizure of proceeds.

164. The financial investigation is undertaken by the investigator dealing with the proceeds-generating crime. There are not any specific officers designated to deal with financial investigation. Nevertheless the general investigators may be supported by a network of financial experts. The evaluators were informed that since the issuing of this Guide, eight financial investigations were conducted, between October 2004 and January 2005.

165. According to Articles 59 and 61 Police Act, the Police keep statistics on criminal investigations of money laundering and financing of terrorism and numbers of cases. Maintaining of prosecutions statistics is under the responsibility of the Ministry of Justice. The Police established statistics on financial investigations and proposals for freezing orders of proceeds of crime by a Regulation of the General Director in 2004. According to the Article 29 of the LPML the OMLP collects this information. As noted above, Courts, Public Prosecution Offices and other state authorities forward to the OMLP data on offences, as provided by the LPML Law, and data on criminal offences of money laundering. As regards the scope of the provided information state authorities are obliged to forward a comprehensive range of data, including the date of the filing of the criminal charge, the name, surname, date of birth and address, or the name of the company and seat of the accused, the statutory definition of the criminal offence and the place, time and manner of its commission. Public Prosecution Offices and courts have to forward twice annually the name, surname, date of birth and address, or the name of the company and seat of the person in connection with which an order for the temporary seizure of financial profit has been made and the amount of money seized, date of seizure, etc. or against whom a request for initiating criminal proceedings has been filed.

166. As noted, for terrorist financing investigation, there are five officers working in the Counter Terrorist Unit in the Organised Crime Section designated to deal with this issue and a further 25 in the regions devoted to combating terrorism, including financing of terrorism and other most violent crimes. There have not been any financing of terrorism investigations so far. As the main difficulties in this area, the police officers indicated international co-operation, co-operation with domestic secret services and problems with the United Nations and other lists of terrorist (insufficient identification).

167. In the area of combating money laundering the police co-operates very closely with the OMLP. There has been concluded the Agreement on Co-operation between these authorities. Co-operation involves both regular meetings and daily case-by-case co-operation.

168. The coordination with State Prosecutors has been improved within the last 2 - 3 years and the Police now co-operates with the District State Prosecutors and the Group of State Prosecutors dealing with Special Cases. They have regular meetings, also together with representatives of OMLP.

169. Operational co-ordination is arranged especially between the OMLP, Police and Public Prosecution when more significant cases of money laundering are dealt with. In many situations also other State bodies are involved (e.g. Tax Authority, Foreign Exchange Inspectorate, etc.).

170. While the focus of the police activity on money laundering involves FIU notifications, the examiners were advised that the Police had conducted some investigations in relation to money laundering independently of STR notifications, but the suspicions of money laundering were not confirmed, and the cases were mostly concluded by the State Prosecutor on other offences. The number of cases which were started by the Police as money laundering cases in the years since the Second Evaluation report was adopted are shown beneath:

- 2002 - 11 investigations
- 2003 - 10 investigations
- 2004 (to 30/09/04) - 8 investigations.

Prosecution and Judiciary

171. The Group of State Prosecutors are competent to prosecute money laundering cases and also have authority to file a motion for conducting investigations to the investigating judge.

172. The State Prosecutor may, in exercising his authority (under the Criminal Procedure Act), set guidelines for police work by giving directions, expert opinions and proposals for information gathering. There are six State Prosecutors who deal with this issue (the Group of Public Prosecutors dealing with Special Cases with whom the Police can liaise).

173. The Prosecutors with whom the team met thought that the statistics in respect of convictions would improve now that the money laundering offence was clearly all crimes and the self laundering issue had been resolved. However, as noted earlier, they (and the Supreme Court judges) indicated that the particular predicate offence had still to be identified, though they had not formulated guidance for the police on levels of evidence that may be sufficient to establish this element of the money laundering offence to the necessary standard. They equally considered that high levels of evidence would be required to prove the mental element. As noted above, five prosecutions were pending (1 from 2003, 3 from 2004, and 1 from 2005). They considered they needed closer collaboration with police in the early stages of enquiries to build cases.

174. The Judiciary emphasised that there were no time limits in law, but recognised that the legal process was slow and that backlogs arose because of the complexities of the procedure. They indicated they would welcome more training of judges in financial crime and greater judicial specialisation in this area of work.

175. For the sake of completeness here, full statistical information received from the State Prosecution Offices and the Courts is provided as to the 47 money laundering reports that were in the following stages of the procedure as at 31 December 2004, or had been dismissed before reaching the courts.

- 10 crime reports against 21 natural persons were dismissed by the State Prosecution Office (21 - 2 % of all reports);

- 6 crime reports against 17 natural persons were awaiting a decision of the State Prosecution Office;

- on the basis of 3 crime reports against 7 natural persons, the State Prosecution Office submitted requests for investigation, in respect of which investigative judges had yet to express their views or the investigations were commenced, but had not been finalised;

- on the basis of 8 crime reports against 32 natural persons the investigative judges started final investigations or already terminated them;

- State Prosecution Offices filed indictments against 32 natural persons after the investigations were finished on the basis of 9 crime reports;

- On the basis of 2 crime reports, the competent circuit court passed an acquittal for 5 natural persons, which after the complaint of the State Prosecution Office became final with the decision of the Court of Appeal;

- On the basis of 2 crime reports the court entered convictions against 4 natural persons, which have not been finalised, as the complaints were submitted to the Court of Appeal;

- On the basis of 2 crime reports the court entered convictions against 2 persons. As complaints were submitted, the Court of Appeal in one case annulled the judgment of the District Court of first instance and returned the case to the District Court of first instance for retrial and decision to the Circuit Court. In the second case the judgment was annulled and the procedure was concluded;

- On the basis of 5 crime reports, the courts discontinued the procedure in the stage of indictments in one case against 4 natural persons and in 4 cases against 5 natural persons on their own initiative or on the proposal of the State Prosecution Office according to the Article 519 of the Act on Criminal Procedure to transfer proceedings to another country and with that the procedure in Slovenia was ended.

176. There were no convictions, and consequently no confiscations for money laundering. No statistics were submitted to the evaluators on confiscations in other criminal offences. There were also no financing of terrorism cases.

2.6.2. Recommendations and comments

177. Dealing first with the constituent elements of law enforcement, the police have made some improvements since the second evaluation. There appears to have been general training on AML issues. Police powers are adequate and used in practice. Statistics are kept on the number of times special investigative techniques available to the police are used in money laundering and financing of terrorism cases. The power to obtain banking information through judicial intervention using Article 156 appears wide enough not to require undue reliance on the OMLP for this.

178. The basic problems for the police have been their essentially reactive stance on money laundering investigation to notification from the FIU rather than focusing additionally on the pursuit of money laundering on their own initiative in major proceeds-generating cases. This largely seems to be a matter of resources. The numbers of officers involved in money laundering investigation at the central level seem arguably to be about adequate to deal with the cases that come from the FIU, but not for much more proactive investigation. The new compulsory focus on financial investigation in defined proceeds-generating cases, which was in its very early days when the team visited Slovenia, may generate more non STR based enquiries. However it was unclear if the resource implications of this new stipulation had been fully considered. If not, the examiners advise that the number of extra officers required to pursue effectively this new stipulation should be reviewed – particularly in the specialised units, like drugs and organised crime, which potentially could generate many time-consuming financial investigations. It may be that on a cost / benefit analysis, a specialised Assets Recovery Unit, as recommended by the previous evaluation team, would still meet Slovenia's needs in this area better, and the examiners advise that this issue is reconsidered in the light of experience with the new stipulation. Either way, more officers are needed for money laundering investigation independent of the STR regime.

179. Equally these officers need more training and guidance as to the levels of evidence which may be required to prove these cases – particularly when money laundering is being investigated (and prosecuted) autonomously. Prosecutors should give guidance to the police and work closely with them in the early stages of cases. The percentage of cases dismissed by the prosecutors at early stages looks, at first sight to be on the high side – though the examiners, of course, have not had the opportunity of considering the facts. It does seem to the examiners that the prosecutors themselves should be prepared to test the law in appropriate cases, particularly as regards the evidence required to establish the underlying predicate offence in autonomous money laundering cases. In some jurisdictions it is not necessary to show that the proceeds came from a particular predicate offence on a specific time and date but establishing the type of predicate offence can be sufficient (i.e. –that proceeds came from drug trafficking). Prosecutors are encouraged to test these issues, and if the courts rule against them, then consideration could be given to statutory alleviation of this evidential requirement, providing minimum standards which need to be met in a money laundering case in order to establish the illegal origin

of the proceeds. In the light of the new stipulation on financial investigation, the State Prosecution Service should review the numbers of trained prosecutors they have to ensure that they can effectively handle the likely increases in money laundering caseloads and related confiscation issues.

180. Consideration should also be given to more judicial training in this area and judicial specialisation in this type of crime.

181. Overall, given the strength of the legislative framework, the range of police powers and the firm institutional co-ordination at operational level, it was disappointing to see that there still had been no final legally binding convictions in the courts for money laundering. While resource issues and perceived evidential difficulties may provide part of the explanation, the slow speed of the judicial process was also acknowledged, and serious efforts need to be made to speed up these cases.

182. On investigation of financing of terrorism the resourcing appears to be adequate. The Slovenian authorities should ensure that action in relation to freezing accounts under United Nations Resolutions etc. is always followed through by appropriate criminal investigations.

2.6.3 Compliance with Recommendation 27, 28, 30 and 32

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	**Partially compliant**	There are designated law enforcement authorities, but more resources are required to focus on police-generated money laundering cases or a reorientation of the law enforcement effort, giving more priority to properly resourced asset detection and recovery.
R.28	**Compliant**	
R.30	**Largely compliant**	There have been some steps taken since the 2nd Round Evaluation and some improvements, but more staffing and provision of adequate and relevant training for combating money laundering and financing of terrorism is still required.
R.32	**Largely compliant**	No statistics on confiscation.

3. PREVENTIVE MEASURES – FINANCIAL INSTITUTIONS

Customer Due Diligence and Record Keeping

3.1 Risk of money laundering / financing of terrorism:

183. The risk of terrorist financing does not (always) appear to be taken into account as a separate issue from the risk of money laundering. That is the case, for instance, in respect of the definition of the scope of application of the exception to the duty to identify clients (in relation to "organisations" and to foreign credit or financial institutions, whereby the Minister of Finance, in identifying these exceptions, can only have regard to the existence and implementation of anti money laundering measures) [Article 5, para. 9, of the Law on the Prevention of Money Laundering]. This is also the case in respect of the identification of non-resident clients who may be subject to non face-to-face identification according to Article 9a, para.3, of the Law on the Prevention of Money Laundering. Other than Slovenian citizens, only citizens of countries which pay regard "to standards in the area of prevention and detection of money laundering" can be allowed *in absentia* identification. Again, the Minister of Finance is called on to draft a list of relevant countries, having regard only to those which do not comply with the above-mentioned AML standards.

184. The absence of separate consideration and evaluation of the risks of terrorist financing is a consequence of the decision taken by the Slovenian authorities to postpone the adoption of measures aimed at the implementation of the international standards specifically dealing with the fight against terrorism financing, until the enactment of the forthcoming third European Union Directive on (the prevention) of money laundering and terrorism financing.

185. Even though limited to money laundering, risks are, however, assessed and taken into account in the Slovenian AML system in different respects. Relevant references to risk assessment are found in the regulatory framework (both with regard to the scope of application of the AML legislation, and to the setting up of the measures applicable) and in the supervisory/monitoring regime.

186. Risks, in the first instance, determine some regulatory solutions. With regard to the provisions defining the scope of financial institutions subject to AML measures, all the relevant actors in the financial sector are encompassed; no exceptions are made on the ground of a perceived lower degree of risks. However, the application of the existing measures may vary in different circumstances depending on the identified risks, having regard to the nature of the customers and to the nature of the activities carried out.

187. On the other hand, particular risks are taken into account in Slovenian legislation in the definition of the scope of DNFBPs made subject to the anti money laundering measures. The list of DNFBPs goes beyond the persons and entities contained in the FATF Recommendations, and in the European Union Directive, and include:

1. organisations performing payment transactions,
2. post offices,
3. pawnbroker offices,
4. legal and natural persons performing the following activities:
   a) travel organisation,
   b) safekeeping.

188. The information provided by the Slovenian authorities highlights the analysis carried out in assessing the risks inherent in these categories of non-financial businesses and professions: "Post offices remit money in Slovenia and abroad. A few cases have also involved transactions via post offices. Pawnbrokers were a new service and potential abuse was expected. Not many indices show that they might still be rightly included in the AML/CFT system. Safekeeping and payment transactions are still considered vulnerable. Travel organisations are less vulnerable, but may be connected to proceeds from criminal offences of corruption".

189. The conduct of supervision and monitoring takes risk into account in respect of financial institutions, and DNFBPs. Indeed, given the high number of individuals and entities subject to monitoring the application of AML measures, the number of authorities involved and the resources available, an approach to supervision through consideration of risk appears crucial. Risk assessment is particularly useful in identifying priorities as well as in focussing attention on sectors or entities where exposure to money laundering is considered particularly high.

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Identification of clients and beneficial owners

190. The process of identification of clients at the very beginning of the business relationship and during the on-going business relationship as well, are prescribed in detail in the LMPL, as amended in July 2002. The process of obtaining the required data and their verification, their timing, the requirements for specific groups of clients or transactions / products, and the exceptions or additional requirements, are set out in several provisions (mainly Articles 4, 5, 6, 7, 8, 9, 38 para. 1) of LPML and in related secondary legislation (comprising 8 regulations / directives issued in order to clarify in-depth important aspects of the preventive law):

- Directive on the organisations, which do not have to be identified during the execution of certain transactions (Official Gazette of the Republic of Slovenia, No. 1/04) [Annex 2 E].

- Directive on the authorised person, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services (Official Gazette of the Republic of Slovenia, No. 88/02) [Annex 2 F].

- Directive on the determination of countries, which do not respect the standards concerning the prevention and detection of money laundering (Official Gazette of the Republic of Slovenia, No. 1/04) [Annex 2 G]..

- Directive on the identification of a client on opening an account or establishing a permanent business relation without the presence of the client (Official Gazette of the Republic of Slovenia, Nos. 94/02 and 1/04) [Annex 2 H]..

191. According to the relevant provisions, all obliged entities (listed in Article 2 of the LPML) have to identify clients:

- when opening an account or establishing permanent business relations;
- when performing transactions exceeding a threshold of 3 000 000.- SIT – about € 12.500.- (including connected transactions);
- when performing transactions exceeding a threshold of 5 000 000.- SIT – roughly € 20 000.- (including connected transactions).

192. Possible derogations set out in Art. 5 are determined for:

- insurance business (in line with the EU Directive);
- pension insurance business (identification must be done when a policy can be used as a collateral or can be transmitted);
- auctioneers or traders with art (identification when a cash transaction over a threshold of 3 000 000.- SIT is performed, including linked or connected transactions);
- gaming business (identification must be done immediately on entry into a casino and in cases when transactions over the thresholds of 3 000 000.- SIT and cash transactions over 5 000 000.- SIT respectively are executed at the cashier's desk);
- state bodies or organisations with public authorisation (identification is not required);
- all obliged entities do not have to be identified when engaging in business among themselves (in line with the EU Directive);
- credit and financial institutions from EU or other countries with adequate money laundering preventive regimes in place (the range of such countries is prescribed in the secondary legislation – namely, the Directive on credit or financial institutions with headquarters in the European Union or in those countries which, according to information from international organisations or other competent international subjects, respect international standards concerning the prevention and detection of money laundering and do not have to be identified in the execution of certain transactions (Official Gazette of the Republic of Slovenia, No. 94/02);
- transactions with bearer passbooks (identification must be performed at every such transaction);
- any suspicion of money laundering in relation to a transaction or a client (identification must be performed).

193. Beneficial owner identification is, according to Article 6 and 38 para. 1, obligatory in following situations:

- when opening an account or when establishing a permanent business relation and pension insurance business (when a policy can be used as a collateral or can be transmitted);
- when a cash transaction over a threshold of 3 000 000.- SIT (including connected transactions) is performed by auctioneers or traders with art;
- in cash transactions exceeding a threshold of 5 000 000.- SIT (including linked or connected transactions);
- in transactions with bearer passbooks (at every such transaction);
- under any suspicion of ML in relation to a transaction or a client.

194. When an account is opened and / or a transaction is conducted on behalf of some other person, this fact must be disclosed in line with Article 8, para.1, of the LPML by the identification procedure.

195. In such cases, a written authorisation stating all the information required by Article 38, para. 1, with the exception of beneficial ownership, is required. Article 9 para. 1 obliges all entities listed in Article 2 of the LPML, in case of doubts about the truthfulness of the information provided to ask for a written statement from a client. According to the banks, in practice, this requirement is not used very much.

196. The definition of beneficial ownership is contained in Article 38 para. 1 item 14 of LPML. This provides for records of clients and transactions to include the name, address and place of birth of every natural person, who indirectly or directly owns at least 20 % of the business share, stocks or other rights, the grounds on which he participates in the managing of the legal person or he participates in the capital of the legal person with at least 20 % share or has the controlling position in managing the funds of the legal person; and also cases when another legal person is the indirect or direct owner of 20% of the business share, stocks or other rights of the legal person or it participates in its capital with at least 20% share (see Article 8 LPML).

197. There are special procedures with regard to specified transactions (Article 5 paras 5, 6, 10 and 11). In respect of auctioneers or traders with art, identification must be done when a cash transaction exceeds the threshold of 3 000 000.- SIT (including connected transactions). Cash transactions exceeding a threshold of 5 000 000.- SIT (including connected transactions) must be subject of identification by "organisation". Every transaction with bearer passbooks requires identification, as does any suspicion of money laundering. In relation to a transaction or a client, in the name of a foreign legal person (being an off-shore company) Article 8 paras 3 and 4 apply. In such cases, information on the beneficial ownership must be obtained in line with Article 38 para. 1 item 14.

198. As regards correspondent banking relationships commercial banks distinguish correspondent banking relationships including opening accounts and correspondent banking relationships without opening accounts. In the case when a foreign bank opens an account, the bank must perform re-identification at least once a year according to the Article 9, para. 2 of the LPML. The procedure of re-identification is just the same as in case when a bank maintains an account of a foreign legal person.

199. The process of re-identification also includes basic information about the legal person (in this case bank) about name, seat, registration number and the information on beneficial ownership as well. Any other enhanced CDD procedure on correspondent banking relationships is not prescribed.

200. The issue of politically exposed persons has not been formally addressed yet by the Slovenian authorities, as they are awaiting the 3rd EU Directive.

3.2.2 Recommendations and Comments

201. The examiners take the view that, while Slovenia is largely compliant with FATF Recommendation 5, Criteria 5-7 in the Methodology (which requires financial institutions to conduct ongoing due diligence on the business relationship) should be in law or secondary legislation.

202. In fact, practice in applying ID procedures varies. Supervisory bodies and supervised entities interpret the provisions differently, which could substantially undermine the effective implementation of the procedures. The way in which the beneficial ownership identification is established according to LPML (Art. 8 para. 1 and Art. 9 para. 1) is that a client must declare to the organisation whether he acts on his own or on someone else's behalf. It seems that this is done generally or routinely without a written statement. Only in case of doubts is there a formal obligation for the organisation to ask for a written statement. In practice, bankers informed the team that this was used only in cases of suspicion. It seems to the examiners that a uniform coordinated approach to this issue would help. Therefore, the authorities are strongly advised to provide more clarification and guidance in order that the same standard is applied in the whole financial market.

203. In case of safe custody services (which are provided only by licensed banks) all safe custody providers are included in the AML system and are subjected to identification and other AML requirements (see Article 2 of LPML).

204. It is noted that the 2nd Evaluation team considered that the identification threshold for exchange offices could be reduced from 3 million SIT. These examiners also consider that this may be useful in the Slovenian context and advise that this is seriously considered.

205. The Slovenian authorities have not yet implemented measures on enhanced due diligence in relation to politically exposed persons, but intend to do so following the enactment of the 3rd EU Directive. Guidance on this point does need to be issued urgently.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	**Largely compliant**	Customer due diligence should be performed when carrying out occasional transactions (wire transfers) in line with a threshold foreseen in SR.VII.
R.6	**Non compliant**	This issue will be dealt with after the entering into force of the 3rd European Union Directive.
R.7	**Partially compliant**	Relationships with foreign banks and ID procedures applied are the same as for any other foreign legal person. No other requirement in Criteria 7.1-7.5 is in place.
R.8	**Partially compliant**	It is unclear how other businesses issuing and performing operations with debit and credit cards are implementing preventive measures.

3.3 Third parties and introduced business (R.9)

3.3.1 Description and Analysis

206. No specific set of provisions is devoted to third parties' introduction of clients to the organisations obliged to identify them. The issue of introduced clients is, however, dealt with in the context of non face-to face procedure for identification. Some provisions dealing with reliance on third parties' identification, for the purpose of CDD, are in fact provided for in that context, together with certain conditions and limitations. Since the general rules applicable to the identification of absent clients are relevant also for third parties' introduction, they are discussed here.

a) Relevant activities and categories of clients

207. As a derogation from the general obligation to identify customers when they are physically present, non face-to-face identification can be carried out only in relation to certain activities and some categories of clients (non-residents, State bodies, organisations with public authorisation, organisations under Article 2 of LPML, and under Article 9a LPML).

208. First of all, clients can be identified *in absentia* only upon the opening of an account or the establishing of a permanent business relationship. This means that the identification needed in relation to the carrying out of transactions can only be performed where the clients concerned are physically present. However, according to Article 6 para. 8 and Article 7 (2), a simplified procedure for identification in relation to transactions is provided for customers that already have an account. Resident clients who can be identified, *in absentia*, are: state bodies or organisations with public authorisation; and "organisations", that is the entities covered by the Law on the Prevention of Money Laundering.

209. However, as far as non resident clients are concerned, non face-to-face identification only applies to (non resident) Slovenian citizens and to (non resident) citizens of other countries, provided that those countries "pay regard to standards in the area of prevention and detection of money laundering" (see Article 9a - LPML).

210. According to the Law, the Directive on the countries which do not respect the standards concerning the prevention and detection of money laundering, issued by the Minister of Finance contains the list of the countries which do not comply with the relevant standards. Citizens of those countries who are not resident in Slovenia cannot therefore be identified through the non face-to-face procedure. Non compliant countries must be identified taking into account information coming from international organisations, other competent international bodies and the OMLP. The list contained in the Regulation has been drafted, having specific regard to the information coming from the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures – MONEYVAL, the EGMONT Group, the FATF and the OMLP. The criteria adopted are the following:

- the country has not introduced or prepared legislation concerning the prevention of money laundering or the legislation is inadequate and, as such, cannot comply with the standards in the field of prevention of money laundering;

- the country is not a member of the international EGMONT group as it has not established an FIU or it does not have effective mechanisms for performing tasks in the field of detection and prevention of money laundering;

- the country is listed by the FATF as non-cooperative;

- the country has been subject to the follow-up procedure applied by MONEYVAL for not complying with international standards in the field of detection and prevention of money laundering.

211. The same Regulation specifies the procedure to be followed for the identification of customers who are not physically present. It sets out cases where reliance on third parties for the purposes of identification and CDD by the obliged entities is permissible.

b) The procedure for non face-to-face identification and reliance on third parties

212. Art. 9a para. 1 of LPML introduces an obligation "to establish undisputedly the identity of the client and to obtain the data referred to" in the same Law in relation to the identification of customers who are not physically present. In that framework, the "Directive on the identification of a client on opening an account or establishing a permanent business relation without the presence of the client" sets out different situations where identification and CDD can be performed on a non face-to-face basis by relying on third parties' introduction.

213. The identity of State bodies, organisations with public authorisation, organisations covered by LPML, may be established by a notary public seated in the Republic of Slovenia (Article 3).

214. The identity of non-resident customers (whether legal or natural persons) can be established by:

- a notary public seated in a European Union Member State, with the exception of the Republic of Slovenia;

- a bank's correspondent bank seated in the Republic of Slovenia or the branch of a domestic bank abroad, under the following conditions:

  - the bank or the bank or branch of the bank is registered in a country which is not on the list of the countries referred to in the third paragraph of Article 9a of the LPML;

  - the bank is not a foreign legal person referred to in the fourth paragraph of Article 9a of the LPML and

  - the client already has an account open at the bank or at the branch of the bank or has already concluded a permanent business relation.

- a diplomatic-consular representative of the Republic of Slovenia, provided that the client is a citizen of the Republic of Slovenia and has permanent or temporary residence abroad.

c) Acquisition from the third parties of the information concerning certain elements of the CDD process

215. The organisations identifying clients through third party introduction are required to obtain the information on those clients which is needed for CDD purposes. However, the previously mentioned Decree does not stipulate that the information on clients is to be obtained from the introducing third party. In fact, reference is mostly made to other sources: certified documentation from a court or other public register not older than three months (for state bodies, organisations with public authorisation, other organisations, foreign legal persons); for natural persons, photocopy of the official personal identity document, provided that the information is verified by a notary public or certified by a diplomatic-consular representative of the Republic of Slovenia abroad or by a bank's correspondent bank of a domestic bank abroad. Other data which are needed can be obtained from "documents and business documentation" as well as from "written declarations personally signed by the client".

216. In two instances the information has to be obtained from the introducing party: When the client's identity is established by a bank's correspondent bank seated in the Republic of Slovenia or by the branch of a domestic bank abroad. In such cases, according to art.6 of the Regulation, the relevant data shall be obtained "directly from the bank's correspondent bank or the branch of the bank".

217. Therefore, there is a distinction between the introducing party (which or who is called upon to establish, in the first place, the identity of the introduced client) and the sources of the information needed for the obliged organisation to perform the overall CDD process. Whilst this procedure meets the need for enhanced due diligence with respect to non face-to-face activities, it does not appear to be fully in compliance with the CDD process in relation to introduced businesses. In such cases the applicable standards require, that not only the identification, but the CDD process itself should be carried out by the introducer, who is supposed to provide directly the information needed to the identifying entity to comply with its obligations.

218. In fact, according to the practice described by the relevant players, the third parties' reliance procedure seems to be rarely applied. In particular, there do not seem to be systems in place allowing flows of information concerning the introduced clients to come from the introducing party to the obliged entity. Instead different sources are used to obtain the data needed for CDD purposes.

219. For the reasons explained, although the number of cases in which CDD is carried out through a third party seem rather low (and, consequently, risks are not *de facto* particularly high), the essential criteria 9.1 and 9.2 cannot be considered to be complied with, insofar as information on the introduced clients is not to be acquired from the introducing party. The legislation indeed provides for that information to be obtained for CDD purposes by the obliged entity, although from different sources.

220. As noted, third parties allowed to act as introducers belong to specific categories: they can be diplomatic-consular representatives, notaries, banks, foreign branches of domestic banks. Diplomatic-consular representatives are not regulated and supervised, nor are there measures in place for them to comply with CDD requirements set out in Recommendations 5 and 10. As to foreign branches of domestic banks, some rather stringent conditions are provided for to ensure that those branches are regulated and supervised in accordance with the FATF standards; in particular, they must be seated in countries other than those listed in the "Directive on the identification of a client on opening an account or establishing a permanent business relation without the presence of the client", enacted according to Article 9a of the LPML

221. With the exception of diplomatic-consular representatives, which naturally are not subject to specific regulation or supervisory regime, being part of the State organisation, and as such subject to identification requirements (prescribed in detail by other legislation), the essential criterion 9.3 can be considered as satisfied.

222. General criterion 9.4 is complied with, since in order to determine in which countries third parties entitled to act as introducers can be based, specific regard is given to information from MONEYVAL, the EGMONT Group, the FATF and the OMLP.

223. The ultimate responsibility for customer identification and verification remains on the institution relying on the third party.

3.3.2 Recommendation and Comments

224. There are no provisions addressing the issue of CDD performed relying on third party introduction. Although, so far as the examiners were aware, third party introduction was rarely used (and the lack of provisions in this area could be interpreted as a strength in the CDD regime sufficient for the plenary to consider Slovenia compliant with R.9), there are none-the-less provisions in place allowing obliged entities to rely on the identification performed by third parties. Specifically with regard to Recommendation 9, the examiners recommend that provision should be made for an obligation to obtain the relevant information from the introducing party who (or which) has identified the client and only to allow regulated and supervised parties to establish customers' identities.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	**Compliant**	

3.4 Financial institution secrecy or confidentiality (R.4)

3.4.1 Description and Analysis

225. There are no particular restrictions in the Slovenian legislative framework preventing competent authorities from accessing information needed to perform their anti money laundering functions. The exchange of information between competent authorities is not limited by secrecy provisions. The sharing of information between financial institutions is also possible in the situations provided for in the legislation.

226. Some more detailed comments are necessary regarding the duties of obliged entities, the sharing of information between competent authorities, international co-operation, and the flows of information between financial institutions

a) Obliged entities

227. Any limitations arising from bank or professional secrecy is explicitly lifted when forwarding data, information and documentation to the OMLP according to the LPML. This mandatory provision applies to the obliged organisations, organisations with public authorisation, state bodies, courts, lawyers, law firms, notaries, audit companies, independent auditors, legal or natural persons performing accountancy services or tax advisory services and their staff (Article 32, para.1, of LPML).

228. It is worth underlining that listing of bank or professional secrecy is complemented by the "safe harbour" provision contained in Article 32, para. 2, of the LPML, stating that the reporting entity or individual cannot be liable for damages caused to clients or to third persons as a consequence of the submission of information according to the relevant provisions.

229. The prohibition against invoking bank secrecy applies, in particular, to the disclosure of suspicious transactions, to the reporting of cash transactions, to the submission to OMLP of the information requested by the latter to perform its anti money laundering tasks (Articles 15, 18, 19 of LPML). The same prohibition applies also to disclosures concerning possible money laundering cases filed by the Public Prosecution Office, the Intelligence and Security Agency, the Bank of Slovenia, the Agency for the Securities Market, the Agency for Insurance Supervision and the Inspectorate bodies of the Ministry of Finance (art.20 of LPML).

230. The obligations of lawyers, law firms, notaries, audit companies, independent auditors, legal or natural persons performing accountancy services or tax advisory services, to report suspicious transactions and to submit information needed for anti money laundering purposes is not restricted by relevant professional privilege, where general secrecy restrictions prevail according to the applicable international standards. The relevant provisions, contained in Article 28b of LPML, are taken from the relevant provisions of the second anti-money laundering European Union Directive (Article 6, para.3).

b) Sharing of information between competent authorities

231. Several flows of information between the authorities competent in anti-money laundering matters are possible according to Slovenian legislation, without it being possible to invoke any secrecy restriction. In the first place, the courts, the Public Prosecution Office, the Intelligence and Security Agency, the Bank of Slovenia, the Agency for the Securities Market, the Agency for Insurance Supervision and the Inspectorate bodies of the Ministry of Finance are required (even though the text of art. 20 of LPML does not seem to impose a clear obligation) to report in writing to the FIU any "case in which a transaction or a particular person raises suspicion of money laundering".

232. Moreover, as noted earlier, all "state authorities" (even beyond those required to report suspicious transactions according to Article 20 of LPML) and organisations with public authorisation can be requested by the FIU to provide "data, information and documentation which are needed for money laundering detection" (in cases where the FIU "considers that there exists reasons for suspicion of money laundering in connection with a transaction or a certain person"). Such data, information and documentation can also be requested by the FIU for the purpose of initiating criminal proceedings under the LPML.

233. Information is routinely exchanged between the supervisory bodies and the OMLP (acting itself as a supervisory agency). Violations of the provisions contained in the LPML are notified by the supervisory authorities to the FIU, which is competent to start administrative proceedings for the issuing of sanctions. Article 42 of LPML indicates the information which, as a minimum, must be included in such notifications.

234. As regards information concerning physical cross-border transportations of cash and securities, Customs Administration Authorities, which receive that information, are obliged to forward it to the FIU within three days.

c) Exchange of information between financial institutions

235. Financial institutions can share among themselves and obtain upon request the information needed to comply with the identification and CDD measures under FATF Recommendation 7, in respect of correspondent banking relationships, and Recommendation 9, in respect of reliance on third parties to perform some of the elements in the CDD process.

236. No restrictions appear to exist in legislation, which could prevent financial institutions from transferring the data needed to comply with the obligation, stated in FATF Special Recommendation VII, to include accurate and meaningful originator information on funds transfer and related messages.

3.4.2. Recommendations and Comments

237. It appears to examiners that the present non-reporting by the professions, particularly lawyers, might indicate that their understanding of the reporting obligation is in practice rather unclear. Further guidance by the FIU to the relevant professionals is advised, specifying the scope of application of Article 28 b of LPML, taken from the Second anti-money laundering European Union Directive.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**Compliant**	

3.5 Record keeping and wire transfer rules (R.10 and SR. VII)

3.5.1 Description and Analysis

238. Record keeping requirements are determined not only for the entities listed in Article 2 of the LPML but for the Customs, other DNFBP´s and the FIU as well by Articles 34 to 38 of the LPML in more strict way then the international standards foresee. The basic retention period is set at 10 years after the transaction is executed or the account is closed or the business contract is terminated. Identification documents as well as transaction data are specified by Article 38, para. 1 (some of which has been noted earlier):

- "the company name, seat and registration number of the legal person opening an account, establishing a permanent business relation or conducting the transaction or of the legal person on whose behalf the account is being opened, a permanent business relation is being established or the transaction is being carried out;

- the name, surname, permanent address, date and place of birth and the income tax number of the employee or authorised person who, on behalf of a legal person is opening an account, establishing a permanent business relation or conducting the transaction, and the number and name of the authority that issued the official personal identification document;

- the name, surname, permanent address, date and place of birth and the income tax number of the natural person who is opening an account, establishing a permanent business relationship enters into the premises of a gaming house or other concessionaire for special games or conducts the transaction, or of the natural person on whose behalf the account is being opened, a permanent business relationship is being established or the transaction is being carried out, and the number and name of the authority that issued the official personal identification document;

- reasons for opening the account or for establishing a permanent business relation and information about the activities of the client;

- date of opening the account or of establishing a permanent business relationship or of the entry into the premises of a gaming house or other concessionaire for special games;

- date of the transaction;

- time of execution of transaction;

- amount of the transaction and currency in which the transaction is being carried out;

- purpose of the transaction and the name, surname and address or name of the company and seat of the person to whom the transaction is being directed;

- manner of executing the transaction;

- name and surname or company and seat of the person sending the order in case of transfers from abroad;

- information about the source of money or property that is the subject of the transaction; and

- reasons for suspicion of money laundering;

- name, surname, permanent address, date and place of birth of every natural person, who indirectly or directly owns at least 20% of the business share, stocks or other rights, on which grounds he participates in the managing of the legal person or he participates in the capital of the legal person with at least 20% share or has the commanding position in managing the funds of the legal person. "

239. Beyond these requirements, information on the authorised person (the AML compliance officer) and his deputy is to be archived for minimum of 4 years. Customs have to keep records on the transport of cash and securities from the date of execution of the transport for 12 years. The same period is valid for the FIU with regard to all the information collected on the basis of the LPML.

240. Wire transfer rules are dealt with in Art. 4, Art. 5 paragraph 2 in connection with Article 6 para. 2, and of Article 38 para.1 of the LPML. Before the transaction is executed, identification must be performed, and for that reason the following information is required:

- the company name, seat and registration number of the legal person conducting the transaction or of the legal person on whose behalf the transaction is being carried out;

- the name, surname, permanent address, date and place of birth and the income tax number of the employee or authorised person who, on behalf of a legal person is conducting the transaction, and the number and name of the authority that issued the official personal identification document;

- the name, surname, permanent address, date and place of birth and the income tax number of the natural person who conducts the transaction, or of the natural person on whose behalf the transaction is being carried out, and the number and name of the authority that issued the official personal identification document;

- date of the transaction;

- amount of the transaction and currency in which the transaction is being carried out;

- purpose of the transaction and the name, surname and address or name of the company and seat of the person to whom the transaction is being directed,

- manner of executing the transaction;

- name and surname or company and seat of the person sending the order in case of transfers from abroad.

241. Such a procedure is to be undertaken in respect of each transaction or in case of several connected transactions, which exceed the amount of 3,000,000 SIT, or in case of suspicious transactions irrespective of the amount.

242. In the message accompanying cross border wire transfers (SWIFT messages MT 103 and MT 103+), there is obligatory information requested at the originator's side:

- the number of the account (if it exists)
- the full name and address (company name or name/surname and permanent address).

If the bank receives a MT 103/103+ without full originator's data from abroad, the data has to be obtained additionally or the payment order has to be rejected.

3.5.2 Recommendations and Comments

243. The "de minimis" threshold is higher than the FATF standard (which should not be above US D 3000.-)

3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**Compliant**	
SR.VII	**Largely compliant**	ID procedures are applied for transactions over a threshold higher than recommended, though if a transaction is suspicious no threshold applies.

Unusual and Suspicious Transactions

3.6 Monitoring of transactions and relationships (R.11 and 21)

3.6.1 Description and Analysis

244. Ongoing monitoring or paying special attention to complex, unusual, large transactions or unusual patterns of transactions by financial institutions is considered implicit in the general duties to report large cash transactions and report suspicious transactions, but Recommendation 11 is not formally transposed into the law.

245. According to Article 10 para. 3 and Article 11 para. 2 of the LPML, as noted, all entities listed in Article 2 must report to the FIU in all cases where a transaction (or a client) raises suspicion before a transaction is executed. For cases with justified reasons (para. 4 of the same provision) it is possible to report after-the-fact, but an explanation must be given to the FIU. To support the process of suspicious transactions and suspicious behaviour of a client recognition, a piece of secondary legislation has been in place since 2002 [3].

246. Articles 8, 9 and 10 of the Decree introduce the obligation to prepare a specific list of indicators, provide for co-operation of several bodies in the process of preparation of such lists (all supervisory agencies have to participate and the professional associations may take part as well*)* and state the basic principle of "know your client and his business". The requirement to update the lists is also contained in these provisions.

247. All financial market participants currently do have their respective list of indicators and it is used by them.

248. As far as additional elements to be included in the identification procedure in the case of suspicion, the LPML obliges the entity to identify the client (and the beneficial ownership without consideration of any threshold). Also the origin of the money and/or property used in the transaction has to be established (Article 5, para. 11, and Article 38, para. 1, item 12).

249. The record-keeping requirement applied to all these documents is set at 10 years after the transaction is executed and the client relationship is finished, which means that Criteria 11.3 is met.

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[3] The Regulation on the compliance officer, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services.

250. To support the ability to apply preventive measures by financial institutions, another piece of secondary legislation has been in force since 2004 pursuant to Article 9a (3) LPML Regulation on the determination of countries, which do not respect the standards concerning the prevention and detection of money laundering. The regulation determines those countries with which residents cannot open an account or establish a permanent business relationship in the Republic of Slovenia without being present in person. Currently, the following countries are included:

- countries of the African continent, with the exception of the South African Republic and Mauritius,
- countries in Asia and the Middle East, with the exception of Israel, Japan, the Republic of South Korea, the Republic of Singapore, the Thai Kingdom, the Republic of Turkey and the United Arab Emirates,
- the Cook Islands,
- the Republic of Guatemala,
- the Republic of Georgia,
- the Republic of Moldova,
- Ukraine,
- Serbia and Montenegro and
- Bosnia and Herzegovina [4].

251. Offshore areas are not specially included in this Regulation, since they are already covered by the provisions of the LPML (Article 9a para. 4). In line with this, the identification of a client in his absence at the opening of an account or establishing a permanent business relationship is not possible "if the client is a foreign legal person, that does not or shall not perform commercial or manufacturing activity in the country in which it is registered (offshore countries), or in cases, when fiduciary or similar companies of the foreign law with unknown owners and managers are involved."

3.6.2 Recommendations and Comments

252. The examiners take the view that while Slovenia is largely compliant with Recommendation 11, the FATF Recommendation as such is not transposed into national law, or otherwise required by regulation or other enforceable means in respect of all the relevant financial institutions, and should be set out in one of these ways.

[4] The Regulation will be amended in the second half of 2005, taking into account the recent findings of FATF, MONEYVAL and the OMLP.

3.6.3 Compliance with Recommendations 11 and 21

	Rating	Summary of factors underlying rating
R.11	**Largely compliant**	Recommendation as such is not transposed into national law.
R.21	**Compliant**	

3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 and SR.IV and SR IX)

3.7.1 Description and Analysis

253. As noted above, Article 10 paras 1, 2, 3 and 4 of the LPML establish the obligatory reporting regime for all entities listed in Article 2 of the preventive law. There is a duty to report to the FIU:

- each cash transaction exceeding the amount of 5,000,000.- SIT,
- the case of several connected cash transactions, whose total exceeds the amount of 5,000,000.- SIT
- all cases whereby a transaction or client raises suspicion of money laundering.

254. Article 11 determines the time when a report is to be made. In case of CTR´s it is immediately after the transaction took place but not later than 3 days after the execution of a transaction. In case of STR´s the time is set out, in line with Article 7 of the 2nd European Union Directive, as before a transaction is executed. For cases with justified reasons (para. 4 of the same provision) it is possible to report after-the-fact, but an explanation must be given to the FIU. This is also in line with the 2nd European Union Directive.

255. The manner of such reports and the way reports are to be submitted is prescribed by the secondary legislation – Directive on the Method of Forwarding data to the OMLP of the Republic of Slovenia (together with the forms, appendix and instructions on the manner of filling in the forms which are a constitutive part of the instructions). This Directive was last updated in 2004. Another piece of secondary legislation entitled "Directive on the determination of the Conditions under which the Organisations referred to in Article 2 of the Act on the Prevention of Money Laundering shall not be obliged to forward information on cash transactions executed by certain clients" (in force since 2004) provides for exemptions in the cash reporting regime in order not to require information with no relevance to money-laundering prevention.

256. Other aspects to be taken into consideration are:

- the tipping-off rule, contained in Article 31 para. 1;
- establishment of official secret covering reported data, information or documentation about the client or transaction (only the director of the FIU may decide on the lifting of this classification) in the same article para. 2 and 3, which would ensure that the names and personal details of staff in financial institutions making STRs are kept confidential (see 2.5 above);
- protection for those who make reports in Article 32, para. 2
- obligation on the FIU to provide feedback based on Article 23;

257. The reporting obligation relating to the physical cross-border transport of cash and securities is regulated by Article 27 of the LPML, under which a threshold of 3 million SIT is stipulated and the Customs have to make a report within 3 days. Furthermore Customs have the power to search persons, cars and luggage, not only on the borders but on the whole territory. Since the accession to the European Union this obligation applies to the external borders of the European Union.

258. Such reports are to be submitted to the FIU by Customs. Article 38 para. 2 determines what information should be included in a report (the name, surname, permanent address and date and place of birth of the natural person who is transporting cash or securities across the state border; the name of the company and seat of the legal person or the name, surname and permanent address of the natural person on whose behalf the transport of cash or securities across the state border is being carried out; the amount, currency, type and purpose of transaction and place, date and time of crossing the state border; and information whether the transaction was reported to the customs service authorities).

259. Under the Foreign Exchange Act, anyone crossing the border is obliged to report to the Customs Authorities cash or bearer negotiable instruments in amounts above 3 million SIT. After the European Union Accession (since 1 May 2004), this requirement is valid only for non-European Union borders and for the crossing of the State border at airports and seaports via which international transport is carried out, if they do not border a member State of the European Union.

260. In the case of false declarations or non-reporting, Customs have the authority to seize temporarily currency or bearer instruments only if the amount of undeclared cash or securities exceeds 3 million SIT. The report on seizure including the seized money is sent to the Foreign Exchange Inspectorate and the notification of non-reporting is also sent to the FIU.

261. When Customs have a suspicion that currency or bearer instruments are related to the financing of terrorism or money laundering, they are not authorised either to seize the amount or to send a report to the FIU. They may consult with the Police, and, when and if it has some additional information, send it to them as a criminal notification. Theoretically in such cases the Customs Authorities could send a written initiative to the OMLP according to the Article 20 of the LPML since they are one of the "inspection bodies" of the Ministry of Finance. Nevertheless it seems that they are not aware of this possibility.

262. As regards the sanctions for a false declaration, the Foreign Exchange Act prescribes the fines for it in the amount of 500.000 SIT to 10 million SIT for legal persons, 200.000 to 1 million SIT for liable persons in a legal entity and 200.000 to 4 million SIT for sole proprietors, and 50.000 to 300.000 SIT for natural persons. These sanctions are generally proportionate.

263. The Foreign Exchange Inspectorate is the only body authorised to impose sanctions for breach of the obligation to declare carrying of cash across borders. The effectiveness of a system, whereby the sanctions are imposed by a different body (Foreign Exchange Inspectorate) from the body that detected the violation, is questioned. There is a potential danger of undue delay, which could render the sanctions less effective. None-the-less the Slovenian authorities informed the examiners that in the last 11 years no undue delays were noticed in respect of these procedures.

3.7.2 Recommendation and Comments

264. As noted in 2.5 reporting of STRs in relation to financing of terrorism are not yet covered, but will be in forthcoming legislation.

265. Attempted transactions are not mentioned explicitly in Article 10 (3) LPML, though the FIU interpret Article 10 (3) as including attempted transactions because the law requires reporting circumstances linked with the customer. In any event, it is argued that such "transactions" would always be regarded as suspicious and reported. However as the examiners did not see all the lists of indicators it is unclear whether attempted STRs are included in all the lists. In the circumstances the examiners recommend that the Law clearly provides for attempted transactions to be covered, in line with Essential Criteria 13.3.

266. The requirement to report suspicious transactions applies regardless of whether they are thought to involve tax matters as required by Criteria 13.4.

267. With regard to the first part of FATF Recommendation 14, Article 32 (1) and (2) of LPML together appear to provide basic "safe harbour" provisions for reporting entities and their staff, though Article 32 (2) could more clearly specify that it applies to the staff as well as the organisation etc. The reference in Article 32 (2) to protection of liability from "damage caused to clients" calls into question whether this provision fully covers

protection from criminal liability as well as civil liability and the examiners recommend that this is clarified.

268. The statistics on STR reporting set out at paragraph 115 above show that there is still an important need for more reports beyond the banking sector and the Slovenian authorities need to address this collectively.

269. On SR.IX, the Slovenian authorities should consider the adoption of relevant measures allowing them also to seize bearer instruments below the threshold of 3 million SIT, and also currency or bearer instruments suspected to be related to the financing of terrorism or money laundering regardless of the amount. Consideration could also be usefully given to sanctioning powers for the Customs in relation to breaches of reporting requirements or false declarations. The Slovenian authorities will also wish to ensure that they have implemented or considered implementing the measures set out in the Best Practices Paper for SR.IX.

270. The tipping off provision as set out in Article 31 (paragraph 1) impliedly embraces a prohibition on disclosure of the fact that a report has been made as well as disclosure of the data (information etc. about the client) and therefore is compliant with the relevant part of FATF Recommendation 14.

271. The detection and monitoring regime of cross-border cash and negotiable bearer instruments has been relaxed as a result of the EU accession at internal European Union borders.

3.7.3 Compliance with Recommendations 13, 14, 19 and 25 (criteria and Special Recommendation IV and IX

	Rating	Summary of factors underlying rating
R. 13	**Partially compliant**	Financing of terrorism is not covered. Underreporting beyond the banking sector.
R. 14	**Largely compliant**	"Safe harbour" provision should clearly cover criminal liability.
R. 19	**Compliant**	
R. 25 (25.2)	**Compliant**	
SR. IV	**Non-compliant**	No reporting of financing of terrorism STRs.
SR IX	**Compliant**	

Internal controls and other measures

3.8 Internal controls, compliance, audit and foreign branches (R.15 and 22)

3.8.1 Description and Analysis

Procedures, policies and controls (CDD, record retention, detection and reporting of ST)

272. The LPML and the Directive of 8 November 2002 [Annex 2 F] enacted thereunder provide for a number of measures applicable to financial institutions aimed at preventing money laundering and, more specifically, ensuring that the application and the implementation of the anti money laundering obligations are adequately monitored. In the framework of these rules, more detailed provisions can be specified by the organisations themselves in their internal acts.

273. The need for financial institutions to conduct internal control is established in mandatory terms in Article 12, para. 2, of the LPML. Such controls must have as their object the adequate performance of all the "duties" set out in the LPML itself. They include identification and CDD measures, the acquisition and retention of information, the detection and reporting of suspicious transactions.

274. Although the scope of application of internal controls is rather broad in the Law, Article 3 of the Regulation describes their purpose in slightly different terms, possibly narrowing their object: those controls serve the function "to prevent, detect and eliminate mistakes in the implementation of the Act" and "to improve the internal system of detection of transactions or clients in connection with whom reasons exist to suspect money laundering".

275. Some provisions are aimed at differentiating and distinguishing the application of internal control procedure obligations between financial institutions, depending on the risks and the size of the institutions themselves. On the one hand, size is taken into account in determining an exemption from the obligation for financial institutions to set up internal control procedures and to appoint compliance officers: Article 12, para. 3, of LPML allows for organisations of "less than four employees" not to appoint a compliance officer or conduct internal control. On the other hand, the size of the financial institution is also relevant in determining the controls' regime: whilst the monitoring by the financial institutions of the implementation of measures stemming from the LPML must be carried out on a regular basis, such regular monitoring is not an obligation for organisations with less than four employees (Article 3, para.2, of the Directive).

276. The object of internal controls is specified in detail in the Directive (Article 4). It includes the execution of obligations: to perform client identification; to keep data; to forward to the OMLP information concerning relevant cash transactions and suspicious transactions; to postpone the transactions following the order issued by the OMLP and to act in accordance with the instructions issued in that regard by the OMLP itself; to forward data, information and documentation on request of the OMLP; to appoint a compliance officer and one or more deputies; to draw up a list of indicators for identifying suspicious transactions; and to protect confidentiality of the data to be forwarded.

277. As to the execution of internal controls, the internal act of the organisation determines and defines the responsibilities among the organisations' management, the organisational units or branches, the compliance officer and other services of the organisation (Article 5 of the Directive). The internal act establishes also the timetable and the method of conducting internal control (Article 7 of the Directive).

278. The Directive also provides an obligation on organisations to issue a written annual report on the execution of internal control, indicating in detail the information which must be included in it (Article 6). The use of the report and its recipients are not specified in the Directive. However the OMLP has the right to request this report on the basis of paragraph 2 of Article 18 of LPML. These reports are requested, based on a preliminary supervisory decision by the OMLP, and analysed. Feedback is provided to the institutions and to their supervisors afterwards.

Compliance management (officer at management level; access to CDD, records and other relevant information)

279. The appointment of a compliance officer (referred to in the Directive of 8 November 2002 as the "authorised person") is imposed on the organisations by Article 11 ff. of the Directive. One or more deputies have to be named as well, whose task is to act as a substitute in case of absence, but who can also perform other autonomous duties, provided that they are specified in the internal act. The internal act itself has to define responsibilities of the compliance officer and of his/her deputies. Information on the compliance officer appointed and the duties must be forwarded to the OMLP.

280. Taking into account size and risks, an exemption from the obligation to appoint a compliance officer is established for organisations with less than four employees (Article 11, para. 5 of the Directive).

281. Conversely, Article 15, para. 2, states that in organisations which, due to the number of employees, the extent of business operations, or other justified reasons the scope of duties in the field of the prevention and detection of money laundering is permanently increased, the authorised person must be allowed to perform this work and duties as his/her exclusive work obligation. Although the risks are correctly taken into account, there are no specific elements in the Directive which really guide organisations in the application of this provision. This could result in excessive discretion and discrepancies in the solutions adopted by different organisations.

282. The Directive provides some minimum requirements for compliance officers (Article 12 of the Directive). As to integrity, the compliance officer must be a person who has not been convicted or who is not under criminal procedure for a number of specified serious offences. As to expertise and professional background, the compliance officer must possess expert qualifications for the performance of tasks in the field of the prevention and detection of money laundering, and must have good knowledge of the operations of the organisations in the areas where money laundering is likely to occur. Moreover, the compliance officer must have a sufficiently high position in the organisational structure to allow him / her to perform his/her duties properly and in a timely manner.

283. There are no specific indications in the Directive as to what the procedure should be for the appointment of the compliance officer and what is the internal body competent for the appointment. Therefore, a significant margin of discretion is left to the obliged organisations. This could result in weaknesses in some organisations in the position of the compliance officer, who, depending on the circumstances, could be limited in his/her autonomy (despite the general provisions contained in Article 12 concerning qualitative and timely performance of the duties). Equally there could be differences with regard to the level / position of compliance officers in different organisations.

284. The duties of the compliance officer are specified in Article 13 of the Directive by making reference to specific tasks. They include:

- the appropriate and prompt forwarding of data to the OMLP;
- the preparation and the modification of the operational procedures and the preparation of the provisions of the internal act in the organisation, which concern the prevention and detection of money laundering;
- the preparation of the guidelines for performing control in connection with the prevention and detection of money laundering;
- the preparation of the programme for the expert training and education of the staff employed in the organisation in the field of the prevention and detection of money laundering.

285. The lack of reference to general areas of competence seems to prevent compliance officers from intervening in matters which, although relevant for effective prevention of money laundering and terrorist financing, might fall outside the tasks specified in Article 13 That could be the case, for instance, in respect of internal procedures in place for identification and customer due diligence, for postponing transactions, for record keeping, all of which also form part of the internal controls, according to Article 4 of the Directive.

286. Article 15 of the Directive deals, in particular, with the access of the compliance officer to relevant information within the organisation and with the conditions which must be ensured for the officer to properly perform his/her duties. The provisions are drafted in rather general terms:

- the organisation shall, on demand by the compliance officer, allow him/her access to the data, information and documentation necessary for the performance of his/her duties;
- the organisation shall provide the compliance officer with the technical and other conditions required for the performance of his/her duties;
- the organisation shall offer the compliance officer expert training in connection with the detection and prevention of money laundering;
- the organisation shall make sure that all the offices in the organisation provide assistance and support to the compliance officer in the performance of his/her work and tasks.

287. The provision contained in the first indent, which refers to the need for a "demand" by the compliance officer to the organisation in order to access relevant information, caused some concern to the examiners. The Slovenian authorities explained, however, that the compliance officer always has access to information and that there is no possibility to refuse access to documents.

Audit function to test compliance with these procedures, policies and controls

288. As already noted, the internal control procedures must be described in the organisation's internal act.

289. Moreover, the annual written report is intended to give an overview of the activities carried out through the internal procedures in place and of the results achieved. Even though, as mentioned above, the recipient of the report and the use of it are not specified in the legislation, the report itself may provide a reliable basis for the competent authorities to perform an audit of their internal procedures, policies and controls and for them to test the organisation's compliance. Supervisors also evaluate the content of the internal act of the organisations, which must specify the responsibilities and the modalities for conducting internal controls.

Ongoing employee training

290. Article 20 of the Directive sets out an obligation on organisations to provide regular expert training and education of all their staff performing duties in the field of the prevention and detection of money laundering. Moreover, as to the content of the training initiatives, the provision also states that such training and education must relate to familiarisation with the provisions of the LPML and to the regulations issued thereunder, to the internal acts, the expert literature in the field of the prevention and detection of money laundering and to the lists of the indicators for identifying suspicious transactions as well as their application in practice.

291. Organisations have the duty to prepare on an annual basis a programme of expert training and education in the field of the prevention and detection of money laundering.

292. Associations of organisations are active in organising experts training initiatives, especially through seminars. Also the FIU plays an active role here.

Screening procedures when hiring employees

293. No specific legal provisions address the need to ensure that screening or scrutinising procedures are in place to make sure that employees in organisations fulfil minimum integrity requirements, though it was understood that most financial institutions do have internal integrity policies and hiring standards; they check their candidates before hiring them.

Compliance officer to act independently and to report to senior management or to board of directors

294. Although the need for the compliance officer to hold a high position which allows a proper and timely performance of his / her duties is a condition stated in general terms in the applicable provisions, the lack of precise and binding requirements on the position the compliance officer must occupy in the organisation (especially in relation to the hierarchy and the internal bodies to which the compliance officer has to report) and on the procedure and the competent organ for the appointment could negatively affect the extent of the independence of the compliance officer in performing his/her duties.

3.8.2 Recommendations and Comments

295. The examiners consider that the room for discretion in the procedure for the appointment of the compliance officer should be reduced. Equally the examiners consider that more precise and binding requirements could be imposed dealing with the position the compliance officer should occupy in the organisation's hierarchy and the internal bodies to which he or she should report to reduce differences and discrepancies between organisations.

296. Where the application of provisions on compliance officers is based on size and risks, more detailed guidance should be provided on the issues and elements to be taken into account when assessing the need to appoint a compliance officer.

297. The areas where the compliance officer is competent as set out in Article 13 of the Directive should be extended to include the entire range of money laundering / financing of terrorism issues in the organisation.

Foreign Branches

Description and Analysis

298. The Slovenian financial industry is represented in foreign markets. According to the information provided, some financial institutions have branches or subsidiaries operating abroad (Bosnia and Herzegovina, Bulgaria, Germany, Italy, Serbia and Montenegro, "the former Yugoslav Republic of Macedonia").

299. In this context, although risks seem low at the moment (but this could change following the accession to the EU in 2004), there are not general provisions in the legislation aimed at ensuring that financial institutions' foreign branches and subsidiaries observe AML measures consistent with home country requirements and the FATF Recommendations.

300. Licensed financial institutions whose supervisory body is SMA, are obliged to ensure that their internal regulations adopted on the basis of LPML, ZTVP-1 and ZISDU-1 are also applied to branches and majority owned subsidiaries located abroad. SMA also has jurisdiction over these branches (and majority owned subsidiaries) and may perform supervision also in these entities by itself or it can ask local regulators within the European Union to perform supervision.

Recommendations and comments

301. The Slovenian authorities should introduce in primary legislation a general requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations.

3.8.3 Compliance with Recommendations 15 and 22

	Rating	Summary of factors underlying rating
R.15	**Largely compliant**	No specific provisions on employee screening and more clarification of the compliance officer's powers and role required.
R.22	**Partially compliant**	General requirement needed for financial institutions to ensure that their foreign branches observe AML / CFT measures consistent with home country requirements.

3.9. Shell banks (R.18)

3.9.1 Description and Analysis

302. Shell banks do not operate and cannot be established in Slovenia.

303. With regard to the prohibition of establishing and maintaining correspondent relationships with a shell bank, Article 9 a, para. 4, of the LPML does not allow the opening of an account or establishment of a permanent business relationship without a physical presence, in the case of foreign legal persons, the licenses and/or activities of which bear the characteristics of off-shore undertakings.

3.9.2 Recommendations and Comments

304. Article 9.a, para. 4, of the LPML contains a clear prohibition against opening an account or starting a business relationship with legal entities coming from offshore centres in the absence of the client (which would cover entering into new correspondent relationships with shell banks).

3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	**Largely compliant**	No explicit provision to meet Criteria 18.3.

Regulation, supervision, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)

3.10.1 Description and Analysis

The Central Bank

305. The Central Bank acts as the banking sector supervisor. It has all common supervisory powers and responsibilities, in line with international standards (including licensing, off-site, on-site, enforcement authorities and access to all documents). In the area of controlling the compliance with the provisions of LPML, since its last amendment in 2002, the role of the Bank of Slovenia has been specified.

306. Article 41 defines the Bank of Slovenia as the authority responsible for conducting supervision over the implementation of the LPML in banks, savings banks, and savings and loan undertakings. If the Bank of Slovenia identifies a breach of the LPML, it orders appropriate supervision measures to be taken (order to rectify a breach), and notifies the FIU without delay of the breaches identified.

307. Where money laundering is suspected in respect of a transaction, a person or an entity, the Bank of Slovenia must submit a written referral with reasons to the FIU, in addition to making inspections. The Bank of Slovenia must then decide on the appropriate supervisory measures. These can be imposed in line with the Banking Act also on managers and members of management and supervisory boards of a bank. The Bank of Slovenia should also notify the FIU in writing of any offences discovered under Articles 45, 46 or 47 of the LPML.

308. The possible next step, which is undertaken by the FIU, is to launch a proposal for the initiation of administrative offence procedures.

309. In 2004, the FIU forwarded to the administrative court 3 proposals for administrative offences based on findings of the Bank of Slovenia.

310. In 2003 the FIU forwarded to the administrative court two proposals for administrative offences which concerned one savings-credit house and one savings house on the basis of information from the Bank of Slovenia. However, the time taken to complete these proceedings is quite lengthy (1 ½ years approximately) which causes the examiners to question the effectiveness of sanctions after such a period of time.

311. The FIU has also initiated the opening of money laundering cases, based on STR´s by the Central Bank – in 2004 there were 5, and in 2003 one such case.

312. An internal handbook for preventing and detecting money laundering (issued in July 2003), which covers all legal requirements aimed at money-laundering prevention, serves as the basis for the work of Bank of Slovenia examiners. The FIU is consulted during the preparation of the handbook.

313. Currently, the number of supervisory staff of the Central Bank specially trained to conduct on-site inspections targeted at the implementation of AML measures is 3 (out of 23 on-site examiners).

314. The number of targeted on-site visits performed is 8 in 2004. 7 visits took place in 2003 – but these were conducted only as a part of overall on-site inspections. The major shortcomings revealed in the last two years related to improper identification procedure, to non-residents accounts, to inadequate internal control systems in the field of AML prevention and the lack of IT support in reporting to the FIU. Moreover, according to the supervisory experience of the Central Bank, the overall understanding of commercial banks' management is not at a satisfactory level yet. Banks and bank staff mostly understand the obligation to make CTR's, but more training and guidance is required for regular recognition of possible suspicious activities connected to concrete banking products and/or transactions, and to the possibility of a bank´s exposure to money laundering risks. The Central Bank´s supervisory department therefore sent letters to management after the on-site inspections in order to direct the attention of management to money laundering issues, which have to be addressed urgently (one of them being the IT software support for reporting to the FIU).

315. With regard to foreign branches, at the time being, only one Slovenian bank has a branch abroad (in Italy), and its turnover is relatively small. That branch is subjected to the AML laundering system in the host country.

316. Another task of the Central Bank, in line with Article 30 of the LPML, is that the Bank of Slovenia cooperates with other regulatory authorities in compiling indicators to identify suspicious transactions by the subjects of its supervision. In fact, co-operation is also established with the Banks Association in this field.

317. The supervision of foreign exchange operators is also undertaken by the Central Bank, together with the commercial banks (which have contracts with the foreign exchange offices). The number of on-site examinations conducted which included AML aspects (other than the contractual bank's regular examinations which take place at least twice a year, and which must be reported to the supervisory department) in 2003 was 48, and in 2004, 69. The current number of foreign exchange operators is 136. The number and also the business of these offices shows a continuing declining trend in recent years and the authorities and market players expect this decline to continue.

318. If the Banking Department (which is a different unit from the supervisory department) or a contractual bank discovers any violation of LPML, sanctions may be applied and the FIU has to be notified. Within the period of the last two years, four exchange operators were reported to the FIU for non-compliance (in 2003). In those cases, the non-compliance was mostly related to the improper organisational structure, which did not allow adequate screening procedures to be in place. The non-compliance was reported to the FIU. The exchange operators were given a very short time period by the Bank of Slovenia to set up the required systems, which were subsequently checked, so no other measures had to be implemented.

319. The Bankers Association plays an active role mainly in training issues, but, it co-operates also in the preparation of the list of indicators.

Securities Market Agency (SMA)

320. Pursuant to the provisions of the LPML, the SMA is explicitly stated as a supervisory body. It is obliged to verify the implementation of the provisions of this law and to help compile a list of indicators for recognizing suspicious transactions in the supervised entities.

321. The Agency employs 37 staff. The Supervision Department has five employees.

322. In April 2003, SMA informed the subjects of supervision of their duties stipulated by the LMPL, and redrafted the secondary legislation (in cooperation with the FIU) in order to implement the new provisions of the LPML (in relation e. g. to the AML compliance officer, implementation of internal controls and the existence of indicators of suspicious transactions). The SMA also appealed to the associations of licensed companies to revise the list of indicators for recognising suspicious transactions.

323. The number of on-site inspections conducted and off-site reviews targeted to verify compliance with LPML (which mostly concentrate on identification procedures) are as follows:

- in 2003 - 37
- in 2004 - 53.

324. The most common violations are improper identification procedures. Open questions from on-site inspections were in the past passed to the FIU. After clarifying open questions now the SMA issues orders (to improve the situation) when irregularities concerning compliance with LPML provisions are found and it informs the FIU about the findings, also with a notice of suspicion of a minor offence (Articles 336 to 368 of the Securities Act) [Annex 2 1]. There was one such information in 2003 and two in 2004. All three were based on the findings of SMA examinations in 2003.

325. SMA also supports training activities in the AML prevention area. Special half-day training was arranged for SMA staff together with the FIU staff in mid 2004. The representatives of the SMA also attended different anti money laundering seminars.

326. In regular meetings with members of the board of licensed companies, special attention is paid to AML prevention questions, which arise from practice. SMA tries to answer all the open questions itself or asks the FIU for explanations.

327. SMA also co-operates with the Association of investment firms and of management companies (both organised as an SRO) in discussing issues relating to the implementation of AML preventive measures. In 2004, the Association of investment firms gave special emphasis to the following questions: risk-assessed approach to clients, differentiation between more risky and less risky customers; the AML compliance officer and his position; non-face-to-face identification; checking the identification data from independent sources; record keeping; the content of the annual report on money laundering prevention.

328. The Association of investment firms also organised training for investment firms' personnel with the main topic being identification of clients in banks and in investment firms. It has contacted the FIU, whenever questions have arisen (14 written answers were obtained from the FIU).

329. The Association of management companies is similarly involved in training aimed at money laundering prevention.

330. The SMA has 37 staff. In its position as supervisor over the capital market (it is financed by market participants fees) it has at its disposal proportionate and dissuasive sanctions in its respective laws (Securities Act, Investment Firms Act and Management Companies Act). The general hierarchy of sanctions is as follows: The SMA firstly issues an order for elimination of violations or irregularities, or to perform or refrain from the performance of specific activities. The company is obliged to submit a report on the elimination of violations. A second step which can be taken is to temporarily prohibit the authorised subject from providing services. The Agency shall initiate the procedure for withdrawing a previously granted authorisation if information at its disposal indicates that there exists a well-founded suspicion of the existence of any of the grounds for the withdrawal of the authorisation, as defined by law (e.g. violation of the rules on risk management, on prudent and careful operations, on keeping books of accounts and business reports and / or those on auditing annual reports, to report, etc.).

331. In addition to withdrawal of the licence of a person (management board of the licensed organisation) it is also possible to impose a fine on a person (a management board member).

332. SMA has adequate powers to monitor and to ensure compliance and to conduct inspections. It may request from the licensed company records and information on all matters which are, in view of the purpose of each supervision, of importance for establishing whether the subject of supervision is observing the provisions of relevant laws and by-laws. There are currently no branches abroad.

333. No direct cash payments from clients to licensed companies / financial institutions are allowed (under the by-laws on record-keeping in investment firms and in management companies). All the payments are made non-cash or through banks.

Insurance supervisory agency (ISA)

334. The ISA was established in June 2000 as an autonomous and independent body within the public administration. It is directly financed by the insurance industry and is, therefore, not dependent on the budget. Most of its 29 employees are graduates. Within this, five are specialised as on-site inspectors.

335. Tasks and responsibilities of the ISA in the area of money laundering prevention are detailed in the LPML as follows:

- in Article 30 – obligation to co-operate with the institutions under its supervision in drawing up the list of indicators for recognising suspicious transactions;
- in Article 41 – authority to supervise the implementation of the provisions of the LPML by subjects of supervision;
- in Article 42 – authority to order the implementation of appropriate control measures and notify the FIU about it.

336. Based on an examination carried out in May 2003, the Agency established that lists of indicators of suspicious transactions were in place in all insurance undertakings involved in the Slovenian Insurance Association, and that the insurance undertakings had in place procedures for combating money laundering and recognition of suspicious transactions.

337. In examining the operations of the subjects of the insurance institutions, the ISA pays attention to compliance with the provisions of the LPML. However, the examinations conducted so far have not revealed any violations of the provisions of the LPML. Since its establishment the ISA has altogether performed 16 on-site examinations. During the conduct of on-site inspections, it is possible to examine all books of account, documents and other documentation; to request production of computer printouts or copies of evidence, or other books of account and documents; and provide the authorised person, at his request, with reports and information regarding all matters of importance for the examination of operations of the insurance undertaking.

338. With regard to remedial measures, which can be imposed by the ISA, they are as follows:

- the ordering of the elimination of violations;
- the imposition of additional measures;
- the withdrawal of the authorisation;
- extraordinary administration;
- the compulsory liquidation of the insurance undertaking;
- the adoption of decisions on the reasons for the bankruptcy of an insurance undertaking.

339. The ISA may also request the initiation of administrative proceedings.

340. The ISA has the competence also to apply corrective measures in respect of members of the board of directors.

341. Payments made are mostly non-cash via the banks.

342. 90% of the ownership of the insurance market is held by domestic capital. The rest belongs to foreign investors (namely Austria and Belgium). There are no insurance company branches active abroad so far.

3.10.2 Recommendations and Comments

343. While progress has undoubtedly been made since the second evaluation, the examiners none-the-less recommend that still more money laundering risk oriented training is required across all the Financial sector. More active engagement is still required by the financial sector with the identification of suspicious transactions and recognition of suspicious behaviour patterns in their clients.

344. It is noted that all supervisory bodies have now begun to check compliance with the LPML (even though only in the case of the banking supervisors is a specific and discrete manual on how to conduct money laundering on-site inspections in place) [5]. Revealed violations seem not to be systemic. Practical problems of implementation are regularly discussed with the FIU.

345. However, in spite of the fact that the SMA is aware of the possible misuse by financial market participants for the purposes of money laundering, their formal position is that the sector is not being used for these purposes. The examiners encourage the SMA to remain vigilant in its supervisory checks.

346. It is also to be noted that the insurance market participants are still hardly reporting and this needs addressing. The reasons remain unclear, in spite of the fact that there is a special Commission for Money Laundering Prevention, which is active in the Insurance Association, and some training in this area has been provided, for the supervisory authority and for the supervised entities' staff. The Slovenian authorities have pointed out that representatives of ISA attended Seminars on money laundering organised by the OMLP and by other domestic and international institutions in 2002 and 2003. The OMLP also organised and executed training for its members in co-operation with the Slovenian Insurance Association in February 2002, and some earlier training sessions were provided. None-the-less further outreach to the insurance sector should be considered.

347. In supervision, attention should also be paid to agents of Western Union, given the Slovenian authorities' expressed concerns about their vulnerability to money laundering.

[5] In March 2005, SMA adopted amendments to its "Manual of Supervision Procedure" with special provisions for supervision in money laundering cases.

3.10.3 Compliance with Recommendations 17, 23 (criteria 23.2, 23.4, 23.6-23.7), 29 and 30

	Rating	Summary of factors relevant to s.3.10 underlying overall rating
R.17	**Largely compliant**	Administrative court proceedings are too lengthy and therefore doubts remain in relation to the issue of effectiveness of sanctioning system
R.23	**Largely compliant**	Supervision is now happening, but needs to be intensified to ensure adequate STR reporting outside the banking sector
R.29	**Compliant**	
R.30	**Largely compliant**	No addressing of the financing of terrorism issue as yet by competent authorities.

3.11 Financial institutions - market entry and ownership/control (R.23)

3.11.1 Description and Analysis

348. As far as the licensing procedures in the banking market are concerned, these are in line with the relevant European Union legislation. In addition to issuing licenses to provide banking and other financial services, the Bank of Slovenia also grants authorisations for:

- Acquisition of qualifying holdings
- Mergers and acquisitions
- Establishment of a branch abroad
- Establishment of foreign bank branch in Slovenia
- Establishment of a representative office for a foreign bank
- Conclusion of a shareholders' agreement
- Serving as member of a bank management board.

349. The decision to grant or reject an authorisation is made by the members of the Governing Board of the Bank of Slovenia on the basis of a proposal prepared by the Licensing Committee of the Governing Board of the Bank of Slovenia. The Governing Board also decides on eligibility of nominees for members of banks' management boards on the basis of a proposal prepared by the Committee of the Governing Board of the Bank of Slovenia responsible for the preparation of opinions regarding “fitness and properness” of a person to be a member of a bank's management board. As part of this exercise, checks are made on criminal records with the Ministry of Justice.

350. A bank can be established only in the legal form of a joint-stock company with registered shares (in dematerialised form). In practice, the supervisor checks not only the first level of ownership, but goes as far as is necessary to find the real owner.

351. Foreign Exchange offices licensing is regulated by the separate secondary legislation ("Decision on Currency Exchange Operations").

352. The Bank of Slovenia makes checks with the Ministry of Justice in respect of criminal records of the applicants. In a case where the applicant is a legal entity, the checks are undertaken on its qualifying owners as defined in Article 16a of the Foreign Exchange Act [Annex 2 J] and authorised representatives with the Ministry of Justice, before granting a license to an exchange operator. In respect of banks ownership must be agreed at 10 %, 20 %, 33 % and 50 % of holdings (under the Banking Act).

353. Licensing and ownership changes in the securities market are also in line with European Union regulations. Stockbroking companies can be organised as joint stock companies or limited liability companies (Article 77 of the Securities Market Act) [SMA]. Currently, out of 16 such companies, 8 are in the form of joint-stock companies and the other 8 in the form of limited liability companies. According to the Article 81 of the SMA, shares in a stockbroking company may only be registered shares, may only be paid-in in cash and must be fully paid-up prior to the entry of either establishment or capital increase in the Companies' Register. Shares of a stockbroking company must be in dematerialised form.

354. The SMA issues operating permits to investment companies, to management companies, to investment funds and to mutual pension funds, to KDD (Centralna klirinško depotna družba d.d. - Central Securities Clearing Corporation Inc.) (i.e. supervised entities) and to Stock exchange, permits to brokers and members of boards of directors for all supervised entities (according to the relevant provisions in the respective laws and by-laws). Among other documents to support applications for permits, the following documents are requested for verifying the real ownership:

- a list of partners and/or shareholders, stating names, surnames and addresses and/or firm names and head offices, volumes of their stakes and/or overall nominal amount of shares and percentage of participation in the share capital of the company;

- for partners and / or shareholders holding at least 10% of shares and being domestic legal entities: 1. a copy of the list of founders for a public limited company / list of owners for limited liability company from the Companies' Register; 2. if the partner is a public limited company, a list of shareholders from the shareholders' register or, if bearer shares were issued, an authenticated copy of a notarial attestation of those present at the last general meeting of shareholders;

- with regard to partners and/or shareholders who are foreign legal entities, the documents must be submitted in authenticated translation.

355. According to the Resolution on Reporting by Investment Firms (i.e. stockbroking companies) (Official Gazette of the Republic of Slovenia, No. 6/00, 109/01 and 8/03) reports must be submitted monthly to the Agency (among other issues) in respect of:

"the holders of stakes or shares in the investment firm and the acquisition of or changes in qualified holdings of the shares in the investment firm under Article 82 of the SMA (see Article 1 of Resolution)".

356. Fit and proper tests for future managers are applied within the licensing procedures, including checks with law enforcement. SMA elaborated its procedures for licensing of physical persons with application forms which must be filled out by every person who applies for a license. Very detailed questions about the person's background are included. Every candidate is also thoroughly questioned about his/her past, about his/her present activities and about their prospects in the financial industry.

357. With regard to licensing and ownership and control changes in insurance, the European Union regulations are implemented. This means that strict controls on owners are in place. The acquisition of shares in an insurance undertaking or pension company, whereby a person directly or indirectly achieves or exceeds the qualifying holding (hereinafter: qualifying holder) in the insurance undertaking or pension company, is subject to the prior authorisation of the Insurance Supervision Agency. The qualifying holder must likewise acquire the authorisation for any further acquisition of the insurance undertaking's or pension company's shares, whereby 20 %, 33 % or 50 % of all shares are either achieved or exceeded. Licensing regulations allow for checks also on the underlying owners, though it is unclear whether such checks are routinely made. The Slovenian authorities have advised that the ISA can ask other government bodies for necessary information.

358. To become a member of the board of directors of any supervised entity, a prior approval is needed, in which the professional skills and "civic integrity" are checked. A candidate for a member of board of directors has to present a record (from Ministry of Justice), that he/she has not been finally convicted for a criminal offence committed wilfully that is prosecuted ex officio or for one of the following criminal offences committed through negligence: negligent homicide (Article 129 of the Penal Code, hereinafter: KZ), aggravated bodily harm (Article 134 of KZ), grievous bodily harm (Article 135 of KZ), endangering safety at work (Article 208 of KZ), concealment (Article 221 of KZ), disclosure and unauthorised access to a trade secret (Article 241 of KZ), money laundering (Article 252 of KZ), disclosure of an official secret (Article 266 of KZ), causing public danger (Article 317 of KZ) or disclosure of a state secret (Article 359 of KZ), which has not yet been deleted.

359. A person who intends to perform insurance agency or insurance brokerage services must acquire authorisation. "Fit and proper" tests are applied.

360. Insurance undertakings can be formed either as joint-stock companies or mutual insurance companies.

3.11.2 Recommendations and Comments

361. It appears that all necessary legal structures are in place to prevent criminals or their associates from ownership and management of financial institutions, and there is evidence of them being applied by the relevant authorities.

3.11.3 Compliance with Recommendation 23 (criteria 23.1, 23.3-23.5)

	Rating	Summary of factors underlying rating
R.23	**Compliant**	

3.12 AML / CFT Guidelines (R.25)

3.12.1 Description and Analysis

362. As noted, the basic AML obligations are in the LPML and supplemented in a number of implementing by-laws, which are aimed at specifying in more detail the measures to be put in place, and also to provide guidance for their application by the obliged entities. Within this framework, a certain discretion is left to the organisations themselves. They can, through their internal acts, shape the structures and the internal procedures necessary to ensure concrete and effective application of AML measures, including internal controls.

363. The FIU has issued several legal opinions in connection with the implementation of the LPML, which are published on its Internet site. In the past four years, 80 such opinions have been issued.

364. Not all the competent supervisory bodies in all relevant sectors have adopted instructions or guidelines.

365. The Bank of Slovenia was initially due to issue recommendations aimed at assisting institutions to build effective systems to prevent money laundering in 2004. However, the decision has been taken to postpone the recommendations until 2005, with the aim of taking into account the recent changes in FATF standards and the forthcoming EU third directive on money laundering and terrorist financing. The Bank of Slovenia consider that the existing legislative framework is sufficiently robust, and represents a good legal environment, so that recommendations from the regulator are not urgently required.

366. As to the exchange operators, the Bank of Slovenia issued in February 2003 a manual on anti-money laundering issues. The manual includes indications on the procedures to implement AML measures, on suspicious transactions reporting, on internal auditing and a renewed list of 20 indicators of suspicious transactions in this sector [Annex 2 K].

367. The Slovene Institute of Auditors has prepared Audit guidelines. Emphasis is put on the application of the measures contained in LPML in auditing financial institutions, as well as on the implementation by auditing firms in respect of the obligations relating to identification, record keeping and detection of suspicious transactions (as far as indicators are concerned). The Slovene Institute issued indicators in May 2002.

368. The Securities Market Agency assists licensed financial institutions in implementing the LPML and relevant provisions of the ZTVP-1 and ZISDU-1 by-laws. In particular, in the course of regular meetings with members of the boards of licensed companies and financial institutions, special attention is paid to the questions which arise from practice. For investment firms special written guidelines were prepared by SMA concerning implementation of identification provisions. Details from inspections conducted by SMA concerning identification and implementation of other LPML provisions have been given to investment companies and are also available on the web page of SMA.

369. More specifically, as far as the issuing of guidance to detect suspicions of money laundering is concerned, financial institutions have themselves, in the first place, an obligation to prepare a list of "indicators" for recognising suspicious transactions (Article 12, para. 2, of LPML; Article 8 of the Directive of the Ministry of Finance of 8 November 2002).

370. Two other provisions complement that obligation. On the one hand, the FIU has a duty to "participate in drawing up the list of indicators for recognising suspicious transactions" (art.24, n.2). On the other hand, the Bank of Slovenia, the Securities Market Agency, the Agency for Insurance Supervision, the Office for Gaming Supervision, the Slovene Audit Institute and the body competent for supervising the performance of tax advisory services must "co-operate with the institutions under their supervision in drawing up the list of indicators for recognising suspicious transactions". The same obligation is expressed, in different language, in Article 9, para. 1, of the Directive.

371. Therefore, according to the law and to the implementing ministerial provisions, the mechanism for the production of indicators on suspicious cases is focussed on the obligation of the organisations to formulate such indicators and on complementary duties of the FIU and the competent supervisory authorities to provide a "contribution" for the fulfilment of this obligation. This procedure appears to allow for the inclusion of all relevant experience and expertise. At the same time, however, it seems to rely mainly on the initiative of the organisations. The process appears to be triggered by the organisations themselves. The intervention of the FIU and of the supervisors appears dependent on the initiative taken by the organisations etc. It has to be underlined however, that in order for specific indicators to be compulsorily included in the list, a "prescription" of the Minister

of Finance is needed (Article 40, para. 2, of the LPML). In practice, the preparation of all the indicators for all the obliged entities was triggered by the OMLP and not by the organisations themselves. The system in place proved to be well balanced and all the parties contributed to the system.

372. There are several lists of indicators issued today in Slovenia, each of them covering entities operating in different sectors. However, the indicators are rather similar in the lists adopted in the different sectors, and the same standards seem to be used as cross-sectoral indicators.

373. Some homogeneous criteria are expressed in general terms in art.10 of the Directive, where it is stated that "the principle of the knowledge of a client and its business operations, in particular, shall provide the basis for the preparation of the list of indicators", and that "when drawing up the list of indicators it shall be necessary to take into account especially the economic or legal illogical nature of a transaction, an unusual manner of business operation or conduct of a client and the circumstances in connection with the status or other characteristics of the client".

374. Therefore, although taking into account these general common standards, there is the need to tailor more precisely the indicators to the features, risks and situations pertaining to each specific sector to which they are addressed. It is understandable that the low number of reports coming from certain sectors (especially from DNFBPs and legal professionals) prevent the FIU and the other authorities involved in the process of issuing such guidelines from having relevant experience available of the ML risks relating to those sectors.

375. As to the description of money laundering techniques and methods, the FIU has, as noted, a duty to publish, at least once annually, "statistical data in the field of money laundering" and to "inform in an appropriate manner the public about the various forms of money laundering activities".

376. Even though the LPML is silent on this, Article 9, para. 2, of the Directive assigns a role also to some self regulatory organisations in the preparation of the indicators applicable in their sectors. "Unions and associations" of organisations, law offices, law firms, notaries public offices, audit companies, independent auditors' offices and legal or natural persons providing accountancy services or tax advisory services can participate in the preparation of the lists of indicators. It must be noted that the participation of SROs, in the cases provided for in Article 9, para. 2, of the Directive, is not mandatory and only constitutes a "possibility".

3.12.3 Recommendations and Comments

377. Though the broad framework is in place, more work still needs to be done. The Bank of Slovenia's guidelines need to be promulgated quickly. Indeed the FIU (and all those monitoring the system as a whole collectively) need to be assured that guidelines and indicators have been issued in each of the relevant sectors to support the implementation of the law and the ministerial directives. Moreover it appears, so far as the examiners are aware, that none of the guidance issued so far relates to terrorist financing and this needs to be addressed urgently in all sectors.

378. The comparison of indicators for different obliged institutions shows that they contain similar or identical indicators as well as more specific indicators.

379. The examiners consider that the competent authorities should be given formally the duty and power to initiate the establishment of guidelines and not simply to react to initiatives in this regard from the organisations themselves.

3.12.4 Compliance with Recommendation 25

	Rating	Summary of factors underlying rating
R.25	**Largely compliant**	Power should be given to the competent authorities to initiate the establishment of guidelines, and financing of terrorism indicators lacking.

3.13 Ongoing supervision and monitoring (R.23 [Criteria 23.4, 23.6 and 23.7] R.29 and R. 32) [rating and factors underlying rating])

3.13.1 Description and Analysis

380. As noted, in respect of the financial institutions subject to the Core Principles (i.e. banking and other deposit-taking business, insurers and insurance intermediaries, and collective investment schemes and market intermediaries) the regulatory and supervisory measures that apply for prudential purposes are applied in a similar manner for money laundering purposes, but as the law does not cover terrorist financing, this is yet to be fully applied.

381. There is a general prohibition in Slovenia against carrying out money remittance services outside the regulated and supervised banking sector. As noted earlier, the foreign exchange offices are monitored by the Central Bank and the banks with which they have contracts.

382. The powers of supervisors and compliance with FATF Recommendation 29 are covered in the descriptive part at 3.10. All supervisors have the power to compel production of or obtain access to records and documents without a Court order.

383. Details of the results of on-site inspections and the imposition of enforcement measures are forwarded to the FIU for the central maintenance of annual statistical data on the effectiveness and efficiency of systems to combat money laundering and financing of terrorism. Formal requests for assistance from the FIU to the supervisory authorities are made in cases of need. It was unclear whether requests for assistance made or received by supervisors relating to AML / CFT were recorded and fed into the central statistical data bank in the FIU.

3.13.2 Recommendations and Comments

384. As noted earlier, the supervisory and regulatory structure, on AML issues at least, is broadly in place and is working. But perceptions of the risks of money laundering still need further strengthening across the whole of the financial sector.

385. Formal statistical data relating to supervision and sanctions applied is fed into the generally comprehensive statistics on AML/ CFT matters maintained and disseminated by the FIU. It would assist the presentation of the material by the FIU if there was a clear specification (either in the LPML or in Ministerial provision) as to the precise content of the statistical data which must be subject to publication. The information currently provided is none-the-less quite comprehensive.

3.13.3 Compliance with Recommendations 23 (criteria 23.4, 23.6 and 23.7), 29 and 32 (rating and factors underlying rating)

	Rating	Summary of factors relevant to s.3.13 Underlying overall rating
R.23	**Largely compliant**	Risk-based approach is only beginning to be fully developed in the financial market (more used in the banking sector). Global consolidated supervision is a part of supervisory powers but it is not used as the number of financial institutions branches abroad is marginal. Currency exchange offices are monitored for AML purposes.
R.29	**Compliant**	
R.32	**Compliant**	

3.14 Money or value transfer services (SR.VI)

3.14.1 Description and Analysis

386. The misuse of Western Union by criminals for laundering money deriving from illegal migration and drug trafficking is reported as one of the most common ways in which money is laundered in Slovenia.

387. As noted, there is a general prohibition in Slovenia against carrying out money remittance activities outside the regulated and supervised banking sector. Money remittance services can be provided only by banks which have obtained a specific authorisation from the Bank of Slovenia. That is the case in respect of only two banks, which have contracts with Western Union and provide such services, acting as agents.

388. There are no cases reported of illegal money or value transfer services carried out in breach of the general prohibition.

3.14.2 Recommendations and Comments

389. The very rigorous system which has been created is noted by the examiners, which allows for no underground sector of money transfer services. This is helpful, though supervision should be intensified in respect of banks which perform these services under contract as agents of Western Union.

3.14.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**Not applicable**[6]	

[6] The examiners' understanding of the interpretation of the Methodology is that SRVI does not apply here as only banks carry out activity covered by the Recommendation.

4. PREVENTIVE MEASURES – DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1 Customer due diligence and record-keeping (R.12)
(applying R.5 to R.10)

4.1.1 Description and Analysis

390. The range of designated non-financial businesses (which constitute "organisations") is prescribed by Article 2 of the LPML. It is noted that this list includes the DNFBPs which meet the definition of "organisation" where they are relevant in the Slovenian context covered by the FATF Recommendations and also, in accordance with Article 12 of the Second European Union Directive, AML obligations have been extended to other such businesses (not covered by the FATF Recommendations or the European Union Directive) likely to be used for money laundering. These are underlined.

1. gaming houses and other concessionaires for casino games,
2. post offices,
3. pawnbroker offices,
4. legal and natural persons performing the following activities:
   a) sale and purchase of claims,
   b) factoring,
   c) managing the property of third persons,
   d) issuing and performing operations with debit and credit cards,
   e) leasing,
   f) travel organisation,
   g) real estate agencies,
   h) safekeeping,
   i) trade in precious metals and precious stones and products made from these materials,
   j) issuing guarantees and other warranties,
   k) crediting and credit agencies,
   l) offering loans and brokering in the negotiation of loan deals,
   m) brokering in the sale of insurance policies,
   n) organisation and execution of auctions,
   o) trading with works of art.

391. In addition to these business entities, other professional persons are also subjected to the LPML under the regime in Chapter IV of the LPML in Article 28:

- lawyers,
- law firms,
- notaries,
- audit companies,
- independent auditors, and
- legal or natural persons performing accountancy services or tax advisory services.

392. Regarding the identification procedure, the LPML prescribes generally for organisations' identification at the time when an account is opened or a permanent business is established and also when a transaction (or several connected transactions) is over a threshold of 3 million SIT (ca. € 12 500.-).

393. Another general obligation to identify the client for organisations is stated for each cash transaction (or in the case of several connected cash transactions) exceeding the amount of 5 million SIT (approx. € 21000.-).

394. The same obligation to identify a client in every case of suspicion of money laundering is also applied to DNFBPs.

395. There is a special threshold for legal or natural persons performing activities of organising or executing of auctions or trading with arts, when carrying out a cash transaction (or several connected cash transactions), exceeding the amount of 3 million SIT. In such cases, the following information on the client and / or transaction is to be required (Article 38 of the LPML):

- The company name, seat and registration number of the legal person establishing a permanent business relation or conducting the transaction or of the legal person on whose behalf the permanent business relation is being established or the transaction is being carried out;
- The name, surname, permanent address, date and place of birth of the employee or authorised person who, on behalf of a legal person is establishing a permanent business relation or conducting the transaction, and the number and name of the authority that issued the official personal identification document;
- The name, surname, permanent address, date and place of birth of the natural person who is establishing a permanent business relationship, or of the natural person on whose behalf a permanent business relationship is being established or the transaction is being carried out, and the number and name of the authority that issued the official personal identification document;
- Date of the transaction;
- Time of execution of transaction;
- Amount of the transaction and currency in which the transaction is being carried out;
- Purpose of the transaction and the name, surname and address or name of the company and seat of the person to whom the transaction is being directed;
- Manner of executing the transaction;
- Name, surname, permanent address, date and place of birth of every natural person, who indirectly or directly owns at least 20% of the business share, stocks or other rights, on which grounds he participates in the managing of the legal person or he participates in the capital of the legal person with at least 20% share or has the commanding position in managing the funds of the legal person.

396. For casinos, identification is obligatory when a person:

- enters into the premises of a gaming house or other concessionaire for special games,
- conducts the transaction (including linked transactions) over the threshold of 3 million SIT,
- a cash transaction (including linked transactions) over the threshold of 5 million SIT,
- but only when the transactions are carried out at the cashier's desk (see Article 5 [8]).

397. For others (lawyers, law firms, notaries, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services), identification is required in line with Article 28 a, para. 1, of the LMPL:

- when establishing the business relationship,
- in case of the transaction (including linked transactions) over the threshold of 3 million SIT,
- always in the case of suspicion of money laundering.

398. However, lawyers, law firms, and notaries carry out the identification only when:

- assisting in the planning or execution of transactions for a client concerning the:
  (a) buying and selling of real property or business entities;
  (b) managing of client money, securities or other assets;
  (c) opening or management of bank, savings or securities accounts;
  (d) organisation of contributions necessary for the creation, operation or management of companies;
  (e) creation, operation or management of trusts, companies or similar structures;

- acting on behalf of and for his client in any financial or real estate transaction.

399. The range of information required is prescribed by Article 38, para. 7, of the LPML and is applied.

400. Record keeping requirements are determined by Article 34 of the LPML and also cover a 10 year period from the date a transaction was executed or a contract terminated. Lawyers, law firms, notaries, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services have to keep documents for the same 10 year period from the completion of the identification process.

401. The range of documents to be archived is prescribed (identification documents and transaction documents) by Article 37 of the LPML.

402. For making reports to the FIU, there is a separate secondary piece of legislation in force, namely "Directive on the method of forwarding data by lawyers, law firms, notaries public offices, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services, to the Office for Money Laundering Prevention of the Republic of Slovenia" (Official Gazette of the Republic of Slovenia, N° 83/02) [Annex 2 L].

4.1.2 Recommendations and Comments

403. The provisions in place are largely compliant with the FATF Recommendations. It should be noted that there are wide divergences in the identification requirements for casino customers between the Second European Union directive and the FATF Recommendations. The FATF Recommendations require identification when the customers engage in financial transactions equal to or above € 3.000.-. The Second European Directive, while having a general identification requirement for purchase or sale of chips with a value of € 1.000.- or more, has a derogation whereby casinos subject to State supervision shall be deemed to have complied with the identification requirement laid down in the Directive if they register and identify their customers immediately on entry, regardless of the number of gambling chips purchased.

404. Slovenia has State supervision of gambling (see beneath) and identification on entry (see A.5 [7] LPML). Therefore Slovenia is in full compliance with Article 3 (6) of the Second European Union Directive.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors underlying rating
R.12	**Partially compliant**	Partial compliance relates primarily to the absence of laws, regulations or other enforceable guidance on PEPs, and the lack of coverage of financing of terrorism.

4.2 Monitoring of transactions and relationships (R.12 and 16)
(Applying R.11 and 21)

4.2.1 Description and Analysis

405. Recommendation 11 (Financial institutions should pay special attention to all complex, unusual large, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose) is not expressly applied to DNFBPs in the LPML. They are required to identify suspicious transactions with the help of lists of indicators. Those DNFBPs that are "organisations" identify suspicious transactions on the basis of indicators which they are obliged to prepare (Article 12 LPML).

406. Of equal relevance in the context of monitoring transactions and relationships is the secondary legislation which has already been noted – the Regulation on the Compliance Officer, the method of conducting internal control etc., which applies to both organisations and lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services [Annex 2 L]. This Regulation, as well as determining in more detail how lists of indicators should be prepared, also sets out the basic principles of ongoing monitoring of the client's business profile, that is to say the "know your customer" principle. In particular knowledge of a client's business operations is described as the basis for the preparation of the list of indicators. When drawing up the list of indicators it is necessary to take especially into account issues such as the economic or legal logic of a transaction, any unusual ways or manner of business operation or client conduct and unusual circumstances in the light of a client's known status or characteristics. The secondary legislation also requires that these lists of indicators are updated. Professional associations of these obliged entities are expected to participate in the preparation of indicators.

407. The following DNFBPs have adopted lists of indicators for the recognition of suspicious transactions:

- Auditors - 8 May 2002
- Notaries - 7 April 2003
- Lawyers - 11 March 2003
- Tax Advisors - 20 February 2003
- Accountants - 17 September 2002.

408. Casinos and gaming halls have also adopted lists of indicators for the recognition of suspicious transactions. Indicators in DNFBPs which are also considered "organisations" (and in most organisations) were adopted before 2002.

409. The "Regulation on the determination of countries which do not respect the standards concerning the prevention and detection of money laundering", issued pursuant to Article 9a (3) LPML, applies equally to DNFBPs – indicating with which countries they cannot open an account, so FATF Recommendation 21 applies to DNFBPs.

4.2.2 Recommendations and comments

410. It appears that monitoring of transactions and relationships is broadly covered in the framework of primary and secondary legislation so far as DNFBPs, though most of the emphasis seems to be upon identifying suspicious transactions rather than unusual ones.

4.2.3 Compliance with Recommendations 12 and 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.12	**Partially compliant**	Neither terrorist financing nor PEPs are covered.
R.16	**Partially compliant**	More emphasis on identifying unusual rather than suspicious transactions in the context of DNFBPs is required.

4.3. Suspicious Transactions Reporting

4.3.1 Description and Analysis

411. FATF Recommendation 16 requires DNFBPs to implement Recommendation 13 (reporting suspicions of money laundering or financing of terrorism). As noted previously, terrorist financing is not covered.

412. Those DNFBPs that are "organisations" are obliged to report the cash and suspicious transactions as set out previously under Article 10 (1) and (3) LPML.

413. For lawyers, law firms, notaries, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services, an obligation to report suspicions of money laundering only is imposed by Article 28 LPML.

414. The obligation to report suspicions of money laundering is in force for a lawyer, law firm or notary only when he:

"1. Assists in the planning or execution of transactions concerning the:
- Buying and settling of real property or business entities;
- Managing of client money, securities or other assets;
- Opening or management of bank, savings, or securities accounts;
- Organisation of contributions necessary for the creation, operation or management of companies;
- Creation, operation or management of trusts, companies or similar structures;

2. Or when he is acting on behalf of and for his client in any financial or real estate transaction."

415. This follows the list of relevant activities set out in FATF Recommendation 12 d. for lawyers, notaries, other independent legal professionals and accountants. In the case of accountants in Slovenia (and tax advisers) the reporting of activities goes further, as the FATF strongly encourages, and covers suspicions arising in the rest of their professional activities.

416. Lawyers, law firms, notaries, audit companies, independent auditors, accountants and tax advisers are exempted from reporting where the information is covered by professional secrecy or legal professional privilege. The exemption is in Article 28 (b) LPML and follows exactly the wording of the exemption in Article 6 of the 2nd European Union Directive – i.e. "when information on clients is obtained in the course of ascertaining the legal position for clients or performing defending or representing clients in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings".

417. Tipping-off, as prohibited in Art. 31 of the LPML, applies also to DNFBPs ("the organisation and their staff shall not reveal to a client or third person the forwarding to the OMLP of the data, information or documentation about the client or transaction; information about a request or about the forwarding of data, information or documentation shall be an official secret and only the director of the OMLP may decide on the lifting of this classification").

418. Protection for those who report is also provided in Article 32 of the LPML in respect of a lawyer, a law firm and a notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services. They shall not be liable for damage caused to clients or to third persons due to their submission of data, information or documentation to the OMLP or due to the implementation of the OMLP's order to temporarily postpone a transaction or for complying with the instructions issued in connection with the said order in accordance with the provisions of the LPML or in accordance the regulations passed on the basis of the LPML".

419. Professions must report to the OMLP directly within three days after finding indications of money laundering.

4.3.2 Recommendations and comments

420. As noted above terrorist financing is not covered in reporting, and as noted earlier, attempted transactions are not explicitly mentioned. The same comments are made here in respect of the "safe harbour" provisions as are made earlier at paragraphs 267 etc..

421. The scope of the exception for reporting by lawyers etc... appears wide, but is in line with the language of the FATF Recommendations and the European Union Directive. However, the examiners consider that without further guidance on its application it could be misused, so that professional secrecy provisions continue to prevail, and the issuing of guidance is advised.

422. The statistics set out at paragraph 115 above show no reports from lawyers and only a tiny number of reports from other professionals. The Slovenian authorities need to examine the reasons for this collectively, particularly in the light of the professional privilege exemption.

4.3.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.16	**Partially compliant**	Financing of terrorism not covered. "Safe harbour" provisions should clearly cover criminal liability. Lack of reporting from DNFBPs.

4.4 Internal controls, compliance and audit (R.16)
(Applying R.15)

4.4.1 Description and Analysis

423. DNFBPs are required to nominate an "authorised person" (and deputies) – the AML compliance officer – as well as to provide professional training for all its employees and to conduct internal control over the performance of duties imposed by Art. 12 of the LPML. The above-mentioned secondary legislation regulates this area as well (i.e. the "Regulation on the compliance officer, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services").

424. Those DNFBPs "organisations", with less then 4 employees, are exempted from the obligation to nominate the AML Compliance Officer and to organise internal control (Article 12, para. 3, of the LPML). Moreover, in line with Article 3 of the Decree those organisations having less than four employees are exempted from the obligation to introduce regular monitoring of LPML implementation. Nothing is said, of which the examiners are aware, about professionals.

4.4.2 Recommendations and Comments

425. The interpretation note to Recommendation 15 has been taken into account in relation to the risks of money laundering and the size of the businesses concerned.

426. Where compliance officers have been appointed in larger DNFBP "organisations" and professional firms the comments made earlier in respect of the need for further clarification of the role of compliance officers also applies in respect of DNFBPs.

427. The extent of the exemption for organisations having less than four employees to monitor LPML seems rather too broad. The position of professionals needs clarifying in this regard. Silence on this issue should not be interpreted to mean they have no need to implement internal controls.

4.4.3 Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.4 underlying overall rating
R.16	**Largely compliant**	Greater clarification of the role of compliance officers is required.

4.5 Regulation, supervision and monitoring (R.17, 24-25)

4.5.1 Description and Analysis

428. Organisations and professions, which are obliged to follow the provisions of the LPML are subjected mainly to the control of the OMLP. The basic feature of this control system is that it is done without on-site inspections. The internal control unit within the organisation has a duty to prepare an annual report with prescribed content, which is delivered to the OMLP regularly. The FIU analyses these reports and is authorised to ask for additional information.

429. If the OMLP discovers a violation of the provisions of the LPML, it may:

1. demand that the organisation, audit company, independent auditor and legal or natural person performing accountancy services or tax advisory services, removes the violation, in case of such an administrative offence as referred to in points 1, 2 and 3 of paragraph 1 of Article 46 or in Article 47 of the LPML, provided the consequences of the administrative offence can be eliminated subsequently;
2. propose to supervisory bodies to implement the appropriate control measure within their competencies;
3. request the initiation of administrative proceedings under LPML.

430. When taking decisions about administrative proceedings, the OMLP takes into account the circumstances under which the administrative offence was committed, (whether there is) repetition of the administrative offence and the control measures imposed on the organisation by another supervisory body (Art. 43 of LPML).

431. The OMLP notifies the competent supervisory body upon filing a request for the initiation of administrative proceedings under the LPML (Art. 44 of the LPML).

432. The number of cases sent to courts in relation to DNFBPs were (for administrative offences [supervision]):

- 2000 - 2 cases
- 2001 - 0 case
- 2002 - 1 case
- 2003 - 2 cases
- 2004 - 3 cases.

433. It takes approximately 18 months to issue a final sentence.

434. In this area, other supervisory bodies also play a role: the Office for Gaming Supervision, and the Slovene Audit Institute. Such supervisory bodies inform the OMLP if they discover facts that could constitute evidence of money laundering (Article 20 of the LPML).

435. If the supervisory bodies discover a violation of the LPML (referred to in Articles 45, 46 or 47 of the LPML), under provisions of other laws which govern the operation of organisations, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services, they may order the implementation of the appropriate control measures and shall without delay notify in writing the OMLP about the violations discovered.

436. The notification includes the following data: name, surname, date of birth and permanent address of the natural person or, name of company and seat of the legal person suspected of committing the administrative offence, place, time and manner of committing the action which has signs of an administrative offence, and information as to whether supervision bodies ordered any control measures under their competencies. The notification shall be accompanied by the documentation providing evidence of the violation (Art. 42 of the LPML).

437. According to the Auditing Act, the Slovene Institute of Auditors is engaged in supervising its members, with regard to compliance to professional standards and other professional rules and legislation in the field of auditing, accounting and tax advising. Each audit firm and auditor is supervised at least once in 5 years. The SIA has 7 employees. On-site supervision is performed by 4 employees. On the basis of the LPML, the Institute and its members received additional obligations, such as identification, record keeping and reporting suspicious transactions. For that reason, the Institute prepared the Audit Guideline (AG) for auditors and accountants, on procedures and actions they have to take when performing services for financial institutions, considering professional rules and LPML. During the supervision, the Institute also checks if the auditing firm has audited financial statements of financial institutions as defined in LPML and if all necessary procedures from the AG are done. If there is reasonable evidence of non-compliance with the LPML provisions, the Institute is responsible for reporting to the OMLP. No such case has been reported as yet. A major function of the Institute is also education of its members about preventing money laundering.

438. For AML / CFT purposes the OMLP supervises the lawyers.

439. The principal casino supervisory body is the State Office for Gaming Supervision, which is a body in the Ministry of Finance. This supervisory body is responsible for issuing of licenses, and supervises and analyses the implementation of the Gaming Act and other regulations issued under it, supervises the performance of gaming activities, issues decrees (decisions), gives proposals for the introduction of proceedings before authorised bodies (i.e. judge for violations or police), collects and analyses data received from the supervised entities. The State Office for Gaming Supervision carries out a permanent supervision by checking all concessionaires' reports, by carrying out on-site inspections and by using the supervisory information system of gaming devices that is linked to the information system of the supervisory body, which ensure a measure of direct supervision.
The supervisory system of gaming devices follows, annotates and stores data about gaming and events on a particular machine, or cash register.

Market entry for Gaming:

440. The State Office for Gaming Supervision makes checks as part of the procedure whilst checking the applications for gaming concessions, which according to the Article 67 of the Gaming Act, need to contain also detailed data on the owners of the company, their reciprocal managerial and capital links, and data on persons who will manage the casino, and records on their professional qualifications. It is verified that the key employees of the applicant (management) have no criminal records, and that they fulfil all financial obligations to the state. After awarding a concession, the key employees of a concessionaire also need to obtain a special licence, which is issued by a special commission, composed of three members (two of which are appointed by the Minister of Finance and one member from the Casino Association within the Chamber of Commerce).

441. Regarding the casino's ownership, the Gaming Act defines possible shareholders of a concessionaire for a casino, which has to be a joint-stock company. That is to say that, other than the Republic of Slovenia, local communities and legal entities owned or founded by the Republic of Slovenia, shareholders of a concessionaire can also be (up to 49 % of shares) companies, organised as a joint-stock company, which fulfil certain conditions set by the Gaming Act (e.g. these companies should make income predominantly from the activity of banking, insurance business, tourism, financial brokerage or activity of investment or pension funds). There is no prescribed ownership structure for a concessionaire for a gaming hall. An approval of the Minister of Finance is needed for the purchase of the normal shares of a concessionaire. Such an approval is needed also for any change in the ownership of a concessionaire for a gaming hall, where the "fit and proper" checks are made for possible new owners in the same way as for the "original" owners. There has also been adopted a special regulation specifying the documentation and the procedure for approving such a purchase (Official Gazette of the Republic of Slovenia, no. 127/03).

442. Furthermore, the Government of Slovenia decides upon awarding a gaming concession on a discretionary basis, considering a wide range of different circumstances (e. g. impact of gaming on social, cultural and natural environment, development of gaming activity, extent of gaming in a certain area, gaming experiences of the applicant, past actions and financial state of the applicant, ownership structure of the applicant and his key employees). The Slovenian authorities advised that the principle followed in the selection of gaming operators is that the operation of gaming can only be permitted by a person, who or which is fit and proper.

443. The Government appoints an authorised person of supervision, on proposal of the Director of the State Office for Gaming Supervision. The authorised person has the right to inspect the business premises and all the processes that are directly or indirectly linked to organising gaming, the equipment and devices for organising gaming, devices for the supervision of the implementation of gaming, audio video types, business ledgers, contracts, documents, records and other documents or data of the gaming organiser that allow viewing of operations and are necessary for assessing the actual circumstances.

444. Its enforcement powers are as follows:

- issue of a decree (decision) for the elimination of discovered irregularities,
- in a case where gaming is being conducted without a license or a concession, issue of an inhibitory decision.

445. With the amendments of the LPML in 2001 the State Office for Gaming Supervision has become explicitly required to supervise compliance of casinos and gaming halls in accordance with the obligations stipulated in the LPML.

446. When the State Office for Gaming Supervision assesses on the basis of data and discovers that there exists a founded suspicion of criminal acts being made in the performed activities, it notifies the authorised bodies of this.

4.5.2 Recommendations and Comments

447. There is a basically sound sanctioning system in place, but the speed of the application of sanctions by the courts calls into question their overall effectiveness. The licensing and supervisory structure of DNFBPs, in accordance with currently applicable rules in Slovenia, is basically compliant with international AML standards, but this does not yet cover CFT issues. The risks in this extensive sector have yet to be fully assessed. The examiners consider that more work is required to create an effective system for monitoring and ensuring compliance with AML/CFT standards throughout this sector.

448. In the area of guidance, more sector specific guidance is also urged.

4.5.3 Compliance with Recommendations 17 (DNFBP), 24 and 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.5 underlying overall rating
R.17	**Largely compliant**	The speed of administrative sanctions calls into question their effectiveness.
R.24	**Largely compliant**	Risk-based approach is currently in the very initial stages and needs further thought. More resources needed for monitoring and ensuring compliance by DNFBPs, given tiny number of STRs and the large number of businesses and professions involved.
R.25	**Largely compliant**	Sector specific guidelines are missing.

4.6 Other non-financial businesses and professions Modern secure transaction techniques (R.20)

4.6.1. Description and Analysis

449. As mentioned, the LPML includes also organisations performing payment transactions, post offices, pawnbroker offices, legal and natural persons performing travel organisation and safekeeping activities in the range of obliged entities.

450. Credit cards are widely used in Slovenia. Indeed, payment cards are not only issued by banks. It appears that the payment card business is increasing. 20 legal entities other than banks issue such cards. These legal entities report to the FIU.

4.6.2 Recommendations and Comments

451. It is helpful that relevant FATF Recommendations are also applied to other non-financial businesses etc. which are considered in the domestic context also to be at risk. Clearly measures are being taken to encourage the development and use of modern techniques for conducting financial transactions. The examiners cannot comment on how this is being regulated as they had insufficient information.

4.6.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	**Largely compliant**	Criteria 20.1 fully met; Insufficient information on Criteria 20.2.

5. Legal persons and arrangements and non-profit organisations

5.1. Legal persons – Access to beneficial ownership and control information (R.33)

5.1.1 Description and Analysis

452. The Court Register is specifically designed to contain the relevant information concerning the setting up, the nature and the activity of legal persons. The entry in the Court Register is a pre-requisite for the incorporation of legal persons.

453. The transparency regime of corporate vehicles is mostly founded on the information contained in the Court Register. Membership in limited liability companies is made transparent in the Register of Companies. The Court Register is public; any person may request verified copies of the registration and documentation.

454. Membership in most joint stock companies is transparent from the registry at the Central Securities Clearing and Deposit Corporation. This data is accessible to the general public, though if bearer shares were issued, holders would, as a rule, not be transparent and / or accessible by general public.

455. A shareholder must report his or her participation in the capital of a capital company to the company board. This, however, applies only when the shareholder owns more than a quarter or more than half of all shares.

456. Information concerning the ownership and control of a public limited company whose securities are admitted on a regulated market are accessible to the general public from the central registry of holders of dematerialized securities, maintained by KDD (Centralna klirinško depotna družba d.d. - Central Securities Clearing Corporation). Data is entered into the central registry according to the provisions of the Book Entry Securities Act.

457. Information concerning the ownership and control of a public limited liability company whose securities are not admitted on a regulated market are accessible from the share register, maintained by the company itself (Article 232 of the Companies Act). Registered shares must be entered in the share register together with the holder's designation or the name and address of the holder. In accordance with the provisions of the Companies Act only the shareholders are given access to the share register upon request.

458. As to the beneficial ownership of companies, notwithstanding Article 38 (1) (14) LPML, there is no general obligation to disclose the relevant information to the Register of companies. This could cause difficulties in identifying the underlying interests and the actual controllers of legal persons, especially for bigger companies. In this context, fiduciary ownership of shares and proxies may also raise specific concerns, though an assessment of the risks in terms of misuse of anonymity was not available.

459. Shares can be issued in bearer form. Anonymity in their use and circulation is a source of concern in this regard. In practice, when examining the banks' credit portfolio, the Bank of Slovenia Examiners do not find cases of joint stock companies with bearer shares; in practice, there are only 14 such companies that use bearer shares. All companies issuing bearer shares are registered at the Central Securities Clearing Corporation. These 14 companies have issued 16 bearer shares (two companies have issued their bearer shares twice). The Central Securities Clearing Corporation has an overview of the situation and these shares do not present any major capital. They are perceived as marginal and under control. The Bank of Slovenia, the SMA and the OMLP are aware of the situation and appear in a position to propose appropriate changes in the current policy if necessary.

460. Turning to the access to companies' information by the competent authorities, the Police has access to all the data in the court register, beyond that which is made available to the public in general. Similar access is granted to the OMLP, which can request information and data from the Court Register and also from all organisations with public authorisation (e.g. the Clearing House for Securities (KDD) - see Article 19 of the LPML).

5.1.2 Recommendations and Comments

461. The level of transparency of companies ownership appears high. There is a need, however, to acquire updated information on the beneficial ownership and controlling shareholders particularly in respect of the larger companies and joint stock companies.

462. Even though the existence of joint stock companies with bearer shares was considered to be marginal at present, they might increase in future. In the light of this, the examiners emphasise the awareness of the Slovenian authorities of the necessity to continuously assess the risks inherent in the issuing and circulation of bearer shares and, as appropriate, manage those risks and/or implement changes in the policies adopted.

5.1.3 Compliance with Recommendation 33

	Rating	Summary of factors underlying rating
R.33	**Compliant**	

5.2. Legal Arrangements – Access to beneficial ownership and control information

5.2.1 Description and Analysis

463. Trusts cannot be established in Slovenia. As noted previously Slovenian Law recognises the concept of dormant (or silent) partnerships. As previously noted, a dormant partnership is formed by a contract on the basis of which a dormant partner, through a contribution of assets in the undertaking of another person obtains the right to participate in its profits. A dormant partnership is not a legal person; as a consequence, a dormant partnership is not registered in the Court Register and therefore data on a dormant partner is not directly available. However, the police and other state bodies with inspection powers can check documents regarding the ownership of such legal persons.

5.2.2 Recommendations and Comments

464. As trusts cannot be established there are no comments or recommendations to be made.

5.2.3 Compliance with Recommendation 34

	Rating	Summary of factors underlying rating
R.34	**Not applicable**	

5.3 Non-profit organisations (SR VIII)

5.3.1 Description and Analysis

465. There are numerous non-profit organisations (NPOs) that meet the functional FATF definition of non-profit organisations (i.e. organisations that engage in raising funds or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works"). These organisations include, but are not confined to associations and foundations, the establishment, operation and termination of which is formally regulated by law.

466. An association can acquire the status of a legal entity upon registration under the Associations Act. Data on its founders, its representative and its Head Office should be submitted to the state authority that has jurisdiction. It has also to submit *inter alia* its rules of operation, information on its objectives and purpose, and on the tasks it will perform, the manner of its funding and the way in which it will ensure its activities are open to the public. There were 19,246 associations registered in Slovenia on 31 December 2004. The examiners were informed that a new Associations Act will explicitly prohibit the establishment of an association the aim of which is *inter alia* to stir up racial, religious or other hatred and intolerance.

467. The Foundations Act limits the possibility of establishment of such organisations to beneficial and charitable purposes, as defined. The establishment of these organisations requires the approval of the appropriate Ministry that has jurisdiction. There are 153 foundations in the register of foundations.

468. The current legislation on associations and foundations does not include specific provisions to prevent covert terrorism financing. Supervision of the work and financial transactions of foundations is envisaged in the law on the responsibility of the Ministry that has jurisdiction. No special supervision of the operation of associations is envisaged by law, although formally the operation of such organisations is supervised by State authorities that have jurisdiction in their own spheres (tax supervision, market supervision).

469. It is proposed that in a new Associations Act explicit authorisation should be given to supervise the implementation of provisions of the Associations Act. [7]

470. So far as financial transparency of associations and foundations is concerned, they are obliged to submit annual data to the Agency for Public Legal Records and Services, which processes and publishes the data.

471. Thus, while there is some financial transparency for associations and foundations, there is no real oversight, in particularly in respect of programme verification, which addresses any potential threat to this sector from the point of view of terrorist financing.

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[7] The New Draft Associations Act, which has already been sent to the Government of Slovenia includes definitions of supervision over the implementation of the provisions of the Associations Act.

472. A Working Group for the Fight against International Threats was established at the Secretariat of the National Security Council of the Government of the Republic of Slovenia. It prepared a Joint Appraisal of Endangerment of Slovenia from the aspect of international terrorism. This document contained an assessment of risks in relation to terrorism and FT and the common opinion of the bodies involved was that this risk is very low. Slovenia did not experience any terrorist-related acts, neither has any person from the UN and EU lists been identified in the Slovene financial or non-financial system. There are only few NPOs which have a religious component or are directly linked with countries involved in terrorism. The OMLP, the Police and the Secret Service closely monitor their activities, including the financial ones. On the other hand, however, there has been no special review of the risks, from the point of view of terrorist financing, inherent in the registration and creation of associations and foundations, or any risk-based review of the threats which may be posed by other non-profit organisations, which do not have the legal characteristics of associations or foundations. Similarly no guidance had been given to financial institutions with regard to CDD and STR reporting where the client is an NPO.

5.3.2 Recommendations and Comments

473. A review, as required by SR VIII, should be undertaken urgently, and consideration given to effective and proportional oversight of the NPO sector, guidance to financial institutions on CDD and STR issues in relation to this sector and consideration of whether and how further measures need taking in the light of the Best Practice Paper for SR VIII.

5.3.3 Compliance with SR VIII

	Rating	Summary of factors underlying rating
SR.VIII	**Partially compliant**	No special review of the risks in the NPO sector undertaken.

6 NATIONAL AND INTERNATIONAL CO-OPERATION

6.1 National co-operation and co-ordination (R. 31)

6.1.1 Description and Analysis

474. As noted earlier, the OMLP effectively co-ordinates the system in Slovenia, particularly at a policy level.

475. The publication of its Annual Report is, in effect, a stock-taking of the country's progress, and clearly is a very useful and worthwhile document, upon which Government acts.

476. At the operational level, it is understood that national co-operation is good among the supervisory bodies and the OMLP and between the OMLP and the Police, the Tax Authority, the Foreign Currency Inspectorate, the State Prosecution Office and the Secret Service. There is also understood to be good co-operation between SROs and the OMLP, though it was acknowledged that more work still needs to be done to strengthen the ties with SROs of DNFBPs.

6.1.2 Recommendations and Comments

477. There are various mechanisms supporting inter-agency and multi-disciplinary cooperation and coordination: An Inter-Departmental working group, a Working Group for the Fight against International Threats, multidisciplinary working groups under the law (160a of the Criminal procedure Code) involving the FIU, police, prosecutors etc. Even with such mechanisms as are in place, the examiners suggested that co-operation and co-ordination would be further enhanced by analysing results and discuss problems collectively on a regular basis also with a view to supporting the central analysis which the FIU undertakes on the effectiveness of the system.

6.1.3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	**Compliant**	

6.2. The Conventions and UN Special Resolutions (R.35 and SR.I)

6.2.1 Description and Analysis

478. The 1988 United Nations Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) (*Act on the Ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 14/90))* and the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141 - Strasbourg Convention) have been ratified before the First Round Evaluation *(Act on the Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Official Gazette of the Republic of Slovenia, Nos. 41/97, and 31/98 – MP Nos. 11/97 and 8/98)* and transposed in national law.

479. The 2000 United Nations Convention against Transnational Organised Crime (Palermo Convention) has been ratified in April, 2004 *(Act on the Ratification of the United Nations Convention against Transnational Organised Crime (Official Gazette of the Republic of Slovenia, MP No. 14/04))*and transposed in national legislation.

480. The 1999 United Nations International Convention for the Suppression of the Financing of Terrorism has been ratified in July, 2004 *(Act on the Ratification of the United Nations International Convention for the Suppression of the Financing of Terrorism (Official Gazette of the Republic of Slovenia, MP No. 21/04))* and transposed in national legislation.

481. The United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, such as UNSC resolution 1373, are being implemented in Slovenia (see item 2.4.1 above)

6.2.2 Recommendations and Comments

482. The overall implementation of the relevant international instruments is quite comprehensive and compliant with the international standards.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**Compliant**	
SR.I	**Compliant**	

6.3 Mutual Legal Assistance (R.32, 36-38, SR.V)

6.3.1 Description and Analysis

(c) Mutual legal assistance statistics:

483. The OMLP, as central authority responsible for requests under the Strasbourg Convention ETS 141, provided following statistics:

- 2001: 5 requests sent to 5 countries in 4 cases and 1 request to OLAF;
- 2002: 17 requests sent to 8 countries in 7 cases;
- 2003: 1 request received;
- 2004 (until 31 October): 3 requests sent to 2 countries in 2 cases.

484. General statistics on mutual legal assistance are kept by the Ministry of Justice, but without any specification as to their civil or criminal nature. Consequently it is unknown how many of the following ingoing or outgoing requests relate to money laundering or predicate offences:

2000: 6200 new requests (both incoming and outgoing), 2205 closed cases, 3995 unsolved
2001: 4125 new requests (both incoming and outgoing), 6006 closed cases, 2114 unsolved
2002: 4430 new requests (both incoming and outgoing), 4295 closed cases, 2249 unsolved
2003: 5944 new requests (both incoming and outgoing), 5624 closed cases, 2569 unsolved
2004 (till November 30th): 3976 new requests (both incoming and outgoing), 4220 closed cases, 2325 unsolved.

485. No terrorism financing requests were received or sent up to the time of the on-site visit.

486. No specification is given on how many requests were granted or refused. No mention is made of any spontaneous referrals.

487. Slovenia is party to international agreements relating to mutual legal assistance, such as the 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its Additional Protocol, and the 1990 Strasbourg Convention. It is party to several bilateral mutual legal assistance agreements.

488. Mutual legal assistance in criminal matters is regulated in the Code of Criminal Procedure (Chapter XXX). Where the CCP is silent, there is the constitutional principle (Article 8 of the Constitution) that ratified conventions take precedence over national law. The CCP explicitly states that the assistance is regulated by the CCP provisions unless international agreements say otherwise (principle of subsidiarity of the national legislation).

489. The legal framework allows the judicial authorities to give the widest possible assistance in money laundering and terrorism financing cases, including coercive measures and execution of foreign seizure or confiscation orders related to laundered property, proceeds, instrumentalities and equivalent value assets. Basically the dual criminality principle applies, which is deemed satisfied if Slovenia also criminalises the conduct underlying the offence, irrespective of how the offence is qualified. Assistance is however also possible in the absence of dual criminality, even when necessitating coercive measures, on the basis of Article 516 (3) and (4) CCP, which in those cases provides for a court decision in consultation with the Ministry of Justice. This also applies to direct requests from foreign authorities.

490. The Slovene authorities endeavour to give a speedy and complete response to the MLA requests. Normally the request is complied with within 1 to 3 months. The relevant statistics however do show a relatively high number of "unsolved (pending?)" requests, but because of the lack of specification it is unclear if this is a predominantly Slovene or a foreign problem (according to the Slovene authorities they mainly relate to outgoing requests).

491. MLA is granted also when the offence also involves fiscal aspects. Secrecy and confidentiality are lifted by the courts when granting the request and are not an inhibiting factor. There have been no conflicts of jurisdiction yet that have led to any delays or obstacles, nor is there reason to believe that the system is not able to cope with such an eventuality in the future. In any event, Slovene legislation allows for transfer of the procedure or prosecution. Seizure and confiscation actions are normally coordinated by the FIU in its role of central authority in Strasbourg Convention matters.

492. Slovenia has no concrete plans at this moment to establish an asset forfeiture fund, nor is there a practice of asset sharing. A legal asset sharing arrangement is presently being discussed in a Ministry of Justice working group.

493. Although no such request has been received yet, it is considered theoretically possible to execute a foreign civil *in rem* confiscation order if the underlying conduct could be qualified as a criminal offence under Slovene law.

6.3.2 Recommendations and Comments

494. There is still room to improve the statistics by making them more specific and detailed, especially in respect of the MLA requests related to money laundering and predicate offences. Furthermore, one cannot deduce from the statistics submitted if and how many outgoing and ingoing requests have been executed or refused.

495. The mutual legal assistance framework, both in money laundering and in terrorism financing cases, is comprehensive and complete. Everything is in place to render effective and timely assistance in investigations, seizures and confiscations, and in practice there are no indications to the contrary. The establishment of an asset forfeiture fund should however be the subject of proper consideration.

6.3.3 Compliance with Recommendations 32, 36 to 38, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.32	**Largely compliant**	The statistics could be more detailed and specific.
R.36	**Compliant**	
R.37	**Compliant**	
R.38	**Largely compliant**	No asset forfeiture fund is being considered
SR.V	**Compliant**	

6.4 Extradition (R.32, 37 and 39, and SR.V)

6.4.1 Description and Analysis

496. Extradition statistics are kept, again without any specification as to the criminality they relate to:

2000: 45 requests (both incoming and outgoing), 26 closed cases, 19 unsolved
2001: 24 new requests (both incoming and outgoing), 16 closed cases, 27 unsolved
2002: 42 new requests (both incoming and outgoing), 45 closed cases, 24 unsolved
2003: 52 new requests (both incoming and outgoing), 57 closed cases, 25 unsolved
2004 (till November 30th): 50 new requests (both incoming and outgoing), 45 closed cases, 30 unsolved.

497. The extradition procedure and conditions are regulated in the Criminal Code of Procedure of the Republic of Slovenia (Chapter XXXI).

498. The surrender procedure is elaborated in the European Arrest Warrant and Surrender Procedure Act, implementing legislation for the European arrest warrant since 1 May 2004. This procedure is used for other European Union member States that implement the European arrest warrant.

499. Money laundering is an extraditable offence. An extradition request always needs to be based on an arrest warrant or a conviction. Extradition of own nationals is constitutionally not allowed (Article 47 of the Constitution of the Republic of Slovenia), except when extradition is sought under the European Arrest Warrant. In case of refusal, there is the possibility and practice of the foreign judicial authority waiving its jurisdiction and the Slovene authorities taking over the prosecution (Article 520 CCP). This decision is taken by the competent State Prosecutor. Cooperation on procedural and evidential aspects is ensured through mutual legal assistance.

500. Absence of dual criminality is also a ground for refusal of extradition (Article 522 CCP), also in the case of the European arrest warrant if the underlying offence is outside the list of offences where dual criminality does not apply. However, the condition of dual criminality is deemed satisfied if Slovenia also criminalises the conduct underlying the offence, irrespective of how the offence is qualified.

501. The average duration of extradition procedures is 3 to 4 months, which is reasonable. In the case of European arrest warrants the procedure normally takes less than one month.

502. Simplified extradition procedures are possible when so provided for in an international treaty (Article 529a of CCP). No such treaty exists presently.

6.4.2 Recommendations and Comments

503. More specified and detailed statistics are necessary to have a transparent understanding of the criminality involved and of the division between ingoing and outgoing requests.

6.4.3 Compliance with Recommendations 32, 37 and 39, and Special Recommendation V

	Rating	Summary of factors relevant to s. 6.4 underlying overall rating
R.32	**Largely compliant**	Unspecified statistics
R.37	**Compliant**	
R.39	**Compliant**	
SR.V	**Compliant**	

6.5 Other Forms of International Co-operation (R.32 and 40, and SR.V)

6.5.1 Description and Analysis

FIU-FIU co-operation

504. The OMLP has a broad capacity for efficient cooperation with counterpart FIUs. When exchanging information with its foreign counterparts (foreign FIUs) the OMLP follows the Egmont Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases

505. According to the LPML, the OMLP may, in connection with the prevention and detection of money laundering, request for specific data, information and documentation from foreign authorities and international organisations. The OMLP may also forward the acquired data, information and documentation to foreign authorities on their request or upon its own initiative, under the condition of effective reciprocity. It may share information both on money laundering and the underlying predicate offences.

506. Prior to forwarding personal data to foreign authorities (users) the OMLP shall obtain assurance that the country to which the data is being forwarded has a regulated system of personal data protection and that the foreign authority (the user) shall use the data solely for the purposes stipulated by the LPML.

507. The OMLP is authorised on behalf of foreign counterparts not only to make inquiries in its own database, including the database of STRs, but also in other databases to which it has access (such as law enforcement databases or administrative databases). The OMLP may also obtain from other competent authorities or persons relevant information requested by a foreign counterpart FIU.

508. There are not applied any disproportionate or unduly restrictive conditions on the possibility to exchange information. The involvement of fiscal matters is also not the reason to refuse assistance. Requests of foreign FIUs are also not refused because of confidentiality requirements imposed on financial institutions or DNFBP.

509. Received information is secured and protected within the FIU and its further use is possible only after the prior consent of the foreign counterpart.

510. Memoranda of Understanding are not preconditions for international co-operation for the OMLP. Nevertheless it is its policy to conclude them in order to encourage and improve the information exchange between foreign counterparts. So far, 21 MOUs have been signed. In the year 2001, the OMLP signed three MOUs (with the FIUs from Bulgaria, Cyprus and Latvia); in the year 2002, three MOUs (Italy – *Guardia di Finanza*, Lithuania and "the former Yugoslav Republic of Macedonia"), in the year 2003, five MOUs (Monaco, Albania, Poland, Australia, Ukraine) and in the year 2004 (up to 31 October, 2004) three MOUs (Serbia, Estonia and Israel). At the time of the visit, five other MOUs had been under discussion (Russian Federation, Montenegro, Georgia, Malta and Canada).

511. Statistics on the exchange of information <u>at FIU level</u>:

2001: 37 requests sent to 21 countries (FIUs) and 1 request to OLAF
19 requests received from 5 countries

2002: 88 requests to 25 countries in 44 cases
23 requests from 7 countries in 21 cases, 1 request from EUROPOL,
2 requests from the Office of the High Representative in the Federation of Bosnia and Herzegovina

2003: 86 requests from 22 countries in 35 cases
27 requests to 11 countries in 22 cases

2004 (until 31 October, 2004):
132 requests to 24 countries in 45 cases
29 requests from 14 countries in 26 cases.

512. Financial laws also allow regulators to enter into MOUs with foreign counterparts and several such agreements had been signed by both banking and securities market supervisors, but to what extent exchange of information relating to AML / CFT issues is covered in them or the degree of such information exchange was unclear, as no statistics on this were provided.

6.5.2 <u>Recommendations and Comments</u>

513. The FIU has a broad capacity to exchange information and is doing so very effectively. It was less clear whether any information exchange agreements between supervisors include AML / CFT issues and how much AML / CFT exchanges are taking place independently of the FIU by the regulators. The Slovenian authorities should satisfy themselves that the supervisory bodies are exchanging information on request (and otherwise) with their counterparts. Annual statistics on this should be kept which show whether requests were granted, refused, etc.

6.5.3 Compliance with Recommendations 32 and 40, and Special Recommendation V

	Rating	Summary of factors relevant to s. 6.5 underlying overall rating
R.32	**Largely compliant**	Unspecified statistics on requests from or to financial supervisors and on informal police international assistance.
R.40	**Largely compliant**	Broad capacity for information exchange by the FIU, less clear what and how much information exchange is being undertaken by supervisors.
SR.V	**Largely compliant**	Financing of terrorism not formally within the remit of the FIU, and thus may affect the mutual assistance capacity at FIU level.

TABLES

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF Recommendations should be made according to the four levels of compliance mentioned in the 2004 Methodology (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (na).

Forty Recommendations	Rating	Summary of factors underlying rating[8]
Legal systems		
1. ML offence	Largely compliant	Ineffective implementation resulting in an absence of final convictions.
2. ML offence – mental element and corporate liability	Compliant	
3. Confiscation and provisional measures	Largely compliant	Ineffective implementation resulting in the absence of money laundering related confiscation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	Compliant	
5. Customer due diligence	Largely compliant	Lack of obligations to conduct CDD in case of suspicion of financing of terrorism. ID procedures are applied for wire transfers at a threshold higher than recommended.
6. Politically exposed persons	Non-compliant	Awaiting 3rd EU Directive.
7. Correspondent banking	Largely compliant	Relationships with foreign banks and ID procedures applied are same as for any other foreign legal persons. Criteria 18.2 not met.

[8] These factors are only required to be set out when the rating is less than Compliant.

8. New technologies and non face-to-face business	Partially compliant	Unclear how businesses issuing and performing operations with debit and credit cards are implementing preventive measures.
9. Third parties and introducers	Compliant	
10. Record keeping	Compliant	
11. Unusual transactions	Largely compliant	Recommendation as such not transposed into national laws.
12. DNFBP – R.5, 6, 8-11	Partially compliant	Neither terrorist financing nor PEPs are covered.
13. Suspicious transaction reporting	Partially compliant	Financing of terrorism is not covered.
14. Protection & no tipping-off	Largely compliant	"Safe harbour" provisions should clearly cover criminal liability.
15. Internal controls, compliance and audit	Largely compliant	No specific provisions on employee screening and more clarification of the compliance officer's powers and role required.
16. DNFBP – R.13-15 & 21	Partially compliant	Financing of terrorism not covered; safe harbour provisions should cover criminal liability; deficient reporting from DNFBPs.
17. Sanctions	Largely compliant	Speed of administrative sanctions calls into question their effectiveness.
18. Shell banks	Largely compliant	No explicit provision to meet Criteria 18.3.
19. Other forms of reporting	Compliant	
20. Other NFBP & secure transaction techniques	Largely compliant	Criteria 20.1 fully met; insufficient information on Criteria 20.2.
21. Special attention for higher risk countries	Compliant	
22. Foreign branches & subsidiaries	Partially compliant	Lack of general requirement on financial institutions to ensure foreign branches observe AML / CFT Criteria.
23. Regulation, supervision and monitoring	Largely compliant	Supervision is now happening but needs to be intensified outside the banking sector to ensure adequate reporting of STRs.
24. DNFBP - regulation, supervision and monitoring	Largely compliant	Risk-based approach in very initial stages. More resources needed for monitoring and ensuring compliance by DNFBPs, given tiny number of STRs and size of sector.

25. Guidelines and Feedback	Largely compliant	More sector-specific guidelines required and guidelines on FT.
Institutional and other measures		
26. The FIU	Largely compliant	Financing of terrorism not covered.
27. Law enforcement authorities	Partially compliant	More focus required on police-generated ML cases and asset recovery. Investigations do not lead to successful prosecution.
28. Powers of competent authorities	Compliant	
29. Supervisors	Compliant	
30. Resources, integrity and training	Largely compliant	More staffing and provision of adequate and relevant training required.
31. National co-operation	Compliant	
32. Statistics	Largely compliant	The available statistics give a general overview, but are mostly insufficient in specification and detail, especially in relation to ML / FT matters and on statistics on confiscation of criminal proceeds.
33. Legal persons – beneficial owners	Compliant	
34. Legal arrangements – beneficial owners	Not applicable	
International Co-operation		
35. Conventions	Compliant	
36. Mutual legal assistance (MLA)	Compliant	
37. Dual criminality	Compliant	
38. MLA on confiscation and freezing	Largely compliant	No asset forfeiture fund is being considered.
39. Extradition	Compliant	
40. Other forms of co-operation	Largely compliant	Broad capacity for information-sharing by FIU, less clear how much information-sharing by supervisors.

Nine Special Recommendations	Rating	Summary of factors underlying rating
SR.I Implement UN instruments	Compliant	
SR.II Criminalise terrorist financing	Largely compliant	Art. 388a PC is not fully in line with SRII and its Interpretative Note.
SR.III Freeze and confiscate terrorist assets	Largely compliant	The administrative freezing procedure is incomplete.
SR.IV Suspicious transaction reporting	Non-compliant	No reporting of financing of terrorism.
SR.V International co-operation	Compliant	
SR VI AML requirements for money/value transfer services	Not applicable	
SR VII Wire transfer rules	Largely compliant	ID procedures are applied for transactions over a threshold higher than recommended, though if a transaction is suspicious no threshold applies.
SR.VIII Non-profit organisations	Partially compliant	No special review of the risks in NPO sector undertaken.
SR.IX Cash Couriers	Compliant	

Table 2: Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required.
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 & 2)	Create case law by confronting the courts with as many money ML prosecutions as possible and thus challenge the present jurisprudence on the evidential requirements. Ultimately consider legislative action to remedy the situation.
Criminalisation of Terrorist Financing (SR.II)	Bring art. 388a PC fully in line with SRII and its IN by completing the list of terrorism related offences, expressly provide for funding of terrorist organisations and individuals, and express exclusion of a required link with specific terrorist acts.
Confiscation, freezing and seizing of proceeds of crime (R.3)	Increase the results of criminal asset recovery (by bringing as many money laundering prosecutions as possible to create a clear jurisprudential framework as recommended above [R.1 and R.2]). Law enforcement should give more priority to asset detection and asset recovery.
Freezing of funds used for terrorist financing (SR.III)	The administrative procedure of freezing suspected terrorism related accounts as a result of the relevant UN Resolutions should be fully elaborated, including rules regarding unfreezing and the rights and obligations of the financial institutions and the account holders.
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	The FIU needs to be empowered to receive financing of terrorism disclosures More resources required for supervision and analysis of CTRs .

Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)	- More law enforcement resources are required to focus on police-generated money laundering cases, or a reorientation of police investigations giving more priority to properly resourced asset detection and recovery. - Prosecutors should be more willing to test the law and bring ML prosecutions. The numbers of sufficiently trained prosecutors to deal with the new focus on asset recovery (and ML) should be reviewed. - Consideration should be given to more judicial training in financial crime and judicial specialisation. - Serious efforts needed to speed up the judicial process in ML cases.
3. Preventive Measures – Financial Institutions	
Risk of money laundering or terrorist financing	- Risk of financing of terrorism needs addressing in legislation.
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	- Produce consistent guidance to ensure same ID standards apply across the financial market. - Issue guidance on PEPs. - Introduce the obligation to conduct CDD in case of financing of terrorism suspicion and bring in line threshold to conduct CDD in case of wire transfers (see SR.VII).
Third parties and introduced business (R.9)	No recommendations.
Financial institution secrecy or confidentiality (R.4)	No recommendations.
Record keeping and wire transfer rules (R.10 & SR.VII)	ID procedures in wire transfers need to comply with the relevant thresholds in the international standards.
Monitoring of transactions and relationships (R.11 & 21)	Recommendation 11 should be covered in law.
Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	- Financing of terrorism needs covering in STR reporting. - "Safe harbour" provisions should clearly cover criminal liability.

Internal controls, compliance, audit and foreign branches (R.15 & 22)	- Specific provisions on employee screening and more clarification of the compliance officer's powers and roles required. - General requirement needed for financial institutions to ensure that their foreign branches observe AML/CFT measures consistent with home country requirements.
Shell banks (R.18)	Undertake, as necessary, a review of existing correspondent relationships to ensure non are with shell banks, including a review on respondent foreign financial institutions as to whether respondent foreign financial institutions do not allow their accounts to be used by shell banks.
The supervisory and oversight system - competent authorities and SROs (R. 17, 23, 29 & 30).	- Even greater focus on supervision to address under-reporting in non-banking financial sector and DNFBPs. - Speed and effectiveness of administrative sanctioning regime should be reviewed, and, as necessary, changes made.
Financial institutions - market entry and ownership/control (R.23)	No specific action required.
AML/CFT Guidelines (R.25)	The production of more targeted sector specific AML guidelines and indicators and the production across the board of indicators on FT.
Ongoing supervision and monitoring (R.23, 29 & 32)	- Perceptions of the risk of ML still need further strengthening across the whole financial sector. - Clearer specification of the precise statistical data required for publication would assist.
Money value transfer services (SR.VI)	No specific action required.
4. Preventive Measures – Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	- PEPs needs covering in law, regulations or by other enforceable means. - FT needs covering in this context.
Monitoring of transactions and relationships (R.12 & 16)	- Terrorist financing and PEPs need covering. - More emphasis on identifying complex and unusual transactions.
Suspicious transaction reporting (R.16)	- FT needs covering. - "Safe harbour" provisions need to clearly provide for criminal activity.

Internal controls, compliance & audit (R.16)	Greater clarification of the role of compliance officers and the width of the exemptions from organising internal control.
Regulation, supervision and monitoring (R.17, 24-25)	Further assessment of the risks in this sector required and more resources needed to ensure an effective system monitoring compliance with AML/CFT standards.
Other designated non-financial businesses and professions (R.20)	No further action recommended.
5. Legal Persons and Arrangements & Non-Profit Organisations	
Legal Persons – Access to beneficial ownership and control information (R.33)	No recommendations.
Legal Arrangements – Access to beneficial ownership and control information (R.34)	No recommendations.
Non-profit organisations (SR.VIII)	Urgent review of the risks in the NPO sector is required and consideration given to effective and proportional oversight.
6. National and International Co-operation	
National co-operation and coordination (R.31)	No recommendations.
The Conventions and UN Special Resolutions (R.35 & SR.I)	No recommendations.
Mutual Legal Assistance (R.32, 36-38, SR.V)	-Ventilate statistics in criminal and civil cases, assistance granted or refused, ingoing or outgoing, nature of the offence, ML or TF related. - Start discussions on an asset forfeiture fund.
Extradition (R.32, 37 & 39, & SR.V)	More specification in statistics.
Other Forms of Co-operation (R.32 & 40, & SR.V)	Ensure that supervisors are engaging in international assistance and that meaningful annual statistics are kept showing requests granted, refused etc.

7. Other Issues	
Other relevant AML/CFT measures or issues	
General framework – structural issues	Basically everything is in place, certainly in terms of legal framework, to produce results in terms of convictions and asset recovery. The TF legal framework still needs to be tested, but should be effective once the text of the offence is fully compatible with SRII. The absence of real law enforcement results in nearly 10 years of implementation of the anti-money laundering regime is becoming alarming.

Table 3: Authorities' Response to the Evaluation (if necessary)

Relevant sections and paragraphs	Country Comments

LIST OF ANNEXES

ANNEX 1

DETAILS OF ALL PERSONS AND BODIES MET ON THE ON-SITE MISSION

- Office of Money Laundering Prevention
- Minister of Finance
- The Stock Exchange
- Association of Members of the Stock Exchange
- Association of Investment Funds and Management Companies
- Central Securities Clearing Corporation
- Ministry for Internal Affairs – Internal Affairs Administration
- Agency for Public Legal Records and Related Services
- Ministry of Foreign Affairs
- Ministry of Justice
- Agency for the Supervision of the Securities Market
- Criminal Police Directorate
- Slovenian Intelligence and Security Agency
- Chamber of Notaries
- Committee for Money Laundering of the Bank Association of Slovenia (including compliance officers of commercial banks)
- Bank of Slovenia
- Ministry of Economy
- State Prosecution Office
- Supreme Court
- Agency for Insurance Supervision
- Slovene Institute of Auditors and representatives from auditing firms
- Bar Association
- Office for Gaming Supervision
- Customs Office
- Association of Accountants

ANNEX 2

COPIES OF KEY LAWS, REGULATIONS AND OTHER MEASURES (ANNEXES 2 A to 2 L)

ANNEXES

- 2 A Law on the Prevention of Money Laundering
- 2 B Article 69 and Articles 95 to 98 Penal Code
- 2 C Articles 148, 164, 220 (1) and (4) Code of Criminal Procedure
- 2 D Article 100 Code of Criminal Procedure and Article 252 Penal Code
- 2 E Directive on the organisations, which do not have to be identified during the execution of certain transactions
- 2 F Directive on the authorised person, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors, and legal or natural persons providing accountancy services or tax advisory services (8 November 2002)
- 2 G Directive on the determination of countries, which do not respect the standards concerning the prevention and detection of money laundering
- 2 H Directive on the identification of a client upon opening an account or establishing a permanent business relation without the presence of the client
- 2 I Articles 336 to 368 Securities Market Act
- 2 J Article 16a Foreign Exchange Act
- 2 K Indicators of suspicious transactions for Exchange Offices
- 2 L Directive on the method of forwarding data by lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services.

ANNEX 2 A

LAW ON THE PREVENTION OF MONEY LAUNDERING

(ZPPDen-1)
(Unofficial translation)

Edited text, Official Gazette No. 79/2001 published on 10 October 2001, entry into force 25 October 2001, Changes and Amendments Official Gazette No.59 / 2002 published on 5 July 2002, entry into force 20 July 2002;

Chapter I
GENERAL PROVISIONS

Article 1

(1) This Law shall determine the measures for detecting activities concealing the origin of money or property, acquired by criminal offence (hereinafter referred to as money laundering) and measures for preventing such activities.

(2) The measures referred to in the preceding paragraph shall apply to particularly the following:

1. exchange or any transfer of property originating from criminal activity,
2. acquisition, possession or use of money or property proceeding from criminal activity,
3. concealment of the true nature, origin, place where the money is deposited, movement, use, ownership or rights concerning money or property originating from criminal activity,
4. concealment of illegally acquired property and capital of social ownership in the transformation of company ownership structure.

Article 2

(1) Measures for detecting and preventing money laundering shall be carried out before and at the time of receiving, exchanging, keeping, using or other form of dealing with money or property (hereinafter referred to as transaction) at the following organisations:

1. banks, savings banks and branches of foreign banks,
2. savings and credit houses,
3. organisations performing payment transactions,
4. post offices,
5. *companies for the management of investment funds*, *founders and managers of mutual pension funds and pension companies,*
6. stock exchanges, stock exchange agencies and stock exchange agency branches,
7. insurance companies,
8. gaming houses and other concessionaires for special lottery games,
9. exchange offices,
10. pawnbroker offices,
11. legal and natural persons performing the following activities:
    a) sale and purchase of claims,
    b) factoring,
    c) managing the property of third persons,
    d) issuing and performing operations with debit and credit cards,
    e) leasing,
    f) travel organisation,
    g) real estate agencies,
    h) safekeeping,
    i) trade in precious metals and precious stones and products made from these materials,
    j) issuing guarantees and other warranties,
    k) crediting and credit agencies,
    l) offering loans and brokering in the negotiation of loan deals,
    m) brokering in the sale of insurance policies,
    n) *organisation and execution of auctions,*
    o) *trading with works of art.*

    (hereinafter referred to as the organisation).

Article 3

The Government of the Republic of Slovenia shall adjust the tolar amounts stated in this Law if the average exchange rate of the tolar to the euro changes significantly, according to the middle exchange rate of the Bank of Slovenia.

Chapter II

DUTIES AND OBLIGATIONS OF ORGANISATIONS

1. Identification

Article 4

Prior to and during the execution of certain transactions an organisation shall identify the client, acquire information about the client, about the transaction and other information required under this Law (hereinafter referred to as identification).

Article 5

(1) When an organisation opens an account for a client or establishes a permanent business relationship with a client, the organisation shall at the same time identify the client.

(2) An organisation shall be required to identify the client during each transaction or in case of several connected transactions, which exceed the amount of 3,000,000 tolars.

(3) Irrespective of the provisions of the preceding paragraphs of these article insurance companies and intermediaries selling the insurance policies, shall identify the client only when carrying out life insurance business, in the cases when the amount of the separate or several instalments of the premium, that need to be paid in the period of 1 year, exceed the amount of 200.000 tolars or the payment of the single premium exceeds the amount of 500.000 tolars. Identification shall also be performed when the separate or several instalments of the premium, that need to be paid in the period of 1 year, increase and exceed the amount of 200.000 tolars.

(4) Insurance companies or other obliged entities also perform identification by pension insurance businesses, if the insurance policy can be transmitted or used as collateral for a loan or a credit.

(5) Irrespective of the provisions of the preceding paragraphs of this Article, legal or natural person, that performs activities of organizing or executing of auctions or trading with arts, shall perform the identification only when carrying out cash transaction or several connected cash transactions, exceeding the amount of 3.000.000 tolars.

(6) Irrespective of the provisions of the preceding paragraphs of this Article an organisation shall identify the client for each cash transaction or in the case of several connected cash transactions exceeding the amount of 5,000,000 tolars.

(7) Irrespective of the provisions of the preceding paragraphs of this Article, the gaming houses and other concessionaires for special games perform the identification of the customers immediately on entry into their premises.

(8) By transactions, stated in the paragraphs 2 and 6 of this Article, gaming houses and other concessionaires for special games perform identification only in the case, when the transaction is performed at the cashier's desk.

(9) Identification of the client shall not be required in the execution of specific transactions referred to in paragraphs 2 to 6 of this Article and paragraph 1 of the Article 28a of this Law, if the client is:

1. *a state body or an organisation with public authorisation;*
2. *an organisation listed in the Article 2 hereof, which has been designated by the minister competent for finance. The minister shall in this case take into account, above all, the implementation of regulations concerning the prevention and detection of money laundering in the organisations listed under Article 2 hereof, and the findings in this connection of the Office for Money Laundering Prevention as well as the findings of supervisory bodies;*
3. *credit or financial institution with the headquarters in the countries, members of the EU or in those countries which, according to the data of international organizations and other competent international bodies, respects standards in the area of the prevention and detection of money laundering and is defined by the minister competent for finance. The minister shall in this case take into account whether this client, according to the information of the Office and supervision bodies, is an obliged entity for the implementation of the regulations from the field of the prevention and detection of money laundering.*

(10) Irrespective of the provisions of the preceding paragraphs of this Article, the organisation shall perform the identification of the bearer of the passbook at every transaction, which is performed on the basis of a passbook or a bearer passbook.

(11) Irrespective of the provisions of the preceding paragraphs of this Article, the identification shall be always necessary when reasons for suspicion of money laundering exist in connection with a transaction or a client.

Article 6

(1) In case of identification referred to in paragraphs 1 and 4 of Article 5 of this Law, the information listed in points 1, 2, 3, 4, 5 and 14 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(2) In case of identification referred to in paragraph 2 of Article 5 of this Law, the information listed in points 1, 2, 3, 6, 8, 9, 10 and 11 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(3) In case of identification referred to in paragraph 3 of Article 5 of this Law, the information listed in points 1, 2, 3, 4, 5, 6, 8, 9 and 10 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(4) In the case of the identification referred to in the paragraph 5 of the Article 5 of this Law, the information listed in points 1, 2, 3, 6, 7, 8, 9, 10 and 14 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(5) In case of the identification referred to in paragraphs 6 and 10 of Article 5 of this Law, the information listed in points 1, 2, 3, 6, 7, 8, 9, 10 and 14 of paragraph 1 of Article 38 hereof shall be recorded.

(6) In case of the identification referred to in paragraph 7 of Article 5 of this Law, the information listed in points 3 and 5 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(7) In case of the identification referred to in paragraph 11 of Article 5 of this Law, the information listed in paragraph 1 of Article 38 hereof shall be recorded.

(8) When transactions described in the paragraphs 2, 3, 5 and 6 of Article 5 of this Law are performed on the basis of an opened account, a permanent business relationship with a client or upon the entry of the client into the premises of gaming houses and other concessionaires for special games, only the missing information shall be recorded at each particular transaction.

(9) In case of identification during the performance of activities related to safekeeping operations, the information listed in points 1, 2, 3, 5, 6 and 7 of paragraph 1 of Article 38 hereof shall be recorded, except the information on the tax number.

(10) When depositing into day-night safes the information specified in point 2 of paragraph 1 of Article 38 of this Law shall be acquired, on the responsible persons of legal persons.

Article 7

(1) The organisation shall obtain the information on legal persons referred to in point 1 of paragraph 1 of Article 38 of this Law by an examination of the original or certified documentation from the court register or other public register.

(2) The organisation shall obtain the information referred to in points 2 and 3 of paragraph 1 of Article 38 of this Law from the client's official personal identification documents. If it is not possible to obtain all the necessary information from the client's submitted official personal identification document, then the missing information should be obtained from other client's official personal identification document.

(3) The organisation shall obtain the information referred to in points 4, 5, 6, 7, 8, 9, 10, 11 and 12 of paragraph 1 of Article 38 of this Law from the acts and business documentation.

(4) If it is not possible to obtain from the official personal documents, acts and business documentation, all the information listed in paragraph 1 of Article 38 of this Law, the missing information, with the exception of the information referred to in points 12 and 14 of paragraph 1 of Article 38 of this Law, shall be obtained from the client.

(5) In the case of identification of a non-resident client in accordance with paragraphs 1, 5, 6, 10, and 11 of Article 5 of this Law, a Xerox copy of the client's official personal document shall also be made.

Article 8

(1) In the case of the identification referred to in Article 5 of this Law, the organisation shall be obliged to demand from a client a statement as to whether the client is acting on his own behalf or on authorisation.

(2) If transactions are made on behalf of the client by an authorised person, the organisation shall obtain the information specified in points 2 and 3 of paragraph 1 of Article 38 of this Law from the written authorisation made by the client on whose behalf the authorised person is acting. The Organisation shall obtain all the other information listed in paragraph 1 of Article 38 of this Law, with the exception of the information referred to in point 14 of paragraph 1 of Article 38 of this Law in the manner stipulated in Article 7 hereof.

(3) If the authorised person is opening an account or performing transactions, listed in the paragraphs 5, 6, 10 and 11 of article 5 of this Law in the name of the foreign legal person, that does not or must not perform commercial or manufacturing activity in the country, in which it is registered, or in cases, when fiduciary or similar companies of the foreign law with unknown owners and managers are involved, the Organization obtains the information listed in point 14 of paragraph 1 of Article 38 of this Law, by examining the original and verified documentation of the court register or any other public register, that shall not be older than 3 months. If all the information cannot be obtained from the court register or any other public register, the Organization obtains missing data by examining the documents and business documentation that are presented by the authorised person. The Organization acquires the missing data, that cannot be obtained for objective reasons in the afore mentioned way, from the written statement of the authorised person.

(4) The Organization must, by obtaining the information on the basis of the previous paragraph, in all cases, when another legal person is the indirect or direct owner of 20% of the business share, stocks or other rights of the legal person or it participates in its capital with at least 20% share, obtain the information from the point 14 of paragraph 1 of the Article 38 of this Law for this other legal person.

(5) The minister competent for finance may decide that identification is not necessary in case of a client performing specific transactions referred to in paragraphs 2, 3, 5 and 6 of Article 5 of this Law, when the authorised person is any of the organisations listed in Article 2 hereof.

Article 9

(1) If the organisation doubts the truthfulness of the information referred to in paragraph 4 of Article 7 of this Law and in paragraph 1 of Article 8 of this Law, the organisation shall demand also a written statement from the client.

(2) If a foreign legal person, with the exception of international governmental organisations, carries out the transactions referred to in Article 5 of this Law, the organisation shall be required to re-identify the client, at least once annually, by obtaining the information specified under points 1 and 14 of paragraph 1 of Article 38 and by acquiring new authorisation in accordance with paragraph 2 of Article 8 hereof.

Article 9a

(1) The Organisation may when opening an account or establishing a permanent business relationship identify a client also in his absence, nevertheless it shall indisputably establish the client's identity by obtaining all the information in accordance with this Law and in the manner, which is regulated by the minister, competent for finance.

(2) Identification described in the previous paragraph is possible only when the customer is a non-resident, a state body or an organisation with public authorisation or an Organisation for the Article 2 of this Law.

(3) With reference to the client, who is a non-resident, the identification on the basis of the paragraph 1 of this Article may be performed only, when the client is a Slovene citizen or a resident of a country which pays regard to standards in the area of prevention and detection of money laundering. The minister, competent for finance, determines the list of countries, which do not comply with the above-mentioned standards, taking into account the information from international organisations or other competent international bodies and the information from the Office for Money Laundering Prevention.

(4) By way of derogation from the preceding paragraphs of this Article the identification of the client in his absence at the opening of an account or establishing a permanent business relationship is not possible, if the client is a foreign legal person, that does not or must not perform commercial or manufacturing activity in the country, in which it is registered, or in cases, when fiduciary or similar companies of the foreign law with unknown owners and managers are involved.

2. Reporting

Article 10

(1) The organisation shall be obliged to forward to the Office for Money Laundering Prevention of the Republic of Slovenia (hereinafter referred to as the Office) the information listed in points 1, 2, 3, 6, 7, 8, 9 and 10 of paragraph 1 of Article 38 of this Law regarding each cash transaction exceeding the amount of 5,000,000 tolars.

(2) The organisation shall be obliged to forward to the Office the information referred to in the preceding paragraph of this Article also in the case of several connected cash transactions whose total exceeds the amount of 5,000,000 tolars.

(3) Irrespective of the provisions of the preceding paragraphs of this Article, an organisation shall be obliged to forward to the Office the information referred to in paragraph 1 of Article 38 of this Law in all cases whereby a transaction or client raises suspicion of money laundering activity.

(4) The organisation shall forward to the Office the information referred to in the preceding paragraphs of this Article in the manner prescribed by the minister competent for finance.

(5) The minister competent for finance shall determine the conditions under which an organisation shall not be required to forward to the Office information about the cash transactions of a particular client as provided for in paragraphs 1 and 2 of this Article.

Article 11

(1) In such cases as referred to in paragraphs 1 and 2 of Article 10 of this Law the organisation shall forward the data to the Office immediately after the transaction is completed, but not later than three days after the completion of the transaction.

(2) In such cases as referred to in paragraph 3 of Article 10 of this Law the organisation shall forward the data to the Office before the transaction is completed and shall state the period during which the transaction is expected to be executed.

(3) The notification referred to in the preceding paragraph may be given also by telephone, but the Office must be notified subsequently in writing not later than the next working day.

(4) If, in such cases as referred to in paragraph 3 of Article 10 of this Law, an organisation cannot, due to the nature of the transaction or because the transaction was not completed or due to other justified reasons, act as provided for in paragraph 2 of this Article, it shall be obliged to forward the data to the Office as soon as possible or immediately after suspicion of money laundering activity is raised. The organisation shall explain in the report the reasons for not acting in accordance with the provisions of paragraph two of this Article.

3. Authorised person, training, list of indicators and internal control

Article 12

(1) For the purpose of forwarding information to the Office and for the performance of other duties under this Law the organisation shall name an authorised person, it shall also name one or several deputies of the authorised person and shall notify the Office about these appointments.

(2) The organisation shall be obliged to provide professional training for all its employees performing duties under this Law and shall conduct internal control over the performance of these duties and shall prepare a list of indicators for recognising suspicious transactions.

(3) Irrespective of the provisions of the preceding paragraphs of this Article those organisations with less than four employees shall not be required to name an authorised person and shall not be required to conduct internal control as provided by this Law.

Chapter III

DUTIES AND COMPETENCIES OF THE OFFICE FOR MONEY LAUNDERING PREVENTION OF THE REPUBLIC OF SLOVENIA

Article 13

The Office shall be a constituent body of the Ministry of Finance and shall perform duties related to the prevention and detection of money laundering activity and shall perform other duties as stipulated by law.

1. Money laundering detection

Article 14

The Office shall receive, collect, analyse and forward data, information and the documentation received in accordance with the provisions of this Law.

Article 15

(1) If the Office considers that there exist reasons for suspicion of money laundering activity in connection with a transaction or a certain person, it may demand from the organisation the information listed in paragraph 1 of Article 38 of this Law, data on the state of property and on the bank deposits of such a person as well as all other data and information which are needed for money laundering detection.

(2) In such cases as referred to in the preceding paragraph of this Article the organisation shall be obliged to forward to the Office on its request also all other necessary documentation.

(3) The Office may request from organisation written information, data and documentation on the performance of duties as provided by this Law as well as other information, which the Office requires for conducting supervision.

(4) The organisation shall forward the data, information and documentation referred to in the preceding paragraphs of this Article to the Office without delay and at the latest within 15 days of receiving the request from the Office.

(5) In cases of extensive documentation or due to other justified reasons the Office may upon written request extend, by written notification, the deadline determined in paragraph 4 of this Article and it may, in such cases inspect the documentation in the organisation.

Article 16

(1) The Office may issue a written order temporarily postponing a transaction if the Office believes that there exist well-founded reasons to suspect money laundering and it shall inform the competent bodies thereof.

(2) In urgent cases the order may be issued verbally but the Office shall be obliged to submit a written order to the organisation the following working day, at the latest.

(3) The temporary postponement of a transaction may last no longer than 72 hours.

(4) Regarding the temporary postponement of a transaction and in the case of a need to gather additional information, during pre-criminal procedure or during the criminal procedure period or due to other justified reasons, the Office may give the organisation instructions on the procedure with the persons concerned by the transaction.

(5) The competent bodies referred to in paragraph 1 of this Article shall be obliged to act very promptly after receiving notification and shall, within 72 hours from the temporary postponement of the transaction take measures in accordance with their competencies.

Article 17

(1) If the Office finds within the time provided in paragraph 3 of Article 16 that the reasons for suspicion of money laundering no longer exist, it shall inform the organisation, which may then execute the transaction immediately.

(2) If the Office does not act within the time provided in paragraph 2 of Article 11 of this Law, the organisation may proceed with the transaction immediately.

Article 18

(1) If the Office considers that there exist reasons for suspicion of money laundering in connection with a transaction or a certain person, it may request from *a lawyer, law firm, notary*, an audit company, an independent auditor and legal or natural person performing accountancy services or tax advisory services, for data, information and documentation which are needed for money laundering detection.

(2) The Office may request from *a lawyer, law firm, notary*, an audit company, an independent auditor and legal or natural person performing bookkeeping services or tax advisory services, for written information, data and documentation concerning the performance of their duties under this Law, and may request for other information required to carry out control.

(3) Regarding the deadlines for forwarding the data, information and documentation referred to in the preceding paragraphs of this Article the provisions of paragraphs 4 and 5 of Article 15 of this Law shall meaningfully apply.

Article 19

(1) If the Office considers that there exists reason for suspicion of money laundering in connection with a transaction or a certain person, it may demand from state authorities and from organisations with public authorisation the data, information and documentation which are needed for money laundering detection.

(2) The Office may also demand from state authorities and from organisations with public authorisation the data, information and documentation required for initiating criminal proceedings under this Law.

(3) State authorities and organisations with public authorisation shall forward to the Office the data, information and documentation referred to in the preceding paragraphs within 15 days of receipt of the request or shall allow the Office, without compensation, direct electronic access to certain data and information.

Article 20

The Office may start investigating a case in which a transaction or a particular person raises suspicion of money laundering also on the basis of a substantiated written initiative from the court, Public Prosecution Office, the Slovene Intelligence and Security Agency, the Bank of Slovenia, Agency for the Securities Market, Agency for Insurance Supervision or the inspectorate bodies of the Ministry of Finance.

a) International cooperation

Article 21

(1) The Office may, in connection with the prevention and detection of money laundering, request for specific data, information and documentation from foreign authorities and international organisations.

(2) The office may forward the acquired data, information and documentation to foreign authorities on their request or upon its own initiative, under the condition of effective reciprocity.

(3) Prior to forwarding personal data to foreign authorities (users) the Office shall obtain assurance that the country to which the data is being forwarded has a regulated system of personal data protection and that the foreign authority (the user) shall use the data solely for the purposes stipulated by this Law.

b) Notification about suspicious transactions

Article 22

(1) If the Office considers on the basis of data, information and documentation obtained under this Law that there exists reason for suspicion of money laundering in connection with a transaction or a certain person, it shall notify in writing and submit the necessary documentation to the competent authorities.

(2) In the notification referred to in the preceding paragraph, the Office shall not state information about the employee from the organisation which forwarded first the information on the basis of paragraph 3 of Article 10 of this Law unless there are reasons to suspect that the organisation or its employee committed the criminal offence of money laundering or if the information is necessary in order to establish facts during criminal proceedings and if the submission of this information is requested for in writing by the competent court.

(3) Irrespective of the provision of paragraph 1 of this Article, the Office shall forward written notification to competent authorities also in cases whereby the Office considers, on the basis of data, information and documentation obtained under this Law, that there exist reasons to suspect, in connection with a transaction or a certain person, that the following criminal offences have been committed:

1. violation of the independent decisions of voters as stipulated in Article 162; acceptance of a bribe during elections as stipulated in Article 168; unjustified acceptance of gifts as stipulated in Article 247; unjustified offer of gifts as stipulated in Article 248; acceptance of a bribe as stipulated in Article 267; offer of a bribe as stipulated in Article 268 and unlawful procuration as stipulated in Article 269 and *criminal association as stipulated in Article 297* of the Penal Code (Official Gazette of the Republic of Slovenia, Nos. 63/94, Amendment 70/94, and 23/99);

2. Other criminal offences for which the law prescribes a prison sentence of five or more years.

c) Feedback

Article 23

Upon completion of investigations on a case for which reasons existed for suspicion of money laundering, the Office shall notify in writing the initiator referred to in Article 29 of this Law and the informant referred to in paragraph 3 of Article 10 and in paragraph 1 of Article 28 of this Law, unless the Office judges that such action may jeopardise further procedures.

2. Money laundering prevention

Article 24

The Office shall perform duties related to the prevention of money laundering in such a manner that it shall:

1. propose to competent bodies changes and amendments to regulations concerning the prevention and detection of money laundering;

2. participate in drawing up the list of indicators for recognising suspicious transactions;

3. participate in the professional training of the staff of organisations, state bodies, organisations with public authorisations, *lawyers, law firms, notaries,* audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services;

4. publish, at least once annually, statistical data in the field of money laundering and inform in an appropriate manner the public about the various forms of money laundering activity.

3. Reporting to the Government

Article 25

The Office shall submit to the Government a report on its work at least once annually.

4. Other duties

Article 26

The Office shall forward to the court on its written request certain information from the records of persons and transactions referred to in paragraphs 1 and 2 of Article 10 and in Article 27 of this Law, which the court needs for the purposes of investigating the circumstances vital for the establishment and dispossession of financial profit in accordance with the provisions of the Criminal Proceedings Act.

Chapter IV
DUTIES OF STATE BODIES, ORGANISATIONS WITH PUBLIC AUTHORISATIONS, *LAWYERS, LAW FIRMS, NOTARIES*, AUDIT COMPANIES, INDEPENDENT AUDITORS AND LEGAL OR NATURAL PERSONS PERFORMING ACCOUNTANCY SERVICES OR TAX ADVISORY SERVICES

1. Customs administration authorities

Article 27

Customs administration authorities shall be obliged to forward to the Office within 3 days information about every carrier transporting across the state border cash and securities exceeding the amount of 3,000,000 tolars.

2. *Lawyers, law firms, notaries,* audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services

Article 28

(1) If a lawyer, law firm, notary, an audit company, an independent auditor or legal or natural person performing accountancy services or tax advisory services discovers during the performance of his work that there exist reasons for suspicion of money laundering in connection with a transaction or a particular person, the said shall notify the Office in writing at the latest within three days of finding the reasons for suspicion.

(2) The obligation to report information from the preceding paragraph is in force for a lawyer, law firm and a notary only when he:

1. assists in the planning or execution of transactions for his client concerning the

(a) buying and selling of real property or business entities;

(b) managing of client money, securities or other assets;

(c) opening or management of bank, savings or securities accounts;

(d) organisation of contributions necessary for the creation, operation or management of companies;

(e) creation, operation or management of trusts, companies or similar structures;

2. or when he is acting on behalf of and for his client in any financial or real estate transaction.

(3) By way of derogation from the preceding paragraphs of this Article a lawyer, law firm and a notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services, shall in all cases when a client is seeking advice from them for money laundering, they shall report this to the Office in the manner and the time limit from the paragraph 1 of this Article.

(4) A lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services shall report to the Office the information from paragraph 7 of Article 38 of the Law in the manner prescribed by the minister, competent for finance.

Article 28a

(1) When a lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services establishes a business relationship with a client and in instances from paragraphs 2 and 11 of Article 5 of this Law, he shall perform identification at the same time.

(2) By way of derogation from the preceding paragraph of this Article a lawyer, law firm and a notary, performs identification from the previous paragraph only when conducting business from the paragraph 2 of Article 28 of this Law.

(3) In case of identification at the establishment of a business relationship the information from points 1, 2, 3, and 4 from paragraph 7 of Article 38. of this Law shall be recorded.

(4) In case of identification referring to paragraph 2 of Article 5 of this Law the information from points 1, 2, 5, 6, 7, and 8 from paragraph 7 of Article 38 of this Law shall be recorded. When certain information is obtained already on the basis of the previous paragraph, only the missing information is recorded.

(5) In case of identification referring to paragraph 11 of Article 5 of this Law the information from paragraph 7 of Article 38 is recorded.

(6) A lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services obtains data from points 1 and 2 of paragraph 7 of Article 38 of this Law by examination of the client's official personal identification documents or from original or attested documentation from a court or other public register, that shall not be older than 3 months.

(7) On conditions from paragraph 3 of Article 8 of this Law, which relate to a legal person, a fiduciary or a similar company of the foreign law, a lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services obtains information from point 3 of paragraph 7 of Article 38 of this law by examination of the original or attested documentation from a court or other public register, that shall not be older than 3 months. If all the information cannot be obtained from the court register or any other public register, the missing data is obtained by examining the acts and business documentation that are presented by the authorised person of the legal person.

(8) A lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services obtains information from points 4, 5, 6, 7, 8, 9, 10 and 11 of paragraph 7 of Article 38 of this Law is by examining the acts and business documentation.

(9) When the information cannot be obtained in manner prescribed in this Article, the missing information, except the data from points 9, 10 and 11 of paragraph 7 of Article 38 of this Law, is obtained from the client.

(10) A lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services shall ensure the professional training of all his staff performing duties provided by this Law and shall draw up a list of indicators for the prevention of suspicious transaction.

Article 28b

(1) Provisions of the paragraphs 1 and 2 of Article 28 of this Law do not apply for a lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

(2) Under conditions of the previous paragraph a lawyer, law firm, notary, an audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services is not obliged to forward the data, information and documentation on the basis of a request of the Office from paragraph 1 of Article 18 of this Law. In this case he shall inform the Office in writing, in the time limit from paragraph 4 of Article 15 of this Law, on the reasons why he has not acted in accordance with the request of the Office.

3. Forwarding of statistical data

Article 29

(1) To enable the centralisation and analysis of all data related to money laundering courts, Public Prosecution Offices and other state authorities shall forward to the Office data on offences as provided by this Law and data on criminal offences of money laundering.

(2) State authorities shall be obliged to forward regularly to the Office the following information: date of filing criminal charge, name, surname, date of birth and address, or the name of the company and seat of the denounced person, statutory definition of the criminal offence and the place, time and manner of committing the action which has signs of a criminal offence.

(3) Public Prosecution Offices and courts shall be obliged to forward twice annually to the Office the following information: name, surname, date of birth and address, or the name of the company and seat of the denounced person, a person in connection with whom an order for the temporary protection of the request for the seizure of financial profit, or a person against whom a request for initiating criminal proceedings has been filed, the stage of proceedings and their final decision in each individual stage of proceedings, the statutory definition of the criminal offence or transgression, and the amount of money seized or the value of unlawfully acquired assets and the date of seizure.

4. Participation in the preparation of the list of indicators

Article 30

The Bank of Slovenia, the Securities Market Agency, Agency for Insurance Supervision, Office for Gaming Supervision, the Slovene Audit Institute and the body competent for supervising the performance of tax advisory services (hereinafter referred to as the supervision bodies) shall cooperate with the institutions under their supervision, in drawing up the list of indicators for recognising the suspicious transactions referred to in paragraph 2 of Article 12 and *paragraph 10 of Article 28.a* of this Law.

Chapter V
PROTECTION AND KEEPING OF DATA AND RECORD KEEPING

Article 31

(1) The organisation, audit company, independent auditor or legal or natural person performing accountancy services or tax advisory services and their staff shall not reveal to a client or third person the forwarding to the Office of the data, information or documentation about the client or transaction referred to in paragraph 3 of article 10, paragraphs 1, 2 and 3 of Article 15, paragraphs 1 and 2 of Article 18 and paragraph 1 of Article 28 of this Law, or that the Office has in accordance with the provisions of Article 16 of this Law temporarily postponed the transaction or gave the organisation instructions in this connection.

(2) Information about a request or about the forwarding of data, information or documentation and about the temporary postponement of a transaction or about the instructions referred to in the preceding paragraph of this Article shall be official secret.

(3) The Director of the Office shall decide on the lifting of the classification referred to in the preceding paragraph.

(4) Provisions of the previous paragraphs of this Article that refer to the official secret, are also mutatis mutandis used with regard to lawyers, law firms and notaries except, when they forward to the Office data in accordance with the paragraph 1 of Article 28 of this Law.

Article 32

(1) When forwarding data, information and documentation to the Office under this Law, the obligation to protect bank secrecy, business and official secrecy shall not apply to an organisation, an organisation with public authorisation, state body, court, *lawyer, law firm, notary,* audit company, independent auditor or to a legal or natural person performing accountancy services or tax advisory services and their staff.

(2) The organisation, *a lawyer, law firm, notary, an* audit company, independent auditor and a legal or natural person performing accountancy services or tax advisory services shall not be liable for damage caused to clients or to third persons due to their submission of data, information or documentation to the Office or due to the implementation of the Office's order to temporarily postpone a transaction or for complying with the instructions issued in connection with the said order in accordance with the provisions of this Law or in accordance the regulations passed on the basis of this Law.

Article 33

The Office, state bodies, organisations, organisations with public authorisation, *lawyers, law firms, notaries*, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services and their staff may use the data, information and documentation obtained under this Law solely for the purposes stipulated hereof.

Article 34

(1) The organisation shall keep the information obtained on the basis of Articles 5, 6, 7, 8, 9 and 9a of this Law and the corresponding documentation for at least ten years after the completion of the transaction, closure of the account or termination of the validity of the contract.

(2) The organisation shall keep the information and corresponding documentation on the authorised person and deputy authorised person, on the professional training of the staff and the execution of internal control referred to in Article 12 of this Law for at least four years after the appointment of the authorised person and deputy authorised person and after the completion of professional training and the execution of internal control.

(3) A lawyer, law firm, notary, audit company, independent auditor and a legal or natural person performing accountancy services or tax advisory services shall keep the information obtained on the basis of paragraph 1 Article 28a and corresponding documentation for at least 10 years after the completion of the identification.

(4) A lawyer, law firm, notary, audit company, independent auditor and a legal or natural person performing accountancy services or tax advisory services shall keep the information and corresponding documentation on the professional training of the staff for at least four years after the completion of professional training.

Article 35

Customs administration authorities shall keep information on the transport of cash and securities across the state border, for a period of twelve years from the date the transport was made. This data and information shall be destroyed after expiry of this period.

Article 36

(1) The Office shall keep data and information collected under this Law for twelve years from the date the data was obtained. This data and information shall be destroyed after expiry of this period.

(2) The Office shall not inform the person concerned that data about them has been compiled.

(3) The persons referred to in the preceding paragraph shall have the right to inspect their personal data ten years after the data has been obtained.

Article 37

(1) Organisations shall keep records of all clients and transactions referred to in Article 5 hereof.

(2) Customs administration authorities shall keep records of cross-border transport of cash and securities.

(3) *A lawyer, law firm, notary, audit company, independent auditor and a legal or natural person performing accountancy services or tax advisory services shall keep records on clients and transactions from the paragraph 1 of Article 28a of this Law.*

(4) The office shall keep the following:

1. records of the persons and transactions referred to in Article 10 of this Law,
2. records of the initiatives received in accordance with the provisions of Article 20 of this Law,
3. records of the personal data sent abroad in accordance with the provisions of Article 21 of this Law,
4. records of notifications and the information referred to in Article 22 of this Law,
5. records of the reports referred to in paragraph 1 of Article 28 of this Law,
6. records of the offences and criminal offences referred to in Article 29 of this Law.

Article 38

(1) The records of clients and transactions referred to in Article 5 of this Law shall include the following data:

1. the company name, seat and registration number of the legal person opening an account, establishing a permanent business relation or conducting the transaction or of the legal person on whose behalf the account is being opened, a permanent business relation is being established or the transaction is being carried out;
2. the name, surname, permanent address, date and place of birth and the income tax number of the employee or authorised person who, on behalf of a legal person is opening an account, establishing a permanent business relation or conducting the transaction, and the number and name of the authority that issued the official personal identification document;

3. *the name, surname, permanent address, date and place of birth and the income tax number of the natural person who is opening an account, establishing a permanent business relationship enters into the premises of a gaming house or other concessionaire for special games or conducts the transaction, or of the natural person on whose behalf the account is being opened, a permanent business relationship is being established or the transaction is being carried out, and the number and name of the authority that issued the official personal identification document;*
4. reasons for opening the account or for establishing a permanent business relation and information about the activities of the client;
5. *date of opening the account or of establishing a permanent business relationship or of the entry into the premises of a gaming house or other concessionaire for special games*;
6. date of the transaction;
7. time of execution of transaction;
8. amount of the transaction and currency in which the transaction is being carried out;
9. purpose of the transaction and the name, surname and address or name of the company and seat of the person to whom the transaction is being directed;
10. manner of executing the transaction;
11. name and surname or company and seat of the person sending the order in case of transfers from abroad;
12. information about the source of money or property that is subject of the transaction; and
13. reasons for suspicion of money laundering;
14. *name, surname, permanent address, date and place of birth of every natural person, who indirectly or directly owns at least 20% of the business share, stocks or other rights, on which grounds he participates in the managing of the legal person or he participates in the capital of the legal person with at least 20% share or has the commanding position in managing the funds of the legal person.*

(2) The records of the transport of cash and securities across the state border shall include the following data:

1. the name, surname, permanent address and date and place of birth of the natural person who is transporting cash or securities across the state border;
2. the name of the company and seat of the legal person or the name, surname and permanent address of the natural person on whose behalf the transport of cash or securities across the state border is being carried out;
3. the amount, currency, type and purpose of transaction and place, date and time of crossing the state border; and
4. information whether the transaction was reported to the customs service authorities.

(3) The records of the persons and transactions referred to in Article 10 of this Law shall include the information listed in paragraph 1 of this Article.

(4) The records of the received initiatives referred to in Article 20 of this Law shall include the following data:

1. the name, surname, date of birth, permanent address or name of the company and seat of the person in connection with whom there exist reasons for suspicion of money laundering;
2. information about the transaction in connection with which there exist reasons for suspicion of money laundering (amount, currency, date or period of execution of transaction); and
3. reasons for suspicion of money laundering.

(5) The records of the personal data sent abroad referred to in Article 21 of this Law shall include the following data:

1. the name, surname, date of birth and permanent address or name of the company and seat of the person whose data is being sent abroad; and
2. the name of the country and title of the authority to which the data is being sent.

(6) The records of notifications and the information referred to in Article 22 of this Law shall include the following data:

1. the name, surname, date of birth and permanent address or name of the company and seat of the person in connection with whom the Office forwarded notification or information;
2. information about the transaction, in connection with which there exist reasons for suspicion of money laundering (amount, currency, date or period of execution of transaction); and
3. reasons for suspicion of money laundering and statutory definition of predicate offence or reasons for suspicion of criminal offences referred to in paragraph 3 of Article 22 of this Law.

(7) *The records of the reports referred to in paragraph 1 of Article 28a of this Law shall include the following data:*

1. *name, surname, permanent address, date and place of birth of the natural person or the name of the company and seat of the legal person or a natural person who individually performs business activity for whom a lawyer, law firm and a notary performs services, or for whom auditing is being conducted or for whom accountancy services or tax advisory services are being performed;*
2. *the name and surname, date of birth and permanent address of the employee or an authorised person, who establishes* ***permanent*** *business relationship or carries out the transaction for the legal person mentioned in the previous point;*
3. *data from the point 14 paragraph 1 of Article 38 with regard to the legal person, for which a lawyer, law firm or a notary performs services, or on whom auditing is being conducted or for whom accountancy services or tax advisory services are being performed;*
4. *date of establishing the business relation;*
5. *date of carrying out the transaction;*
6. *the amount of transaction and the currency in which the transaction was performed;*
7. *purpose of transaction and the name, surname and permanent residence or the firm of a legal person and the seat of the person, for whom the transaction is intended;*
8. *the manner of performing the transaction;*

9. *name, surname, date of birth and permanent residence or the firm of a legal person and the seat of the person, in connection with whom there exist reasons for suspicion of money laundering;*
10. *information about the transaction in connection with which there exist reasons for suspicion of money laundering (amount, currency, date or period of execution of transactions); and*
11. *reasons for suspicion of money laundering.*

(8) The records of offences and criminal offences referred to in Article 29 of this Law shall include the following data:

1. the name, surname, date of birth and permanent address, or the name of the company and seat of the denounced person, a person in connection with whom an order for the temporary protection of the request for seizure of financial profit, or a person against whom a request for initiating criminal proceedings has been filed;
2. place, time and manner of committing an action which has signs of a criminal offence or transgression;
3. the stage of proceedings on the case, the statutory definition of the criminal offence of money laundering and the predicate offence or the statutory definition of the transgression; and
4. the amount of money seized or the value of unlawfully acquired assets and the date of repossession.

(9) Irrespective of the provisions of the preceding paragraphs of this Article, the records referred to in paragraphs 1, 2 and *4* of Article 37 of this Law shall not include the birth registration number and income tax number in the case of non-residents.

Article 39

All data, information and documentation from personal data records shall be forwarded to the Office under this Law free of charge.

Chapter VI
INSTRUCTIONS ON THE IMPLEMENTATION OF TASKS AND ON THE COMPULSORY INCLUSION OF INDICATORS

Article 40

(1) The minister competent for finance shall prescribe detailed instructions about the authorised person, the manner of conducting internal supervision, the keeping and protection of data, record keeping and the professional training of the staff of organisations, *lawyers, law firms, notaries,* audit companies, independent auditors and legal or natural persons performing accountancy or tax advisory services under this Law.

(2) The minister competent for finance may prescribe the compulsory inclusion of specific indicators on the list of indicators for recognising suspicious transactions.

Chapter VII
SUPERVISION

Article 41

The implementation of the provisions of this Article by organisations, *lawyers, law firms, notaries,* audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services shall be supervised, within their individual competencies, by the Office and the supervision bodies referred to in Article 30 hereof.

Article 42

(1) If the supervision bodies discover a violation referred to in Articles 45, 46 or 47 of this Law, under provisions of other laws which govern the operation of organisations, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services, they shall order the implementation of the appropriate control measures and shall without delay notify in writing the Office about the violations discovered.

(2) The notification referred to in the preceding paragraph shall include especially the following data: name, surname, date of birth and permanent address of the natural person or, name of company and seat of the legal person suspected of committing the offence, place, time and manner of committing the action which has signs of an offence, and information as to whether supervision bodies ordered any control measures under their competencies. The notification shall be accompanied by the documentation providing evidence of the violation.

Articles 43

(1) The Office shall monitor the implementation of the provisions of this Law by gathering and comparing data, information and the documentation received on the basis of the provisions of this Law.

(2) If during monitoring the Office discovers a violation of the provisions of this Law, it may:

4. demand that the of organisation, *lawyer, law firm, notary,* audit company, independent auditor and legal or natural person performing accountancy services or tax advisory services, removes the violation, in case of such an offence as referred to in points 1, 2 and 3 of paragraph 1 of Article 46 or in Article 47 of this Law, provided the consequences of the offence can be eliminated subsequently;
5. propose to supervision bodies to implement the appropriate control measure within their competencies;
6. request for the initiation of administrative proceedings under this Law.

(3) When taking the decision about the measure referred to in the preceding paragraph the Office shall take into account the circumstances under which the offence was committed, repetition of the offence and the control measures imposed by another supervisory body on the organisation *or on another obliged entity from the Article 41 of this Law.*

(4) Regarding the deadline for the removal of the offence referred to in point 1 of paragraph 2 of this Article, paragraphs 4 and 5 of Article 15 of this Law shall meaningfully apply.

Article 44

(1) The Office shall notify the competent supervisory body upon filing a request for the initiation of administrative proceedings under this law.

(2) The Office informs the Chamber of Lawyers and the Chamber of Notaries, if the request has been filed against a lawyer, law firm or a notary.

Chapter VIII
PENALTY PROVISIONS

Article 45

A legal person who has committed a minor offence shall be fined from a minimum of 3,000,000 tolars to a maximum of 30,000,000 tolars:

1. *for failure to identify the client opening an account, establishing a permanent relationship, entering into the premises of a gaming house or other concessionaire for special games or carrying out a transaction or when there exist reasons in connection with the client for suspicion of money laundering or when the identification is performed contrary to paragraph 2, 3, or 4 of Article 9a of this Law (Article 5, Article 9a and paragraph 1 of Article 28a);*
2. *for failure to forward to the Office the prescribed information or for failure to notify the Office within the stipulated period (paragraphs 1, 2 and 3 of Article 10, Article 11 and paragraph 4 of Article 28);*
3. *for failure to forward to the Office the required data, information and documentation or for failure to forward them within the stipulated period (paragraphs 1, 2, 3 and 4 of Article 15, Article 18 and paragraph 2 of Article 28b);*
4. for failure to implement the Office's order to temporarily postpone a transaction or failure to implement the instructions issued by the Office in connection with the order (paragraphs 1 and 4 of Article 16);
5. *for failure to forward to the Office information about a transaction or a particular person in connection with whom there exist reasons for suspicion of money laundering or failure to forward them within the prescribed period (paragraphs 1 and 2 of Article 28);*

6. *for failure to keep data and documentation for at least ten years after the completion of the transaction, entry into the premises of a gaming house or other concessionaire for special games, closing of the account or the termination of the validity of the contract (paragraphs 1 and 3 of Article 34);*
7. *for failure to keep records of clients and transactions (paragraphs 1 and 3 of Article 37);*
8. *if the records do not include the prescribed data (paragraphs 1 and 7 of Article 38).*

(2) The responsible person working for the legal person shall be fined from a minimum of 300,000 tolars to a maximum of 1,500,000 tolars for committing an offence referred to in paragraph 1 of this Article.

(3) A natural person conducting independent activity shall be fined from a minimum of 750,000 tolars to a maximum of 15,000,000 tolars for committing an offence referred to in paragraph 1 of this Article.

Article 46

(1) A legal person who has committed a minor offence shall be fined from a minimum of 1,000,000 tolars to a maximum of 10,000,000 tolars:

1. *for failure to acquire all the data required for identification (Article 6, paragraph 4 of Article 8, Article 9a and paragraphs 3, 4 and 5 of Article 28a);*
2. *for failure to forward to the Office the prescribed information or for failure to forward the information in the prescribed manner (Article 10 and paragraphs 4 and 5 of Article 28);*
3. *for failure to ensure internal control (paragraph 2 of Article 12) or for failure to draw up a list of indicators for recognising suspicious transactions within the prescribed period or in the prescribed manner (paragraph 2 of Article 12, paragraph 10 of Article 28a and paragraph 3 of Article 49);*
4. *for failure to keep data and documentation on the implementation of internal control for at least four years after conducting internal control (paragraph 2 of Article 34).*

(2) The responsible person working for the legal person shall be fined from a minimum of 100,000 tolars to a maximum of 500,000 tolars for committing an offence referred to in paragraph 1 of this Article.

(3) A natural person conducting independent activity shall be fined from a minimum of 250,000 tolars to a maximum of 5,000,000 tolars for committing an offence referred to in paragraph 1 of this Article.

Article 47

(1) A legal person who has committed an offence shall be fined from a minimum of 100,000 tolars to a maximum of 1,000,000 tolars:

1. *for failure to obtain identification data in the prescribed manner (Article 7, paragraphs 1, 2 and 3 of Article 8, Article 9a and paragraphs 6, 7, 8 and 9 of Article 28a);*
2. for failure to re-identify at least once a year a foreign legal person (paragraph 2 of Article 9);
3. *for failure to appoint an authorised person and his deputy (paragraph 1 of Article 12) of for failure to ensure the professional training of staff (paragraph 2 of Article 12 and paragraph 10 of Article 28a);*
4. *for failure to keep data in the corresponding documentation on the authorised person and deputy authorised person and on the professional training of staff for at least four years after the appointment of the authorised person and deputy authorised person or after completion of the professional training (paragraphs 2 and 4 of Article 34).*

(2) The responsible person working for the legal person shall be fined from a minimum of 10,000 tolars to a maximum of 50,000 tolars for committing an offence referred to in paragraph 1 of this Article.

(3) A natural person conducting independent activity shall be fined from a minimum of 25,000 tolars to a maximum of 500,000 tolars for committing an offence referred to in paragraph 1 of this Article.

Article 48

The conducting of minor offence proceedings referred to in Articles 45 and 46 of this Law shall not be acceptable after a period of two years from the day the administrative offence was committed and shall not be possible at all after four years from the day the administrative offence was committed.

Chapter VIII
TRANSITIONAL AND FINAL PROVISIONS

Article 49

(1) The minister competent for finance shall issue the Act referred to in paragraph 1 of Article 40 hereof within 90 days of the entering into force of this Law.

(2) The minister competent for finance shall issue the Act referred to in paragraph 6 of Article 5 and in paragraphs 4 and 5 of Article 10 hereof within 90 days of the entering into force of this Law.

(3) Organisations, audit companies, independent auditors and legal or natural persons performing accountancy services or tax advisory services shall draw up the list of indicators for recognising suspicious transactions not later than six months after the entering into force of this Law.

Article 50

The provisions of this Law concerning the body competent for supervising the operation of tax advisory services shall become effective from the day of the entry into force of the law governing the field of tax advisory services.

Article 51

(1) The Law on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 36/94, 63/95 and 12/96) shall cease to apply from the day of entry into force of this Law.

(2) Before entry into force of the Acts based on this Law the following regulations shall remain in force:

1. Order on the organisations that do not need to be identified during the execution of certain transactions (Official Gazette of the Republic of Slovenia, Nos. 1/96 and 118/2000);
2. Instructions on the manner of forwarding data to the Office of the Republic of Slovenia for Money Laundering Prevention (Official Gazette of the Republic of Slovenia, Nos. 1/96) and
3. Decree on the methodology for internal control in the organisations referred to in Article 2 of the Law on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, No. 62/96).

Article 52

This Law shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

FROM THE LAW ON CHANGES AND AMENDMENTS OF THE LAW ON PREVENTION OF MONEY LAUNDERING

(Official Gazette of the Republic of Slovenia No. 59/2002 from 5 July 2002)

TRANSITIONAL AND FINAL PROVISIONS

Article 29

(1) Minister, competent for finance, shall issue the Acts referred to in paragraph 9 of Article 5, paragraph 1 of Article 40, paragraphs 1 and 3 of Article 9a and paragraph 4 of Article 28 of this Law within 90 days of entering into force of this Law.
(2) Lawyers, law firms, notaries and legal or natural persons who are performing business activities connected with the organisation and execution of auctions and trading with works of art, shall draw up the list of indicators for recognising suspicious transactions not later than six months after the entering into force of this Law.

(3) Gaming houses and other concessionaires for special lottery games shall start with the identification on the basis of paragraph 7 of Article 2 of this Law within 90 days of entering into force of this Law.

Article 30

This Law shall enter into force on the fifteenth day after its publication in the Official Gazette of the Republic of Slovenia.

ANNEX 2 B

PENAL CODE

Article 69 - Confiscation of Objects Gained Through the Committing of Criminal Offence

1) Objects used or intended for use or gained through the committing of a criminal offence may be confiscated if they belong to the perpetrator.

(2) Objects under the preceding paragraph may be confiscated even when they do not belong to the perpetrator if that is required for reasons of general security or morality but the rights of other persons to claim damages from the perpetrator are not thereby affected.

(3) Compulsory confiscation of objects may be provided for by the statute even if the objects in question do not belong to the perpetrator.

Article 95 – Grounds for confiscation of property

(1) Nobody shall retain the property gained through or owing to the committing of a criminal offence.

(2) The property shall be confiscated according to the judgement passed on the criminal offence under conditions laid down in the present Code.

Article 96 - Method of Confiscation of Property

(1) Money, valuables and any other property benefit gained through or owing to the commission of a criminal offence shall be confiscated from the perpetrator or other beneficiary; when confiscation cannot be carried out, property equivalent to the property benefit shall be confiscated from them.

(2) When the property benefit or property equivalent to the property benefit cannot be confiscated from the perpetrator or other beneficiary, the perpetrator shall be obliged to pay a sum of money equivalent to this property benefit. In justified instances, the court may allow the sum of money equivalent to the property benefit to be paid by instalment, whereby the period of payment may not exceed two years.

(3) A property benefit gained through or owing to the commission of a criminal offence may also be confiscated from persons to which it was transferred free of charge or for a sum of money that does not correspond to its actual value, if such persons knew or could have known that this property had been gained through or owing to the commission of a criminal offence.

(4) When a property benefit gained through or owing to the commission of a criminal offence has been transferred to close relatives of the perpetrator of the criminal offence (relations from Article 230 of this Code) or when, for reason of the prevention of confiscation of property benefits under the first paragraph of this Article, any other property has been transferred to such persons, this property shall be confiscated from them unless they can demonstrate that they paid its actual value."

Article 97 - Protection of the Injured Party

(1) If the injured party has been awarded his claim for damages by the Criminal court, the latter shall order the confiscation of property only insofar as such property exceeds the adjudicated claim of the injured party.

(2) The injured party which has been committed by the criminal court to bringing its claim for the recovery of damages in a civil action may satisfy its claim from the value of the confiscated property, provided that it brings a civil claim within six months from the judgement directing it to bring a civil action and under the further condition that it claims settlement from the value of the confiscated property within three months from the judgement awarding its claim.

(3) Any injured party which has not brought its claim for compensation in the form of damages in the course of the criminal proceedings may satisfy its claim from the value of the confiscated property, provided that it brings a civil action for the adjudication of its claim within three months from the day it became aware of the decision confiscating the property but not later than two years after the final decision and with the further proviso that it claims settlement from the value of the confiscated property within three months from the judgement awarding its claim.

Article 98 - Confiscation of Property from Legal Person

Any property gained by a legal person through or owing to the committing of a criminal offence shall be confiscated. A property benefit or property equivalent to the property benefit shall also be confiscated from legal persons when the persons referred to in the first paragraph of Article 96 of this Code have transferred this property to the legal person free of charge or for a sum of money which does not correspond to its actual value."

ANNEX 2 C

CODE OF CRIMINAL PROCEDURE

Article 148

(1) If grounds exist for suspicion that a criminal offence liable to public prosecution has been committed, the police shall be bound to take steps necessary for discovering the perpetrator, ensuring that the perpetrator or his accomplice do not go into hiding or flee, detecting and preserving traces of crime or objects of value as evidence, and collecting all information that may be useful for the successful conducting of criminal proceedings.

(2) With a view to executing the tasks from the preceding paragraph the police may: seek information from citizens; inspect transportation vehicles, passengers and luggage; restrict movement within a specific area for a specific period of time; perform what is necessary to identify persons and objects; send out a wanted circular for persons and objects; inspect in the presence of the responsible person specific facilities, premises and documentation of enterprises and other legal entities, and undertake other necessary measures. The facts and circumstances established in individual actions which may be of concern for criminal proceedings, as well as the objects found and seized, shall be indicated in the record, or an official note shall be made thereon.

(3) The police may summon citizens and in summoning them shall be bound to indicate the reason for this. They may forcibly bring a citizen who has failed to appear after being summoned only if the citizen has been alerted to that possibility in the summons. In performing actions under the provisions of this Article, the police may not examine citizens as defendants, witnesses or experts except for the suspect in the case referred to in Article 148a of this Act.

(4) When in the course of information gathering the police establish that there are grounds to suspect that a particular person (the suspect) has perpetrated or participated in the perpetration of a criminal offence, they shall inform that person, before starting to gather information from him, what criminal offence he is suspected of and the grounds for suspicion, and shall instruct him that he is not obliged to give any statement or answer questions and that, if he intends to plead his case, he is not obliged to incriminate himself or his fellow beings or to confess guilt, that he is entitled to have a lawyer of his choosing present at his interrogation, and that whatever he declares may be used against him in the trial.

(5) If the suspect declares that he wants to retain a lawyer, the interrogation shall be put off until the arrival of the lawyer or until the time determined by the police which, nevertheless, may not be shorter than two hours. Other acts of investigation, except for those which it would be unsafe to delay, shall also be put off until the arrival of the lawyer. The interrogation of the suspect shall be conducted according to the provisions of Article 148.a of this Act.

(6) If the suspect states that he does not want to retain a lawyer or the lawyer does not arrive until the time determined by the police, an official note of the statement of the suspect shall be made. The note shall include the legal instruction given, the statement of the suspect and, in the event that the suspect wants to declare himself on the offence, the essence of his statement and comments thereon. The official note shall be read to the suspect and a copy thereof shall be delivered to him. The suspect shall by his signature acknowledge the receipt of the copy. The statement of the suspect may be recorded by a sound and picture recording device after the recording has been announced to the suspect."

(7) A person against whom an action or measure from the second and third paragraphs of this Article has been undertaken shall be entitled to lodge a complaint with the competent public prosecutor within three days.

(8) The police may upon filing a written motion and subject to permission from the investigating judge or the presiding judge also collect information from detainees if that is necessary for detecting other criminal offences and accomplices of a same person or criminal offences committed by other perpetrators. This information shall be collected during the period of time, and in the presence of the person designated by the investigating or presiding judge.

(9) On the basis of collected information the police shall draw up a crime report in which it shall set out evidence discovered in the process of gathering information. The crime report shall not include the contents of information disclosed by individual persons in the information gathering process. The agency shall enclose with the report the items, sketches, photographs, reports received, records of the measures and actions undertaken, official annotations, statements and other material which may be useful for the successful conducting of proceedings. If upon submitting the crime report the police learns of new facts, evidence or traces of the criminal offence, they shall gather the necessary information and send the public prosecutor a report thereon as a supplement to the crime report.

(10) The police shall send the public prosecutor a report even if the information gathered provides no basis for a crime report.

Article 164

(1) Internal affairs agencies may even before investigation has commenced seize objects as per Article 220 of the present Code if there is danger in delay and provided circumstances referred to in Article 218 of the present Code exist, and may conduct house search or personal search.

(2) If the investigating judge is late in coming to the scene of a crime, internal affairs agencies may themselves conduct the view and determine the necessary expert examination, except post mortem and exhumation. If the investigating judge arrives at the scene during the conducting of these acts he may take over and execute such acts by himself.

(3) Internal affairs agencies or the investigating judge shall be bound to notify the public prosecutor of acts from the first and second paragraphs of this Article without delay.

Article 220

(1) Objects which must be seized under the Penal Code, or which may prove to be evidence in criminal procedure, shall be seized and delivered to the court for safekeeping or secured in some other way.

(2) Custodians of such objects shall be bound to hand them over at the request of the court. A custodian who declines to deliver the objects may be fined under paragraph 1 of Article 78 of the present Code; if after being fined he still refuses to surrender them, he may be arrested. The detention shall last until the objects have been delivered or until the end of criminal proceedings, but no longer than one month.

(3) A complaint from the decision by which a fine or imprisonment were pronounced shall be determined by the panel (sixth paragraph, Article 25). A complaint against the decision on the imprisonment shall not stay the execution of the decision.

(4) Authorised internal affairs agencies shall be entitled to seize objects referred to in the first paragraph of this Article when proceeding under Articles 148 and 164 of the present Code or when executing orders of the court.

(5) The determination of the identity of objects seized shall be secured by indicating after seizure where they were found, by giving a description of the objects or, as the case may require, in some other way. A certificate of seizure shall be issued for the objects seized.

ANNEX 2 D

CODE OF CRIMINAL PROCEDURE

Article 100

(1) Claims for indemnification arising out of the commission of a criminal offence shall upon a motion by rightful claimants be dealt with in criminal procedure, provided that the determination of those claims does not significantly protract the procedure.

(2) A claim for indemnification may consist of a demand for compensation for damage, the recovery of property or the cancellation of a legal transaction.

PENAL CODE

Article 252 – Money laundering

(1) Whoever accepts, exchanges, stores, freely uses, uses in an economic activity or in any other manner determined by the law conceals or attempts to conceal by money laundering the true origin of money or property that was, to his knowledge, acquired through the commission of a criminal offence, shall be sentenced to imprisonment for up to five years.

(2) Whoever commits the offence under the preceding paragraph and is simultaneously the perpetrator of or participant in the criminal offence with which the money or property under the preceding paragraph were acquired shall be punished to the same extent.

(3) If money or property from the first or second paragraph of this Article are of considerable value, the perpetrator shall be sentenced to imprisonment for not more than eight years and punished by a fine.

(4) If an offences from the preceding paragraphs was committed within a criminal association for the commission of such criminal offences, the perpetrator shall be given a prison sentence of between one and ten years, as well as a fine.

(5) Whoever should and could have known that the money or property had been acquired through the commission of a criminal offence, and who commits the offences from the first and third paragraphs, shall be sentenced to imprisonment for not more than two years.

(6) Money and property under the first and second paragraphs of this Article shall be confiscated.

A N N E X 2 E

Pursuant to the second point of the ninth paragraph of Article 5 of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02), the Minister of Finance hereby issues a

DIRECTIVE
on the organisations, which do not have to be identified during the execution of certain transactions

Article 1

This Directive shall specify the organisations referred to in Article 2 of the Act on the prevention of money laundering, which do not have to be identified as a client during the execution of certain transactions, unless there are reasons to suspect money laundering activity.

Article 2

Identification shall not be necessary in case of:
- transactions between banks, savings banks, savings and credit houses, organisations performing payment transactions, the Post of Slovenia, companies for the management of investment funds, founders and managers of mutual pension funds, pension companies, the Ljubljana stock exchange, insurance companies and gaming houses;
- transactions between banks and bank loan brokers and between insurance companies and insurance policy brokers;
- transactions between banks and exchange offices related to the purchase or selling of foreign currency.

Article 3

With the day of the entering into force of this Directive, shall cease to be valid the Order on the organisations which do not have to be identified during the execution of certain transactions (Official Gazette of the Republic of Slovenia, No. 84/01).

Article 4

This Directive shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

ANNEX 2F

Pursuant to the first paragraph of Article 40 of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02), the Minister of Finance hereby issues a

DIRECTIVE
on the authorised person, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services

I. INTRODUCTION

Article 1

This Directive shall determine in detail the performance of the tasks determined in the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02; hereinafter referred to as the Act) as follows:

- the method of conducting internal control in the organisations referred to in Article 2 of the Act (referred to hereinafter as the organisations);
- the status of the authorised person and his/her deputy in the organisation and their competencies;
- the procedure for the drafting of the list of indicators for identifying suspicious transactions (hereinafter referred to as the list of indicators) in the organisation; at the lawyer's office; at the law firm; at the notary public's offices; at audit companies; at independent auditors' offices and at the legal or natural persons' offices providing accountancy services or tax advisory services; as well as its use;
- the method of keeping evidence on clients and transactions in organisations; at the lawyer's office; at the law firm; at the notary public's offices; at audit companies; at independent auditors' offices and at the legal or natural persons' offices providing accountancy services or tax advisory services;
- the method of protection of data on clients and transactions in organisations; at the lawyer's office; at the law firm; at the notary public's offices; at audit companies; at independent auditors' offices and at the legal or natural persons' offices providing accountancy services or tax advisory services;
- the expert training for the staff and the safekeeping of data on expert training in the organisation; at the lawyer's office; at the law firm; at the notary public's offices; at audit companies; at independent auditors' offices and at the legal or natural persons' offices providing accountancy services or tax advisory services.

Article 2

This Directive shall determine the minimum standards for performing internal control, which relate to the organisation of control and its execution as well as standards for the performance of other tasks as stipulated by the Act. The detailed rules shall be determined by the organisation, the lawyer, the law firm, the notary public, the audit company, the independent auditor and the legal or natural person providing accountancy services or tax advisory services, in their individual internal acts.

II. INTERNAL CONTROL

Article 3

The internal control over the performance of duties in accordance with the Act shall be a constitutive part of the control of the operation of the organisation.

The organisation shall ensure the regular monitoring of the implementation of the provisions of the Act, except when the organisation has less than four employees.

The purpose of the control shall be to prevent, detect and eliminate mistakes in the implementation of the act and to improve the internal system of detection of transactions or clients in connection with whom reasons exist to suspect money laundering.

Article 4

The internal control shall relate to the following:

- the obligation to perform an identification upon an organisation opening an account for a client or establishing a permanent business relation with the client; during the execution of a transaction or in case of several connected transactions which exceed the amount of 3,000,000 tolars; in connection with life insurance policies whereby a single payment of the premium or several payments of the premium that need to be paid in one year exceed the amount of 200,000 tolars or in case a one-off payment of a premium exceeds the amount of 500,000 tolars. Identification shall be required also in cases whereby a single payment of the premium or several payments of the premium that need to be paid in one year exceed the amount of 200,000 tolars; in pension insurance policies whereby the insurance policy may be transferred or may be used as collateral for taking a loan or credit; legal or natural persons engaged in business related to the activities of organizing or conducting of auctions or trade in works of art when carrying out cash transaction or several connected cash transactions exceeding the amount of 3,000,00 tolars; in each cash transaction or in the case of several connected cash transactions exceeding the amount of 5,000,000 tolars; for gaming houses and other concessionaires for special lottery games upon the client's entry into their premises or while the transaction is being executed at the cash desk; in the execution of a transaction on the basis of a savings account under a password or bearer savings account and each time whenever reasons exist for suspicion of money laundering activity in connection with a transaction or a client (Article 5 of the Act);

- the obligation to keep data and the corresponding documentation for 10 years after the completion of the transaction, after entry into the gaming house or into the premises of another concessionaire for special lottery games, after the closing of an account or the expiry of validity of a contract, as well as the obligation to keep records on the clients and transactions referred to in Article 5 of the Act (Articles 34 and 37 of the Act),
- the obligation to forward to the Office for Money Laundering Prevention of the Republic of Slovenia data regarding each cash transaction exceeding the amount of 5,000,000 tolars, several connected cash transactions that altogether exceed the amount of 5,000,000 tolars; and the obligation to forward information in all cases whenever reasons exist for suspicion of money laundering activity in connection with a transaction or a client (Article 10 of the Act);
- the obligation to postpone temporarily a transaction for a period not exceeding 72 hours in accordance with the Order issued by the Office for Money Laundering Prevention of the Republic of Slovenia for (hereinafter referred to as the Office) and the obligation to act in accordance with the instructions issued by the office concerning the procedure with the persons to whom the transaction relates (Article 16 of the Act),
- the obligation to forward data, information and documentation on clients and transactions, on the bank deposits and the state of property of certain persons as well as all other data and information required for the performance of duties as determined by the Act, on request from the Office (Article 15 of the Act);
- the obligation to name an authorised person and one or more deputies of the authorised person who shall forward information to the Office in accordance with Articles 10, 11 and 15 of the Act (Article 12 of the Act);
- the obligation to draw up a list of indicators for identifying suspicious transactions (Article 12 of the Act);
- the obligation to protect confidentiality concerning the forwarding of the information and documentation referred to in the third paragraph of Article 10, in the first, second and third paragraph of Article 15, in the first and second paragraph of Article 18 of the Act or that the Office temporarily postponed, pursuant to Article 16 of the Act, the transaction, or issued instructions to this effect to an organisation (Article 31 of the Act).

Article 5

The organisation and its management shall be responsible for establishing and organising the internal control.

With respect to the execution of the internal control, the internal act of the organisation shall determine and define the responsibilities among the organisation's management, the organisational units or branches, the authorised persons, the deputy authorised persons and other services of the organisation.

Article 6

The organisation shall prepare a written annual report on the execution of the internal control and measures. The report for the past year shall be prepared not later than the end of the month of May of the current year.
The report referred to in the preceding paragraph shall include especially data on the following:

- the number of cash and connected cash transactions exceeding 5,000,000 tolars that were reported;
- the number of transactions or clients in connection with whom there were reasons to suspect money laundering which were reported to the Office;
- the number of transactions or clients in connection with whom there were reasons to suspect money laundering which were reported to the authorised person but were not forwarded by him/her to the Office;
- the number of identifications performed during the opening of an account or establishing a permanent business relation without the presence of the client;
- the number of savings accounts by password or bearer on the last day of the year,
- the frequency of the use of particular indicators for identifying suspicious transactions in the notifications made to the authorised person;
- the number and findings of the controls which were conducted in the organisation in accordance with this Directive(for example, on the type of identified and corrected mistakes);
- the measures which were taken by the organisation on the basis of the findings of the control;
- computer support in connection with the implementation of the Act (for example, does such support facilitate the uninterrupted transfer of data to the Office and the centralised keeping of data on clients);
- the scope and contents of training programmes in the field of the prevention and detection of money laundering, data on the place and the persons that conducted the training programmes, the number of staff that attended the training and an evaluation of the needs for future training;
- the appropriateness of record keeping and safekeeping of data;
- measures for the protection of official secrets in the organisation;
- the organisation of a system of internal control and the evaluation of its implementation.

Article 7

The detailed procedures, the timetable and method of conducting the internal control shall be determined by the organisation with its internal act and in accordance with the provisions of the Act and the Directive hereof.

III. LIST OF INDICATORS FOR IDENTIFYING SUSPICIOUS TRANSACTIONS

Article 8

Organisations, lawyers, law firms, the notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall draw up a list of indicators.

The list of indicators shall be meant for the use of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services, to facilities an easier identification of the transactions and persons, in connection with whom there exist reasons to suspect money laundering.

Article 9

In the preparation of the list of indicators, the following shall participate: the Office, the Bank of Slovenia, the Securities Market Agency, the Agency for Insurance Supervision, the Office for Gaming Supervision, the Slovene Audit Institute and the body competent for supervising the performance of tax advisory services.

In the preparation of the list of indicators in the organisations, law offices, law firms, the notaries public offices, audit companies, independent auditors' offices and the legal or natural persons providing accountancy services or tax advisory services, participation shall be possible also for unions and associations whose members are liable persons.

Article 10

The principle of the knowledge of a client and its business operations, in particular, shall provide the basis for the preparation of the list of indicators.

When drawing up the list of indicators it shall be necessary to take into account especially the economic or legal illogical nature of a transaction, an unusual manner of business operation or conduct of a client and the circumstances in connection with the status or other characteristics of the client.

The list of indicators shall be constantly adapted to the various new forms of money laundering.

A constitutive part of the list of indicators shall also be the indicators prescribed in accordance with the Act by the minister responsible for finance.

IV. AUTHORISED PERSON

Article 11

The organisation shall be required, for the purposes of forwarding information to the Office and for the performance of other tasks as determined by the Act, to name an authorised person and one or more deputy authorised persons.

The deputy-authorised person shall substitute the authorised person during his/her absence and may perform other duties as stipulated by the Act, if the internal act of the organisation so provides.

The organisation shall forward to the Office data on the name, surname and job title of the authorised person and of the deputy authorised person and shall forward any changes to this data without delay and not later than 15 days from the day of appointment or change of data.

The internal acts shall clearly delimit the responsibilities between the authorised person and the deputy authorised person.

Irrespective of the provisions of the first paragraph of this Article, the organisations with less than four employees shall not be required to appoint an authorised person.

Article 12

The duties of the authorised person may be performed by a person:
- who has not been convicted or who is not under criminal procedure due to: premeditated criminal offences prosecuted ex officio and criminal offences for the disclosure of and unauthorised access to trade secret (Article 241 of the Penal Code, Official Gazette of the Republic of Slovenia, Nos. 63/94 and 23/99 - hereinafter referred to as the PC); money laundering (Article 252 of the PC); the misfeasance in office (Article 262 of the PC) or the disclosure of official secret (Article 266 of the PC), committed out of negligence;
- who has expert qualifications for the performance of tasks in the field of the prevention and detection of money laundering;
- who has good knowledge of the operations of the organisation in the areas where money laundering is likely to occur;
- holding such a high position in the organisational structure of the organisation which allows him/her a qualitative and timely performance of his/her duties.

The deputy-authorised person shall fulfil the conditions specified in the first, second and third indents of the preceding paragraph.

Article 13

The authorised person shall perform especially the following:

- shall be responsible for the appropriate and prompt forwarding of data to the Office in accordance with the Act;

- shall participate in the preparation of and making changes to the operational procedures and in the preparation of the provisions of the internal act in the organisation, which concern the prevention and detection of money laundering;
- shall participate in the preparation of the guidelines for performing control in connection with the prevention and detection of money laundering;
- shall participate in the preparation of the programme for the expert training and education of the staff employed in the organisation in the field of the prevention and detection of money laundering.

Article 14

The authorised person shall be obliged to forward information to the Office in accordance with the Act and in compliance with the executive regulations issued pursuant to the Act.

In forwarding information on persons or transactions in connection with which there exist reasons to suspect money laundering (third paragraph of Article 10 of the Act), the authorised person shall, himself, judge if the messages sent to him/her by other workers in the organisation present grounds for suspicion of money laundering. In the event that authorised person decides not to forward the message to the Office, he/she shall be obliged to make an official note on this, stating the reasons for such a decision.

Article 15

The obligations of the organisation towards the authorised person shall be especially the following:

- the organisation shall, on request by the authorised person, allow him/her access to the data, information and documentation necessary for the performance of his/her duties;
- the organisation shall provide the authorised person with the technical and other conditions required for the performance of his/her duties;
- the organisation shall offer the authorised person expert training in connection with the detection and prevention of money laundering;
- the organisation shall make sure that all the offices in the organisation provide assistance and support to the authorised person in the performance of his/her work and tasks;
- the organisation shall ensure that the authorised person is substituted during his/her absence by one or more of his/her deputies.

If, due to a large number of employees, extent of business operations or other justified reasons, the scope of duties in the field of the prevention and detection of money laundering in the organisation is permanently increased, the organisation shall allow the authorised person to perform this work and duties as his/her exclusive work obligations.

The obligation of the organisation stipulated in the third indent of the first paragraph of this Article shall apply also to the deputy authorised persons. The remaining provisions of the first paragraph of this Article shall meaningfully apply in accordance with the second paragraph of Article 11 of this Directive.

V. SAFEKEEPING OF DATA, RECORD KEEPING AND THE PROTECTION OF CONFIDENTIAL INFORMATION

Article 16

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall keep data and the corresponding documentation concerning the implementation of the Act in chronological order and in a way that enable access throughout the period of their keeping as provided by the Act.

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall keep separately from other records the data, information and documentation on transactions and persons in connection with whom there exist reasons to suspect money laundering and which are classified as confidential in Article 31 of the Act.

The documentation on expert training in organisations, lawyers' offices, law firms, notaries publics' offices, audit companies, independent auditors' offices and the legal or natural persons providing accountancy services or tax advisory services shall also include proof of the attendance of individual staff at seminars or other forms of education.

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall prescribe in their internal acts the detailed method of keeping data and documentation, as well as the area of storage.

Article 17

An organisation that forwards data to the Office through electronic mail shall keep the files on the activities relating to this data transfer, for ten years after the transfer is made.

Article 18

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall determine in detail in their internal acts, the level of confidentiality of data obtained, kept and forwarded to the Office in accordance with the Act, unless provided otherwise by the Act.

Access to the data referred to in the preceding paragraph shall be restricted. The internal acts shall determine who, in addition to the authorised person and the deputy authorised person, has access to the data referred to.

Article 19

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall keep separate records on access to the data, information and documentation referred to in the first paragraph of Article 31 of the Act. These records shall include data on the title of the body (the supervisory body stipulated in Article 30 of the Act, courts and other state bodies), on the person (name and surname) and the time of access (date and hour).

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall notify in writing the Office, within three days of examining the data, about each access to the data referred to in the preceding paragraph, allowed to the supervisory body stipulated in Article 30 of the Act.

VI. EXPERT TRAINING

Article 20

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall ensure the regular expert training and education of all their staff performing duties in the field of the prevention and detection of money laundering.

The expert training and education referred to in the preceding paragraph shall relate to getting informed about the provisions of the Act and to the executive regulations issued pursuant thereof, to the internal acts, the expert literature in the field of the prevention and detection of money laundering and to the lists of the indicators for identifying suspicious transactions as well as their application in practice.

Article 21

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall be obliged to prepare, not later than the end of the month of March for the current year, a programme of expert training and education in the field of the prevention and detection of money laundering.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 22

Organisations, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall harmonize or amend their internal acts in accordance with this Directive within 90 days of the entering into force of this Directive.

Article 23

With the day of entering into force of this Directive, shall cease to be valid the Instructions on the Authorised Person, the Method of Performing Internal Control, the Safekeeping and protection of Data, the Keeping of Records and Expert Training of the Staff in the Organisation, Audit Companies, Independent Auditors and the Legal or Natural Persons Providing Accountancy Services or Tax Advisory Services (Official Gazette of the Republic of Slovenia, No. 6/02).

Article 24

This Directive shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

A N N E X 2 G

Pursuant to the third paragraph of Article 9a of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02), the Minister of Finance hereby issues a

DIRECTIVE
on the determination of countries, which do not respect the standards concerning the prevention and detection of money laundering

Article 1

This Directive shall determine the list of countries, which according to information from international organisations or other competent international subjects and according to the information of the Office for Money Laundering Prevention of the Republic of Slovenia, do not respect the standards concerning the prevention and detection of money laundering.

Article 2

The countries referred to in the preceding Article shall be:
- countries of the African continent, with the exception of the South African Republic and Mauritius,
- countries in Asia and the Middle East, with the exception of Israel, Japan, the Republic of South Korea, the Republic of Singapore, the Thai Kingdom, the Republic of Turkey and the United Arab Emirates,
- the Cook Islands,
- the Republic of Guatemala,
- the Republic of Georgia,
- the Republic of Moldova,
- Ukraine,
- Serbia and Montenegro and
- Bosnia and Herzegovina.

Article 3

With the day of entering into force of this Directive, shall cease to be valid the Directive on the countries, which do not respect the standards concerning the prevention and detection of money laundering (Official Gazette of the Republic of Slovenia, No. 94/02).

Article 4

This Directive shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia

A N N E X 2 H

Pursuant to the first paragraph of Article 9a of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02), the Minister of Finance hereby issues a

DIRECTIVE
on the identification of a client upon opening an account or establishing a permanent business relation without the presence of the client

Article 1

This Directive shall determine the method of identifying a client who is not present upon opening an account or establishing a permanent business relation at the organisation referred to in the Article 2 of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02; hereinafter referred to as the Act).

Article 2

The organisation referred to in Article 2 of the Act (hereinafter referred to as the organisation) may, upon opening an account or establishing a permanent business relation, perform an identification of the client also without the client's presence but shall, in doing this, be obliged to establish undisputedly the identity of the client and to obtain the data referred to in the first paragraph of Article 6 of the Act, with the exception of the data referred to in point 14 of the first paragraph of Article 38 of the Act.

Article 3

The identity of a client who is a state body, an organisation with public authorisations or other organisation, may be established by a notary public seated in the Republic of Slovenia, instead of the organisation.

Article 4

Instead of the organisation, the identity of a client with non-resident status may be established by:

1. a notary public seated in a European Union Member State, with the exception of the Republic of Slovenia, and
2. a bank's correspondent bank seated in the Republic of Slovenia or the branch of a domestic bank abroad, under the following conditions:
   - the bank or branch of the bank is registered in a country which is not on the list of the countries referred to in the third paragraph of Article 9a of the Act,

- the bank is not a foreign legal person referred to in the fourth paragraph of Article 9a of the Act and
- the client already has an account open at the bank or at the branch of the bank or has already concluded a permanent business relation.

If the client is a citizen of the Republic of Slovenia and has permanent or temporary residence abroad, the client's identity may also be established, in addition to the subjects referred to in the preceding paragraph, by a diplomatic-consular representative of the Republic of Slovenia.

Article 5

The organisation shall, under the conditions referred to in Article 2 of this Directive, obtain the data referred to in point 1 of the first paragraph of Article 38 of the Act on state bodies, organisations with public authorisations, other organisations and foreign legal persons, from certified documentation from a court or other public register which shall not be older than three months.
The organisation shall obtain the data referred to in points 2 and 3 of the first paragraph of Article 38 of the Act from the photocopy of the official personal identity document of a client, verified by a notary public or certified by a diplomatic-consular representative of the Republic of Slovenia abroad or by a bank's correspondent bank or the branch of a domestic bank abroad.
The organisation shall obtain the data referred to in points 4 and 5 of the first paragraph of Article 38 of the Act from the documents and business documentation and from written declarations personally signed by the client.

Article 6

In the event of the identity of a client being established by a bank's correspondent bank seated in the Republic of Slovenia or by the branch of a domestic bank abroad, the organisation shall obtain the prescribed data and documentation directly from the bank's correspondent bank or the branch of the bank.

Article 7

The organisation may, upon opening of an account or establishing a permanent business relation without the presence of a client, additionally verify the data on a client, obtained in the way prescribed by this Directive, also from public and other accessible data sources, by establishing direct contact with the client over the telephone or by some other means.

Article 8

This Directive shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

A N N E X 2 I

SECURITIES MARKET ACT

Articles 336 to 368

19.6. Procedure of supervision
19.6.1 General provisions

Application of provisions
Article 336

(1) In the procedure of supervision, the Agency shall supervise compliance with the provisions of this Act, ZISDU, ZPre and ZNVP, as well as the regulations issued on the basis thereof.

(2) The provisions of this section on the procedure of supervision shall apply to all procedures of supervision conducted by the Agency on the basis of the provisions of this Act, ZISDU, ZPre and ZNVP, insofar as the law does not otherwise provide for an individual procedure of supervision.

Party to the procedure of supervision
Article 337

(1) The party to the procedure of supervision shall be the entity over which the Agency conducts supervision (hereinafter: subject of supervision).

(2) Parties to the procedure of supervision of a legal entity which was granted the authorisation to provide services by the Agency (hereinafter: authorised subject of supervision) shall also be the members of the management board of the authorised subject of supervision.

Serving of documents
Article 338

(1) A document shall be served on the subject of supervision who is a legal entity or individual entrepreneur by delivering it to a person authorised to accept it, or to an employee found in the office or on the premises.

(2) The serving of documents to the members of the management board of an authorised subject of supervision shall be carried out by delivery to the authorised subject of supervision. It shall be considered that by delivery to the authorised subject of supervision, delivery to the members of the management board of the authorised subject of supervision shall also be accomplished.

(3) When a party to the procedure of supervision is represented by an attorney, it shall be considered that the serving of a document has been accomplished if the document is delivered to the attorney or an employee in the attorney's office.

(4) To a subject of supervision other than persons under the first, second or third paragraphs hereunder, a document shall be served by handing it to him at his/her residence or in the business premises of the person by whom he/she is employed.

Substitute personal serving of documents
Article 339

(1) If the serving of a document which needs to be served personally cannot be accomplished as prescribed in Article 338 herein and it has not been established that the one to whom the document had to be served is absent, the server shall serve it to the Agency. At the door or in the mailbox of the residence or business premises of the addressee or of the person by whom he is employed, the server shall leave a written notice stating where the document is located and the deadline of eight days by which the addressee must pick it up. The server shall state in the notice and in the document itself the reason for such an action and the date on which he left the notice at the door or in the mailbox of the addressee or the person by whom he is employed, and shall sign it.

(2) If the addressee does not pick up the document within eight days, it shall be considered that the serving was accomplished on the day the notice was left at the door or in the mailbox of the locations under the preceding paragraph, of which the addressee must be advised in the notice itself.

Indirect serving of documents
Article 340

If the serving of a document which need not be served personally cannot be accomplished as provided in Article 338 herein, the server shall leave the document at the door or in the mailbox of the residence or business premises of the addressee or of the person by whom he is employed. The server shall state on the document the reason for and date of such delivery and shall sign it. It shall be deemed that the serving of the document has thereby been accomplished.

19.6.2. Conducting supervision

Conducting supervision
Article 341

The Agency shall conduct supervision:

1. by monitoring, collecting and verifying the reports and information of the subjects of the supervision and other persons required by the provisions of this Act, ZISDU or ZPre to report to the Agency or to inform it of individual facts and circumstances;

2. by conducting examinations of the operations of subjects of supervision.

Authorised persons
Article 342

Examinations of operations shall be conducted by an expert of the Agency, who shall be authorised by the director of the Agency to conduct the examination.

The director of the Agency may also authorise a certified auditor to conduct an individual examination of operations.

The director of the Agency may, on the basis of a prior consultation with the director of the stock exchange and/or clearing and depository house, authorise a person who is employed with the stock exchange and/or clearing and depository house and who performs tasks relating to supervision at the stock exchange and/or clearing and depository house to conduct individual tasks in connection with examinations of operations.

The authorised persons referred to in the second and third paragraphs hereunder shall have, in connection with the examinations for which they have been authorised by the director of the Agency, the same competencies as the Agency.

Extent of examination
Article 343

(1) In conducting the supervision of an authorised subject of supervision, the Agency may also examine the operations of legal entities related to the authorised subject of supervision, if this is necessary for the supervision of the authorised subject of supervision.

(2) The provisions of Articles 344 to 348 herein shall apply as appropriate to the supervision of operations of the entities referred to in the first paragraph hereunder.

Reports and information
Article 344

(1) During the conduct of supervision, the Agency may request from the subject of the supervision records and information on all matters which are, in view of the purpose of each supervision, of importance for judging whether the subject of supervision is observing the provisions of this Act, ZISDU, ZPre and/or ZNVP or the regulations issued on the basis thereof.

(2) The reports and information referred to in the first paragraph hereunder may also be requested by the Agency from members of the management board of the subject of supervision, and from persons employed by the subject of the supervision.

(3) The Agency may request that the persons referred to in the second paragraph hereunder provide, by a deadline which may not be shorter than three days, a written report on the matters under the first paragraph hereunder, or to make an oral statement on these matters.

Examinations of operations
Article 345

(1) The subject of the supervision must allow the authorised person of the Agency, at his/her request, to conduct an examination of operations at the headquarters of the subject of supervision, and at other locations in which the subject of supervision or another person, with his authorisation, performs activities and business in connection with which the Agency is conducting the supervision.

(2) The subject of the supervision must allow the authorised person of the Agency, at his request, to examine the books of account, business documents, and administrative or business records to the extent necessary for the conduct of an individual supervision or to the extent prescribed by the law regulating individual supervision.

(3) The subject of supervision must produce, at the request of the Agency, computer printouts or copies of books of account, business documents, and administrative or business records.

(4) The examination of operations under the first and second paragraphs hereunder shall be conducted by the Agency between the hours of 8 am and 6 pm. The Agency must conduct its examination in such a manner as to only hamper the normal operations of the subject of supervision to the extent necessary for the conduct of the examination in accordance with the purpose of each supervision.

Request for an examination of operations
Article 346

(1) The request for an examination of operations must be delivered to the subject of supervision at least eight days prior to the start of the examination of operations.

(2) Notwithstanding the provision of the first paragraph hereunder, the authorised person may deliver the request for an examination of operations as late as the beginning of the examination of operations if it would otherwise have been impossible to achieve the purpose of an individual supervision.

(3) The request for an examination of operations must contain a specific list of the books of account, business documents, and administrative or business records which are the subject of the examination.

(4) In the event referred to in the third paragraph of Article 345 herein, a request for an examination must contain a specific list of books of account, business documents, and administrative or business records which it will be necessary to submit in the form of computer print-outs or copies, and the deadline for their submission.

(5) The request for an examination of operations must also contain legal advice on the legal consequences which may occur if the subject of supervision fails to act in accordance with the request for the examination of operations or fails to allow the Agency to conduct an examination of operations in the manner prescribed in Article 345 herein.

(6) The Agency may, during the conduct of the examination of operations, supplement the request for an examination of operations. The third and fourth paragraphs hereunder shall apply to the supplementing of the request as appropriate.

Conditions for conducting an examination
Article 347

(1) The subject of a supervision must provide the authorised persons of the Agency with an appropriate area in which they can conduct the examination of operations undisturbed and without the presence of other persons.

(2) The subject of supervision must ensure that during the time in which the authorised persons of the Agency are conducting the examination of operations in the area under the first paragraph of Article 345 of this Act, authorised persons of the subject of the supervision are available who can provide explanations regarding the books of account, business documents, and administrative or business records which are the subject of the examination .

Conditions for the examination of computerised books of account and records
Article 348

(1) The subject of supervision which processes data by computer or keeps books of account and other records on computer must, at the request of the authorised person of the Agency, provide the appropriate assistance for the inspection of books of account and records, and for testing the appropriateness of the data processed by computer.

(2) The subject of supervision must provide the Agency with documents from which a complete description of the operation of the accounting system is evident. The documents must clearly show the subsystems and data banks. The documents must provide an insight into:
1. computer solutions;
2. procedures relating to computer solutions;
3. controls which ensure correct and reliable data-processing;
4. controls which prevent unauthorised additions, changes to, or deletions of saved computer entries.

(3) Every change to the computer solution (computer programmes) under the first paragraph hereunder must be documented according to the time sequence of the creation of the changes, together with the date of the change. The documents must also show every change to the form of databases.

19.6.3. Elimination of violations

Order
Article 349

(1) If the Agency finds, during the course of its audit, violations of this Act, ZISDU, ZPre and/or regulations issued on the basis thereof, it shall impose on the subject of supervision an order to eliminate the violations or irregularities, or to perform or omit the performance of specific acts (hereinafter: elimination of violations).
(2) Unless otherwise stipulated in this subsection, the provisions of Articles 321 and 322 herein shall apply to the order as appropriate.

Operative provisions of orders
Article 350

The operative provisions of an order must contain:
1. a specific description of the violations whose elimination is required by the order;
2. the deadline by which the subject of supervision must eliminate the violations and submit a report on the elimination of violations;
3. the manner of elimination of violations, where the Agency has ordered the subject of supervision to eliminate the violations in a specific manner;
4. documents on or evidence of the elimination of violations, where the Agency orders the subject of supervision to submit specific documents or other evidence on the elimination of violations.

Submission of reports on the elimination of violations by the certified auditor
Article 351

If the Agency finds violations in the keeping of books of account or in the administrative and other records which the authorised subject of supervision is required to keep, or considerable violations in the operations of the authorised subject of supervision, it may also order the authorised subject of supervision to submit a report on the elimination of violations containing the positive opinion of the authorised auditor that the established violations have been eliminated.

Appeal against an order
Article 352

(1) The subject of supervision shall have the right to file an appeal against the order within eight days.

(2) If the entitled person has filed an appeal on time, the deadline for the elimination of violations set by the order shall be extended for the duration of the period from the filing of the appeal to the issuing of the decision regarding the appeal.

(3) Notwithstanding the second paragraph hereunder, the Agency may, by order, decide that the appeal shall not delay its execution when, because of the nature of the violation, its execution cannot be delayed.

(4) The Agency shall be obliged to decide on the appeal within 15 days of the receipt of the appeal.

Grounds for appeal
Article 353

An appeal against an order shall be allowed on the following grounds:
1. if the order was issued by a person not authorised to issue orders;
2. if the violation whose elimination is required by the order does not exist;
3. if the act or omission which provided grounds for the issuing of the order does not have the characteristics of a violation;
4. if the order cannot be executed, or cannot be executed in the manner defined by the order;
5. if the execution of the order would cause an act which is contrary to the enforcing provisions;
6. if the order required the execution of the elimination of violations by a person the audit of whom does not lie within the competencies of the Agency;
7. if the order requires, contrary to law, the submission of a report on the elimination of violations by the certified auditor;
8. if the actual situation is stated erroneously or incompletely in the order.

Contents of an appeal
Article 354

(1) An appeal must contain:
1. a statement regarding the order against which it is filed;
2. a statement as to whether the order is being appealed against in its entirety or with regard to a specific part;
3. the grounds for the appeal;
4. other information which must be contained in every petition.

(2) In the appeal, the subject of supervision may state facts showing that the violations whose elimination was required by the order do not exist, and may submit evidence whereby he proves the existence of the facts stated. If the subject of supervision refers to documentary evidence in the statement, he must attach this evidence to the appeal.

(3) If the subject of supervision does not attach documentary evidence to the appeal, the provisions regarding incomplete petitions shall not apply, but the Agency shall use in its adoption of decisions only that evidence which has been attached to the statement.

(4) After the expiry of the deadline for appeal, the subject of supervision shall not have the right to state new facts and present new evidence.

Limits on testing an order
Article 355

The Agency shall test the order with regard to that part which is contested in the appeal, and within the limits of the grounds stated and explained in the appeal.

Adopting decisions with regard to appeals
Article 356

(1) The Agency shall adopt a decision on the appeal by issuing a decision.

(2) In adopting a decision on the appeal, the Agency may dismiss or reject the appeal, or change the order or annul it.

(3) The Agency shall dismiss an appeal if an appeal is inadmissible, if it is too late, or if it has not been filed by a legitimate person.

(4) If the Agency establishes that the grounds under points 1, 2, 3 or 6 of Article 353 herein exist, it shall annul the order.

(5) If the Agency establishes that the grounds under points 4, 5, 7 or 8 of Article 353 herein concerning the nature of the violation exist, it shall annul the order or change it. In adopting its decision on the appeal, the Agency shall not be allowed to change the order to the detriment of the subject of supervision.

Reports on the elimination of violations
Article 357

(1) The subject of supervision must, by the deadline set in the order, eliminate the violations found and submit a report to the Agency in which he/she describes the measures for the elimination of the violations. He/She must attach documents and other evidence to the reports which show that the discovered violations have been eliminated.

(2) In the event referred to in Article 351 herein, the subject of supervision shall be obliged to attach to the report on the elimination of violations a report by the certified auditor as well.

(3) If it is evident from the report referred to in the first paragraph hereunder and the evidence attached thereto, or from the report referred to in the second paragraph hereunder, that the violations have been eliminated, the Agency shall issue a decision whereby it establishes that the violations found in the order have been eliminated. The Agency may, prior to issuing the decision, conduct a repeat examination of operations to the extent necessary in order to find out whether the violations have been eliminated.

(4) If the report referred to in the first paragraph hereunder is incomplete and/or if it is not evident from the attached evidence that the discovered violations were eliminated, the Agency shall command the completion of the report and determine the deadline for such completion by issuing an order to the subject of supervision.

(5) The Agency shall be obliged to issue the decision and/or order referred to in the third and/or fourth paragraph hereunder within thirty days of the receipt of the report on the elimination of violations, otherwise it shall be deemed that the violations were eliminated.

19.6.4. Temporary ban on the provision of services

Decision on a temporary ban
Article 358

Where the law stipulates that the Agency may temporarily prohibit the authorised subject of supervision from providing services, the Agency shall issue a decision on a temporary ban whereby it temporarily prohibits the authorised subject of supervision from providing services and imposes measures laid down by law as necessary in order to achieve the purpose of the prohibition.

Appeal against a decision on a temporary ban
Article 359

(1) The subject of supervision shall have the right to file an appeal against the decision on a temporary ban within eight days.

(2) The appeal shall not delay the execution of the decision.

Grounds for appeal
Article 360

An appeal against the decision on a temporary ban shall be allowed on the following grounds:
1. if the decision on a temporary ban was issued by a person not authorised to issue decisions;
2. if the conditions for issuing the decision on a temporary ban were not met;
3. if the actual situation is stated erroneously or incompletely in the decision on a temporary ban.

Application of provisions on the appeal against the decision on a temporary ban
Article 361

The provisions of Articles 354 to 356 herein shall apply to the appeal against the decision on a temporary ban as appropriate.

Adopting decisions with regard to appeals
Article 362

The Agency shall be obliged to decide on the appeal within 15 days, otherwise it shall be deemed that the appeal was rejected.

19.6.5. Withdrawal of authorisation

Initiation of the procedure for withdrawing authorisation
Article 363

(1) The Agency shall initiate the procedure for withdrawing a previously granted authorisation if the information at its disposal indicates that there exists a well-founded suspicion of the existence of any of the grounds for the withdrawal of the authorisation defined by law.

(2) The Agency shall adopt a decision to initiate the procedure for withdrawing an authorisation by a decision (hereinafter: decision to initiate the procedure for withdrawing an authorisation).

(3) The decision to initiate the procedure for withdrawing an authorisation must contain:
1. a specific description of the actions, practices or circumstances which are supposed to be the grounds for initiating the procedure;
2. a citation of the documents and other evidence on the basis of which the Agency concluded the existence of a well-founded suspicion referred to in the first paragraph hereunder;
3. an explanation of the decision to initiate the procedure.

(4) In the decision to initiate the procedure for withdrawing an authorisation, the Agency shall set the deadline, which may not be shorter than 15 or longer than 30 days, counting from the day of the serving of the decision on the subject of supervision, during which time the subject of supervision may make a statement regarding the grounds for the initiation of the procedure (hereinafter: statement regarding the grounds for withdrawing an authorisation).

Statement regarding the grounds for withdrawing an authorisation
Article 364

(1) In the statement regarding the grounds for withdrawing an authorisation, the subject of supervision may state facts which show that there are no grounds for withdrawing the authorisation, and submit evidence substantiating the existence of the stated facts. If the subject of supervision refers to documentary evidence in his statement, he must attach this evidence to the statement.

(2) If the subject of supervision does not attach documentary evidence to the statement regarding the grounds for withdrawing an authorisation, the provisions regarding incomplete petitions shall not apply but the Agency shall, in adopting decisions, only use that evidence which has been attached to the statement.

(3) After the expiry of the deadline for the statement regarding the grounds for withdrawing an authorisation, the subject of supervision shall not have the right to state new facts and present new evidence.

Adopting a decision regarding the withdrawal of an authorisation
Article 365

(1) The Agency must adopt a decision regarding the withdrawal of an authorisation within 30 days of the receipt of the statement regarding the grounds for the withdrawal of an authorisation, or after the expiry of the deadline set for such a statement.

(2) The Agency may adopt a decision regarding the withdrawal of an authorisation only because of those actions, practices or circumstances on the basis of which it issued the decision on the initiation of the procedure for the withdrawal of an authorisation, and only on the basis of those documents and other evidence which were cited in the decision on the initiation of the procedure and which the subject of supervision had attached to the statement regarding the grounds for the withdrawal of an authorisation.

Termination of procedure
Article 366

The Agency shall terminate the procedure for the withdrawal of an authorisation:
1. if it concludes that the action, practices or circumstances due to which it issued the decision regarding the initiation of the procedure for the withdrawal of an authorisation do not show grounds for the withdrawal of an authorisation;
2. or if it concludes that it has not been proved that the subject of supervision committed the act or that there existed circumstances due to which it issued the decision regarding the initiation of the procedure for the withdrawal of an authorisation.

Decision with regard to the withdrawal of an authorisation
Article 367

(1) The operative provisions of a decision regarding the withdrawal of an authorisation must contain:
1. the decision regarding the withdrawal of an authorisation, including the number symbol and date of granting of the authorisation;
2. the name of the company and its head office, or the first and last name and date of birth of the subject of supervision whose authorisation has been withdrawn;
3. a specific description of the actions, practices or circumstances which are supposed to be the grounds for the withdrawal of authorisation.

(2) The decision regarding the withdrawal of authorisation must be explained.

Revocation of a conditional withdrawal of authorisation
Article 368
For the revocation of a conditional withdrawal of authorisation, the provisions of this subsection on the procedure for the withdrawal of authorisation shall apply as appropriate.

A N N E X 2 J

FOREIGN EXCHANGE ACT

Article 16a

(1) Contractual exchange office shall mean a legal entity or private person performing foreign exchange operations on the basis of a contract with an authorised bank.

(2) For the purposes of this Act, a qualified owner of a contractual exchange office shall be a natural or legal person who is the direct owner of no less than a 20 % business stake, shares or other rights on the basis of which he participates in the management of a legal person, or who participates in the legal person's capital with a minimum 20% stake, or who has a controlling position in the asset management of the contractual exchange office.

(3) For the purposes of this Act, the liable person of a contractual exchange office shall be the person who has been designated by the contractual exchange office and who is responsible for the management and legality of the foreign exchange operations carried out by the contractual exchange office.

A N N E X 2 K

Indicators of suspicious transactions for Exchange Offices:

1. A customer wants to execute a transaction, that is not logical from economical or from legal point of view, especially if the transaction results in an obvious loss for customer.

2. Unusual or illogical transaction and unusual circumstances of the transaction, especially when unusually high amounts or unusual currencies which a customer wants to exchange are involved, and executed at unusual time of a day (e.g. just before the closing time of the exchange office).

3. The transactions has the characteristics of commercial crime or other sorts of crimes, with the exception of forgery of money.

4. The customer offers the exchange officer a special commission or other material or non-material compensation for the execution of the transaction.

5. The customer frequently exchanges cash from one foreign currency into other foreign currencies and Slovenian tolars.

6. The customer seeks to exchange large quantities of low denomination notes of foreign currency for those of higher denomination or the other way around, and at the same time does not at least partially exchange that currency.

7. The customer brings cash divided into bunches or unusually wrapped.

8. Sudden increase of the number of exchange transactions and amounts of money involved by a "known customer" executed in shorter period, without apparent cause and disproportional to customer's usual business activities.

9. There is a suspicion that the identification documents of the customer are false or do not belong to the customer.

10. The customer delays in providing a personal identification documents requested by the exchange officer.

11. The customer refuses to provide information, needed for the identification, or provides false information to the exchange officer.

12. The customer cancels the transaction when he finds out about the obligation to identify.

13. The customer provides "new identification documents" for which it is suspected they are false.

14. The customer tries to establish a "personal" relation with the cashier at the exchange office.

15. The customer's behaviour at the time of the transaction is unusual (obvious and unreasonable tension).

16. The customer enters the exchange office accompanied with "suspicious" individuals (bodyguards).

17. The exchange officer realises that a customer is "known" as a person with criminal past (based on the information from the authorities or from the media).

18. The customer is the resident of the country known for production and trade of drugs, weapons, terrorism and other forms of organised crime (i.e. Turkey, Afghanistan, Pakistan, Myanmar, Laos, Thailand, Peru, Columbia, Lebanon, Morocco, Tunisia, Nigeria, Mexico).

19. The customer asks the exchange officer:
    - to divide the amount that the customer wants to exchange (SIT 3 million or SIT 5 million) into smaller amounts in order to avoid identification;
    - to use wrong data on the identification form;
    - to execute the transaction in contradiction to the provisions of the Anti Money Laundering Act and rules of the firm. For this "favour" the customer offers material or non-material benefit (bribe) to the exchange officer or to the firm itself.

20. Other reasons that indicate the suspicion of money laundering.

A N N E X 2 L

Pursuant to the fourth paragraph of Article 28 of the Act on the Prevention of Money Laundering (Official Gazette of the Republic of Slovenia, Nos. 79/01 and 59/02), the Minister of Finance hereby issues a

DIRECTIVE

on the method of forwarding data by lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services, to the Office for Money Laundering Prevention of the Republic of Slovenia

Article 1

Lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall forward to the Office for Money Laundering Prevention of the Republic of Slovenia (hereinafter referred to as the Office), data on all transactions or clients in connection with whom there exist reasons to suspect money laundering by one of the following methods:
- by telephone,
- by fax,
- by registered mail,
- by courier.

Article 2

Lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall send data to the Office on the form which, together with the appendix and instructions on how to fill in the form, shall constitute part of this Directive.

Article 3

Data shall be forwarded to the Office by telephone or fax only in cases whereby the transaction in connection with which there exist reasons to suspect money laundering has not yet been executed.
In the case referred to in the preceding paragraph, lawyers, law firms, notaries public, audit companies, independent auditors and the legal or natural persons providing accountancy services or tax advisory services shall be obliged to, within three days of the arising of reasons to suspect money laundering, forward the data to the Office also by registered mail or by courier and in the manner prescribed in the preceding Article.

Article 4

This Directive shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

REPORT ON SUSPICIOUS TRANSACTIONS OR CLIENTS, SUSPECTED OF MONEY LAUNDERING ACTIVITY (Paragraph 4, Article 28 of the Act on the Prevention of Money Laundering)

A. DATA ON CLIENT

1. Date of establishing a permanent business relationship (DDMMYYYY):	
2. Client is: a □ legal person natural person c □ society d □ sole trader other person (specify):	
Client is a legal person, society, sole trader or other person:	
3. Company:	4. Address:
nt is a natural person:	
5. Family name:	rst name:
rmanent address:	
8. Date of birth (DDMMYYYY):	9. Place of birth:

B. IDENTITY OF AN INDIVIDUAL OR AUTHORIZED PERSON, ESTABLISHING A

BUSINESS RELATIONSHIP OR CONDUCTING THE TRANSACTION FOR A LEGAL PERSON

10. Family name:	irst name:
ermanent address:	
13. Date of birth (DDMMYYYY):	

C. DATA ON THE ACTUAL OWNER OF THE FOREIGN LEGAL PERSON - CLIENT

14. Person: a □ is ___ % owner of the business share, stocks or other rights, on which grounds he participates in managing of the legal person b □ participates in the capital of the legal person with ___% share c □ has the commanding position in managing the funds of the legal person	
15. Natural person is: a □ owner or manager of the legal person - client b □ owner or manager of other legal person	
16. Family name:	17. First name:
18. Permanent address:	

19. Date of birth (DDMMYYYY):	20. Place of birth:

D. DESCRIPTION OF TRANSACTION

21. Transaction: a □ already conducted b □ not conducted yet		
22. Date of transaction (DDMMYYYY) or period, in which the transactions have been conducted		
23. Amount:	24. Currency:	25. Amount in SIT:

E. CLIENT, SUSPECTED OF MONEY LAUNDERING ACTIVITY

26. Client is : a □ legal person natural person c □ society d □ sole trader other person (specify):	
Client is a legal person, society, sole trader or other person:	
27. Company:	ddress:
Client is a natural person:	
29. Family name:	irst name:
ermanent address:	
32. Date of birth (DDMMYYYY):	

F. DATA ON THE REASONS FOR THE SUSPICION OF MONEY LAUNDERING

33. Reasons for the suspicion of money laundering:

G. SENDER

34. Transaction report has already been forwarded (DDMMYYYY HH:MM): a □ by phone b □ by fax	
35. Date of filling the report (DDMMYYYY):	
36. Company of the sender:	ddress of the sender:
Person, reporting reasons for the suspicion of money laundering:	
38. Family name:	39. First name:
40. Signature:	

ANNEX

C. DATA ON THE ACTUAL OWNER OF THE FOREIGN LEGAL PERSON - CLIENT

14. Person: a □ is ___ % owner of the business share, stocks or other rights, on which grounds he participates in managing of the legal person b □ participates in the capital of the legal person with ___% share c □ has the commanding position in managing the funds of the legal person	
15. Natural person is: a □ owner or manager of the legal person - client b □ owner or manager of other legal person	
16.Family name:	17.First name:
18. Address:	
19. Date of birth (DDMMYYYY):	20. Place of birth:

D. DATA ON SUSPICOUS TRANSACTIONS

21. Transaction: a □ already conducted b □ not conducted yet		
22. Date of transaction (DDMMYYYY) or period, in which the transactions have been conducted:		
23. Amount:	24. Currency:	25. Amount in SIT:

CLIENT, SUSPECTED OF MONEY LAUNDERING ACTIVITY

26.Client is: a □ legal person natural person c □ society d □ sole trader other person (specify):	
Client is a legal person, society, sole trader or other person:	
27. Company:	ddress:
Client is a natural person:	
29. Family name:	irst name:
ermanent address:	
32. Date of birth (DDMMYYYY):	

F. DATA ON THE REASONS FOR THE SUSPICION OF MONEY LAUNDERING

33. Reasons for the suspicion of money laundering:

ANNEX 3

LIST OF ALL LAWS, REGULATIONS AND OTHER MATERIAL RECEIVED

Act amending the Code of Criminal Procedure, of 21 December 2001 – Articles 1 to 29

Act amending the Criminal Procedure Act – Articles 1 to 88

Act amending the Criminal Procedure Act, of 29 May 2003 – Articles 1 to 65

Act amending the Criminal Procedure Act, of 9 April 2004 – Articles 1 to 29

Act amending the Penal Code of 30 March 2004 - Articles 1 to 56

Act amending the Insurance Act of 11 March 2002

Act amending the Insurance Act of 21 April 2004

Act on the Amendments and Additions to the Banking Act, of 6 July 2001

Associations Act of 19 November 1999

Auditing Act of 30 January 2001

Bill amending the Banking Act

Code of Criminal Procedure of 29 September 1994 [See Article 100 – Annex 2 D - page 193]

Decree on the proclamation of the Code of Criminal Procedure, of 6 October 1994

Decree on the proclamation of the Act amending the Criminal Procedure Act, of 9 June 2003

Directive N° 12213 on the method of forwarding data by lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services, to the Office for Money Laundering Prevention of the Republic of Slovenia, of 17 November 2002 (EVA 2002-1611-0089) [See Annex 2 L – pages 229 to 233]

Directive N° 13369 on the authorised person, the method of conducting internal control, the safekeeping and protection of data, the keeping of records and expert training of the staff of the organisations, lawyers, law firms, notaries public, audit companies, independent auditors and legal or natural persons providing accountancy services or tax advisory services, of 8 November 2002 (EVA 2002-1611-0098) [See Annex 2 F – pages 197 to 206]

Directive N° 23489 on the identification of a client upon opening an account or establishing a permanent business relation without the presence of the client of 6 November 2002 (EVA 2002-1611-0105) [See Annex 2 H – pages 209 and 210]

Directive N° 23490 on credit or financial institutions with headquarters in the European Union or in those countries which, according to information from international organisations or other competent international subjects, respect international standards concerning the prevention and detection of money laundering and do not have to be identified in the execution of certain transactions, of 6 November 2002 (EVA 2002-1611-0103)

Directive N° 23491 on the countries which do not respect the standards concerning the prevention and detection of money laundering of 6 November 2002 (EVA 2002-1611-0104) [See Annex 2 G – page 207]

Directive on the method of forwarding data to the Office for Money Laundering Prevention of the Republic of Slovenia

Financial Operations of Companies Act of 24 June 1999

The Foundations Act of 5 October 1995

Insurance Act of 27 January 2000

Intelligence and Security Agency Act of 2 January 2004

The Investment Funds and Management Companies Act of 29 November 2002

Law on Amendment of the Law on Amendments and Additions to the Law on the Criminal Procedure, of 19 January 1999 - Articles 1 and 2

Law on Amendments and Additions of the Penal Code, of 23 March 1999 (Articles 1 to 56)

Law on Banking

Law on the Prevention of Money Laundering of 25 October 2001 – Changes and Amendments of 20 July 2002 [See Annex 2 A – pages 157 to 185]

Order on the organisations which do not have to be identified during the execution of certain transactions (Official Gazette of the Republic of Slovenia N° 79/2001) [See Annex 2 E – Directive – page 195].

Order on the determination of the conditions under which the organisations referred to in Article 2 of the Act on the Prevention of Money Laundering shall not be obliged to forward information on cash transactions executed by certain clients (Official Gazette of the Republic of Slovenia N° 79/2001)

Payment Transactions Act of 20 March 2002

Procedures for International Legal Assistance and the Enforcement of International Agreements on Matters of Criminal Law – Chapter 30 – Articles 514 to 520

Proceedings for the extradition of accused and convicted persons – Chapter 31 – Articles 521 to 537

Proceeding for the Extradition of Accused and Convicted Persons

Resolution N° 81-1/8-8/2000 on the Provision of Services with regard to Securities, of 20 January 2000

Resolution N° 82-1/9-9/2000 on Reporting by Investment Firms of 20 January 2000

Resolution N° 87-1/14-14/2000 on the Personnel, Technical and Organisational Conditions for Operations with Clients and with the Assets of Clients of Investment Firms, of 20 January 2000

Resolution N° 88-1/15-15/2000 determining the Documentation that must be included with an Application for Authorisation to set up a Branch of a Foreign Investment Firm, of 20 January 2000

Resolution N° 129-2/1-5/2003 on Personnel, Technical and Organisational Conditions and Documentation, of 18 June 2003

Resolution N° 170-2/42-46/2003 amending the Resolution on Personnel, Technical and Organisational Conditions and Documentation, of 17 December 2003

Resolution N° 200-08/89-2/140 on the National Security Strategy of 21 June 2001

The Securities Market Act of 30 July 1999 (See Articles 336 to 368-Annex 2 I- pages 211 to 223)

Securities Market Agency – Report on the work in 2003.

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