



Strasbourg, 21 February 2007

MONEYVAL (2006) 26

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

Written Progress report submitted to MONEYVAL
by C y p r u s¹

¹ Adopted by MONEYVAL at its 22nd Plenary Meeting (Strasbourg, 21-23 February 2007). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2007)7) at <http://www.coe.int/moneyval>

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

The money laundering situation in Cyprus has not changed since the last Evaluation Report. Cyprus has a relatively low level of domestic crime. Domestic crimes which generate illegal proceeds are: fraud (including the offence of obtaining money by false pretences), burglary, theft and drug trafficking offences.

Soon after the adoption of the Third Round Evaluation Report, the Advisory Authority for Combating Money Laundering, which was established according to the provisions of the Prevention and Suppression of Money Laundering Activities Law, and it is composed of representatives of public authorities and the private sector, met a number of times in order to examine the contents of the report and the recommendations made.

During these meetings the Report was analysed and it was decided that the recommendations should be implemented through legislative amendments, practical measures and revision of the Directives issued by the Supervisory Authorities.

However, the Advisory Authority also took into consideration the Third EU Anti-Money Laundering Directive and decided that any legislative and other measures should also be applied concurrently and in line with the implementation of the Third EU Directive.

In this respect the FIU in cooperation with the Central Bank of Cyprus following a decision of the Advisory Authority has already prepared a preliminary draft bill which will be presented for comments, to all members of the Advisory Authority.

An important development is the decision of the Council of Ministers to designate the FIU, MOKAS, as the Supervisory Authority for the Real Estate Agents and for the Dealers in precious metals and stones. Based on this decision, the FIU is at present discussing the whole issue with representatives of these professionals, and it is in the process of preparing Directives to be issued to these sectors and organising training seminars.

A new Guidance Note, based on the recommendations made on the law enforcement section of the Moneyval Report, was issued by the FIU to all police investigators and prosecutors.

Further training was conducted for the financial institutions, professionals such as lawyers and accountants and the law enforcement.

Furthermore, technical experts from the Supervisory Authorities of the financial sector are meeting on a regular basis for the purpose of cooperating and coordinating the revision and amendment of existing Directives in line with the Evaluation Report and the Third EU Directive.

An important development since the Third Round Evaluation Report is the employment by MOKAS of 5 more financial analysts/accountants as permanent staff, as from June 2006.

2. Key recommendations

Please indicate which improvements have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	<i>Although there is a broad and firm legal basis to enable successful prosecutions, the effectiveness of money laundering criminalisation could be enhanced by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions. Please describe any steps taken on this issue since the evaluation.</i>
Measures taken to implement the Recommendation of the Report	<p>Under the auspices of the Advisory Authority for Combating Money Laundering, meetings took place between the FIU, public prosecutors and investigators of the Police.</p> <p>During these meetings the provisions of the Law regarding the Money Laundering Offence were analysed and in particular the elements of the offence. Emphasis was given to the issue of the Money Laundering offence as an autonomous offence and the evidence needed to establish the underlying predicate criminality.</p> <p>Meetings were also held with the Chief of Police and high ranking officials of the Cyprus Police where it had been decided that the new Guidance Note issued by MOKAS be distributed to all police investigators. Furthermore, during the same meeting it was decided to enhance the training seminars for all members of the police in all the Districts of the country.</p> <p>Same meetings and training seminars have been decided for the public prosecutors as well.</p>
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence)	
I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>There is no general rule to identify the beneficial owner except in the AML Guidance Note to Banks issued by the Central Bank of Cyprus in November 2004.</i>
Measures taken to implement the Recommendation of the Report	The Directive to insurance companies issued by the Insurance Control Service and the Directive issued to stockbrokers and investment service providers by the Securities and Exchange Commission explicitly provide that, in the case of privately owned companies, supervised entities should always identify the major beneficial shareholders.
Recommendation of the MONEYVAL Report	<i>There are no CDD measures required 1) regarding occasional wire transfers, 2) irrespective of the insurance premium exemption when there is a suspicion of money laundering or terrorist financing and 3) in cases of doubts regarding previously obtained customer data.</i>
Measures taken to implement the Recommendation of the Report	With regard to the requirement for CDD measures for occasional wire transfers, it is noted that as from 1 January 2007, Cyprus applies European Union's Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds which provides for verification of identity for non account holders when involved in a single or a series of operations exceeding Euro 1.000. With regard to points (2) and (3), the proposed amendment of the AML Law shall also cover the issues raised.
Recommendation of the	<i>There is no general rule in an act of primary or secondary legislation except the Banking Law concerning</i>

MONEYVAL Report	<i>identification using reliable and independent source documents and concerning ongoing due diligence.</i>
Measures taken to implement the Recommendation of the Report	<p>The Directives issued by the supervisory authorities (Central Bank of Cyprus, Insurance Control Service and Securities & Exchange Commission) provide that customers' identification should be made on the basis of documents issued by reputable sources and which are the most difficult to obtain illicitly, e.g. national identity card, passport, utility bills etc.</p> <p>The Directives issued by the Central Bank of Cyprus to banks and money transmitters require that supervised entities put in place adequate management information systems for the on-going monitoring of customers' accounts and transactions. Furthermore, the Central Bank of Cyprus's Directives as well as the Directive issued by the Insurance Control Service require that supervised entities should ensure that customer identification records remain up-to-date and relevant throughout the business relationship and should undertake, on a regular basis, or whenever there are doubts about the veracity of previously obtained identification data, reviews of existing records. If as a result of these reviews, the supervised entities become aware that they lack sufficient information about an existing customer, they are required to take all necessary action to obtain the missing information as quickly as possible.</p>
Recommendation of the MONEYVAL Report	<p><i>The AML Guidance Notes - other than the G-Banks (AML Guidance Note to Banks issued by the Central Bank of Cyprus in November 2004) and the G-MTB (AML Guidance Note to Money Transfer Businesses, issued by the CBC in January 2005) - need to be enhanced with regard to inter alia</i></p> <ul style="list-style-type: none"> • <i>understanding ownership and control structures;</i> • <i>obtaining information on the purpose and nature of business relationships;</i> • <i>the application of CDD requirements for existing customers;</i> • <i>consideration of making STRs on terminating existing business relationships.</i>
Measures taken to implement the Recommendation of the Report	<p>The Directives issued by the Insurance Control Service and the Securities and Exchange Commission require that supervised entities establish at all times the major beneficial shareholders of corporate customers as well as the company's nature and scale of activities. Furthermore, the Directive of the Insurance Control Service requires that insurance companies review, at regular intervals, identification records of existing customers for the purpose of identifying and obtaining any missing data. The proposed amendments of the Directive of the Securities and Exchange Commission shall impose a similar obligation on stockbrokers and investment services providers.</p> <p>With regard to the issue of considering the filing of an STR on terminating an existing business relationship, it is noted that according to Section 27 of the AML Law, a reporting obligation arises when a person 'knows or reasonably suspects that another person is engaged in laundering offences'. Consequently, in the case that suspicions arise upon terminating a business relationship with a client, then a STR needs to be filed with MOKAS.</p>
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence)

II. Regarding DNFBP²

Recommendation of the MONEYVAL Report	<i>The AML Law does not cover CDD 1) suspicion of money laundering or terrorist financing, and 2) in cases of doubt regarding previously obtained customer due diligence information. No general rule in legislation concerning identification using reliable and independent source documents and ongoing due diligence.</i>
Measures taken to implement the Recommendation of the Report	<p>Section 62 (2) of the AML Law requires that customer identification procedures should be applied in respect of any one-off transaction when there is knowledge or suspicion that the customer is engaged in a money laundering offence or that the transaction is carried out on behalf of another person engaged in a money laundering offence. The Directives issued by the Institute of Certified Public Accountants of Cyprus addressed to accountants and auditors as well as the Directive issued by the Cyprus Bar Association addressed to lawyers require all obligated persons to obtain satisfactory evidence of identity of those to whom they provide services. As prescribed by the Directive, an individual's name and date of birth should be verified by requesting official documents bearing a photograph while address verification should be made through home visit, a recent utility bill, credit reference agency search or checking the telephone</p>

² i.e. part of Recommendation 12.

	<p>directory.</p> <p>With regard to legal entities, verification of identity should be made through a company search and/or other commercial enquiries such as credit reference agency search or reference from a bank or another professional adviser. With regard to the requirements for on going due diligence, the Directives referred to above are in the process of being amended to cover the said issue.</p>
Recommendation of the MONEYVAL Report	<p><i>The AML Guidance Notes need to be enhanced with regard to</i></p> <ul style="list-style-type: none"> • <i>understanding ownership and control structures;</i> • <i>obtaining information on the purpose and nature of business relationships;</i> • <i>undertaking enhanced due diligence for higher risk customers;</i> • <i>the application of CDD requirements for existing customers;</i> • <i>consideration of making STRs on terminating existing business relationships.</i>
Measures taken to implement the Recommendation of the Report	<p>The Directives to accountants/auditors and lawyers set as a principal requirement the identification of beneficial owners as well as the persons who have ultimate control or significant influence over the business and assets of their clients. Furthermore, they require the obligated persons to commence enquiries in order to establish that the entity exists for a legitimate trading or economic purpose. Furthermore, they are required to obtain a copy of their latest financial accounts and, if available, audited financial statements.</p> <p>The Institute of Certified Public Accountants of Cyprus and the Cyprus Bar Association are in the process of revising their Directives for the purpose of achieving compliance with the EU Third Money Laundering Directive and implementing the Moneyval recommendations. In this context, the revised Directive shall also deal with the issue of risk based approach to customer due diligence and the application of CDD requirements for existing customers.</p> <p>With regard to the issue of considering making a STR when terminating a business relationship, as already mentioned above, Section 27 of the AML Law imposes a reporting obligation on all persons who know or suspect that another person is engaged in a laundering offence. The said circumstances include the case of terminating a business relationship.</p>
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	<i>The date of completion of all activities being treated at the date on which the business relationship was terminated is not in line with R.10; No definition of minimum information regarding the insurance companies.</i>
Measures taken to implement the Recommendation of the Report	<p>The proposed amendment to the AML Law shall clarify that the date on which an account is formally terminated shall be treated as the date as from which records should be maintained for a period of at least five years.</p> <p>With regard to the minimum information on transaction records that need to be maintained by insurance companies, the AML Law provides that records maintained by obligated persons should contain details relating to all transactions carried out in the course of relevant financial business.</p> <p>The Directive of the Insurance Control Service which is in the process of being revised shall prescribe the minimum information on transaction records that need to be maintained.</p>
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping)**II. Regarding DNFBP³**

Recommendation of the MONEYVAL Report	<i>The AML Law needs amendment so that records are kept for five years after the formal termination of a business relationship.</i>
Measures taken to implement the Recommendation of the Report	See reply above.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting)**I. Regarding Financial Institutions****Rating: compliant**

Changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting)	
II. Regarding DNFBP⁴	
Changes since the last evaluation	

Special Recommendation II (Criminalise terrorist financing)**Rating: Partially compliant**

Recommendation of the MONEYVAL Report	<i>The criminalisation of financing of terrorism, as defined in the 1999 United Nations Convention for the Suppression of the Financing of Terrorism, is not completely achieved as offences committed by Cyprus citizens on Cyprus territory appear inadvertently to have been excluded. Reliance on Section 58 of the Criminal Code is insufficient for these purposes.</i>
Measures taken to implement the Recommendation of the Report	On 22.7.2005 and soon after the evaluation visit and before the adoption of the Evaluation Report, the Law was amended with the deletion of section 9 of the “International Convention for the Suppression of the Financing of Terrorism (Ratification and other provisions) Law of 2001.” With this amendment the Cypriot citizens/nationals are now covered under the provisions of the Law.
Recommendation of the MONEYVAL Report	<i>In addition to criminalising the activities enumerated in the Terrorist Financing Convention, countries are also obliged to criminalise collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Cyprus has not yet criminalised this type of activity.</i>
Measures taken to implement the Recommendation of the Report	An amendment to section 4 of the “International Convention for the Suppression of the Financing of Terrorism (Ratification and other provisions) Law of 2001”, has been drafted criminalising the collection of funds by any person as follows: “Any person who collects funds knowing that they are to be used by a terrorist organisation or an individual terrorist, commits an offence punishable with imprisonment up to 10 years and/or a fine of CY£1.000,000 or both such imprisonment and fine.” The proposed amendment will be submitted before the Council of Ministers for approval and then to the Parliament for enactment.
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting)³ i.e. part of Recommendation 12.⁴ i.e. part of Recommendation 16.

I. Regarding Financial Institutions

Rating: compliant

Recommendation of the MONEYVAL Report	<i>More training and guidance to support the reporting of suspicious transactions related to financing of terrorism.</i>
Measures taken to implement the Recommendation of the Report	Even though financing of terrorism is covered in the training organised for the financial institutions and in particular in relation to the reporting of suspicions transactions the training on this particular issue has been enhanced after the adoption of the Evaluation Report. Furthermore, members of the Financial Institutions participate in various training seminars or conferences organised abroad on this issue.
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting)

II. Regarding DNFBP

Recommendation of the MONEYVAL Report	<i>More training and guidance to support the reporting of suspicious transactions related to financing of terrorism.</i>
Measures taken to implement the Recommendation of the Report	Even though financing of terrorism is covered in the training organised for the financial institutions and in particular in relation to the reporting of suspicions transactions the training on this particular issue has been enhanced after the adoption of the Evaluation Report. Furthermore, members of the DNFBP participate in various training seminars or conferences organised abroad on this issue.
(Other) changes since the last evaluation	

3. Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” NC (see also Appendix 1). Please, specify for each one which measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 12 (DNFBP)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>No PEP provisions or provisions on misuse of technological developments in the Guidance Notes.</i>
Measures taken to implement the Recommendation of the Report	The Institute of Certified Public Accountants of Cyprus and the Cyprus Bar Association are in the process of revising their Directives for the purpose of securing compliance with the EU’s Third Money Laundering Directive and the Moneyval’s recommendations. To this end, the revised Directives shall include provisions regarding relationships with PEPs and the misuse of technological developments.
(Other) changes since the last evaluation	

Recommendation 14 (Protection and no tipping-off)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Tipping off seems unreasonably restricted, and the safe harbour provisions should clearly cover all civil and criminal liability.</i>
Measures taken to	<u>Tipping off</u>

implement the Recommendation of the Report	<p>Event though the existing provisions of section 48 of the Law cover instances where STRs have been made and investigations have been initiated, legislative drafting is underway in order to adopt a clear separate provision prohibiting the disclosure of the fact that a STR or related information was reported or otherwise provided to the FIU.</p> <p><u>Safe harbour provisions</u></p> <p>As it is the legal situation in Cyprus, safe harbour provisions are already in place in relation to civil liability of persons reporting or disclosing information in relation to money laundering suspicions. Section 26 (2) (a) of the AML Law clearly provides that:</p> <p>“(2) Where a person discloses to a police officer or to the Unit his suspicion or belief that any funds or investments are derived from or used in connection with a predicate offence or any matter on which such a suspicion or belief is based-</p> <p>(a) the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract.”</p> <p>However, it is not clear to the Cyprus Authorities which safe harbour provisions should exist for criminal liability and in particular for which offence such a “safe harbour provision” should exist.</p> <p>As it is now the legal situation, failing to report money laundering knowledge or suspicion is a criminal offence (section 27(1) of the AML Law). Furthermore, according to subsection (3) of section 27, such criminal proceedings can be initiated only with the express approval of the Attorney General. It is our position that according to our AML Law it is obligatory to report and criminal liability arises in the case of a failure to report and not vice versa. Thus, in our opinion, the provisions of the AML Law on this issue are considered as adequate.</p>
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<ol style="list-style-type: none"> 1. Terrorist financing is not covered; 2. access to information by the Compliance Officer is not necessarily timely; 3. there is mostly no requirement for an independent audit function to test compliance; 4. no reference in the Guidance Notes to training on developments in money laundering and terrorist financing techniques, methods and trends; 5. no specific provisions on employee screening.
Measures taken to implement the Recommendation of the Report	<p>1. The Ratification Law of the United Nations Convention for the Suppression of the Financing of Terrorism enacted on 22 November, 2001, provides that terrorist financing and other linked activities are considered to be predicate offences for the purposes of Cyprus anti money laundering legislation. Therefore, the Directives issued by supervisory authorities requiring the implementation of preventive measures against money laundering equally apply to the prevention of terrorist financing activities.</p> <p>2. The Directives issued by all supervisory authorities require that the person appointed as a Money Laundering Compliance Officer should be sufficiently senior to command the necessary authority. Effectively, and as a result of their high position in the organisation’s structure, these senior members of staff have unrestricted and timely access to customer identification data and other CDD information, transaction records and other relevant information.</p>

	<p>3. The Directive issued to banks by the Central Bank of Cyprus requires that a bank’s internal audit and/or compliance department reviews and evaluates, at regular intervals, the effectiveness and adequacy of policies and procedures introduced by the bank for preventing money laundering and verify compliance with the provisions of Central Bank of Cyprus’s Directives. On 19 June 2006, the Central Bank of Cyprus issued a Directive on the “Framework of Principles of Operation and Criteria of Assessment of Banks’ Organisational Structure, Internal Governance and Internal Control Systems” which, inter-alia, requires that all banks establish an Internal Audit Unit which is administratively independent of any other units which have operational responsibilities and which should report directly to the banks’ Board of Directors through the Audit Committee. Furthermore, it requires that banks whose total assets exceed the amount of CYP 1 billion (approx. USD2.3 bn) should establish a Compliance Unit which should also be administratively independent of any other units having operational responsibilities.</p> <p>4. Section 58 of the AML Law requires that all persons engaged in relevant and other financial business provide education and training to their employees so as to make them aware of the policies and procedures put in place to prevent money laundering and the legislation relating to money laundering. Although not explicitly stated in the Law or the Directives issued by supervisory authorities, educational and training seminars deal, besides the above, with emerging trends and methods used by money launderers for carrying out their illicit activities. The Directives of supervisory authorities, which are in the process of being revised, shall also cover the above issue.</p> <p>5. Screening procedures for hiring or recruiting employees have always been in place and include written and oral exams with face-to-face interviews. It is noted however that the recommendation 15.4 of the Methodology does not require the inclusion of such a provision in the anti-money laundering law.</p>
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(Other) changes since the last evaluation

Recommendation 16 (DNFBP)

Rating: Partially compliant	
<p>Recommendation of the MONEYVAL Report</p>	<ol style="list-style-type: none"> 1. <i>tipping off provisions are unreasonably restricted;</i> 2. <i>“safe harbour” provisions do not clearly cover all civil and criminal liability.</i> 3. <i>Regarding R. 15, no requirement for training on countering terrorist financing;</i> 4. <i>audit function not necessarily independent;</i> 5. <i>no requirement for training on money laundering developments;</i> 6. <i>lack of time or resources may be used as a reason not to provide training;</i> 7. <i>no requirement for staff screening procedures.</i>
<p>Measures taken to implement the Recommendation of the Report</p>	<ol style="list-style-type: none"> 1. Tipping off provisions – see reply in Rec. 14 above. 2. “Safe harbour” provisions – see reply in Rec. 14 above. 3. Training on countering terrorist financing is already covered by the law. Specifically, section 13 of the International Convention for the Suppression of the financing of Terrorism (Ratification and other provisions) Law of 2001, provides for the direct application and implementation of Part VIII of the Prevention and Suppression of Money Laundering Activities law where under section 58(1)(c) the obligation for training is included. Training provided to employees of banks and financial institutions as well as lawyers and accountants cover among other things the issue of terrorist financing, its characteristics and methods used by terrorists for funding their illicit acts. 4. The Guidance Notes for accountants/auditors and lawyers require that firms make

arrangements to verify, on a regular basis, compliance with policies, procedures and controls relating to money laundering activities. In view of the fact that firms of lawyers and accountants/auditors are small with a limited number of staff, the setting up of an independent audit function is not feasible. The Institute of Certified Public Accountants has outsourced the quality control function of accountancy firms to the Association of Chartered Certified Accountants of UK. The outsourcing agreement includes also examination of anti money laundering procedures.

5. Section 58 (c) of the anti-money laundering law expressly provides for the obligation to provide training:

“No person shall, in the course of relevant financial business carried on by him in or from within the Republic, form a business relationship or carry out an one-off transaction with or on behalf of another, unless that person –

(c) provides from time to time for the training of his employees in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering offences.”

It is obvious and it goes without saying that on going training i.e. training from time to time, covers money laundering developments.

Apart from the above legislative provisions, the guidance notes for DNFBP include extensive provisions on training and education.

For example, in the Guidance Notes for accountants such extensive provisions on training are provided in paragraphs 7.01-7.12. It is also noted that in paragraph 7.09 regarding training and MLCOs it is expressly stated that “The MLCO will require extensive initial and on-going instruction on the validation and reporting of suspicious transactions, on the feedback arrangements and on new trends and patterns of criminal activity.”

6. The Guidance Note issued to accountants/auditors requires the education and training of employees, as per the requirements of the Law, and stipulates that the timing, content and methods of training for the various levels/types of staff should be tailored to meet the needs of the particular firm, depending on the size and nature of the organisation and the available time and resources. The reference made to the availability of time and resources is not considered to be restrictive as the overriding legal requirement is for all persons subject to the Law to provide the necessary education and training to their employees. However, in order to avoid any misunderstanding, the reference to availability of time and resources in connection with the training obligations shall be deleted from the Guidance Notes to accountants/auditors.

7. Screening procedures for hiring or recruiting employees have always been in place and include written and oral exams with face-to-face interviews. It is noted however that the recommendation 15.4 of the Methodology does not require to include such a provision in the anti-money laundering law. It is further noted that partners, managers and qualified staff of firms of lawyers and accountants/auditors are members of their respective professional bodies and have to adhere to specific ethical standards. Hence, staff employed by such firms are of high calibre and integrity.

(Other) changes since the last evaluation

Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Administrative fine of up to three thousand pounds is not effective, proportionate and dissuasive; no sanctions imposed.</i>
Measures taken to implement the Recommendation of the Report	The Administrative fine will be increased and the relevant provision of the AML Law will be amended accordingly.
Recommendation of the MONEYVAL Report	<i>No specific supervisory authority for insurance intermediaries appointed under the AML Law.</i>
Measures taken to implement the Recommendation of the Report	A relevant proposal will soon be submitted to Council of Ministers so as to cover such activities as well.
(Other) changes since the last evaluation	

Recommendation 24 (DNFBP – regulation, supervision and monitoring)

Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Designate a supervisory or other authority for real estate agents, dealers in precious metals, dealers in precious stones and trust and company services providers.</i>
Measures taken to implement the Recommendation of the Report	Regarding real estate agents and dealers in precious metals and stones, as we have mentioned above, the Council of Ministers appointed the FIU (MOKAS) as the Supervisory Authority for these two groups of professionals. Based on this decision, the FIU is in the process of discussing the whole issue with representatives of these professionals, in order to issue Guidance Notes in the near future and organise training seminars. Regarding trust and company service providers see reply to specific question 4 (c) below.
(Other) changes since the last evaluation	

Recommendation 32 (Statistics)

Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Statistical information often incomplete and insufficiently refined for full review of effectiveness of system.</i>
Measures taken to implement the Recommendation of the Report	Soon after the evaluation visit, the Advisory Authority discussed the need for more detailed statistics to be kept by the Ministry of Justice and the Police. In this respect the statistical information kept by the Ministry of Justice and the Police has been improved. It is noted that the statistics kept by the FIU (e.g. number of STRs, freezing orders, confiscation orders, requests to and from FIUs and Rogatory letters) have always been detailed and satisfactory.
(Other) changes since the last evaluation	

Special Recommendation VIII (Non-profit organisations)

Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>While some action was taken after 11 September 2001 in checking NPOs with significant participation of foreign individuals, no evidence of a special review of the laws in the NPO sector having been undertaken has been provided.</i>
Measures taken to implement the Recommendation of the Report	Special review of the Charities Law, Cap. 41, and the Societies and Institutions Law (57/1972) has been made by the Ministry of the Interior upon the advice of the Attorney General and the conclusion is that the provisions of the Laws are considered to be adequate.

Specifically, non-profit organisations such as Charities, are registered and licensed according to the “Charities Law, Cap. 41”. Every application to register a Charity, shall be in writing, signed by the persons making the same and shall contain the following particulars:

Section 4 of this Law provides as follows:

- “(a) the objects of the charity and the rules and regulations of the same, together with the date of and parties to every deed, will or other instrument creating, constituting or regulating the same;
- (b) a statement and short description of the property, movable and immovable, which at the date of the application is possessed by or belonging to or held on behalf of such charity;
- (c) the names and residences of the trustees of such charity;
- (d) the proposed title of the corporation;
- (e) the proposed device of the common seal, which shall in all cases bear the name of incorporation.”

The certificate of the incorporation is published on the Official Gazette of the Republic of Cyprus.

Sections 10 and 11 of the same Law provide as follows:

“10. The trustees of any charity incorporated under the provisions of this Law shall in books to be kept by them for that purpose regularly enter or cause to be entered full and true accounts of all moneys received and paid respectively on account of such charity, and shall also at the end of every year prepare and transmit to the Administrative Secretary the following accounts:-

- (a) an account of the gross income arising or which ought to have arisen for the benefit of the charity during the year ending on the 31st day of December then last;
- (b) an account of all balances in hand at the commencement of every year, and of all moneys received during the same year, on account of the charity;
- (c) an account for the same period of all payments;
- (d) an account of all money owing to or from the charity so far as conveniently may be,

which accounts shall be certified under the hand of one or more of the said trustees.

11. The Council of Ministers may at any time order that the accounts of the trustees of any charity incorporated under the provisions of this Law shall be audited by the Director of Audit or such other person or persons as he may deem fit to appoint.”

Similar provisions with the “Charities Law”, are contained in the “Societies and Institutions Law (Law. No. 57/1972)” which regulates this type of non-profit organisations.

These Institutions also need to be licensed and registered and their accounts also have to be audited.

(Other) changes since the last evaluation

4. Specific Questions

- a) The examiners considered that all persons conducting financial business should be regulated to the same standard, and recommended, to this end, greater co-ordination between the supervisory authorities. Please describe any developments on this issue since the evaluation.**

Within the Advisory Authority all Supervisory Authorities are represented and the Central Bank of Cyprus has the leading role in relation to the measures taken by the Supervisory Authorities.

Since the evaluation, a number of meetings took place where this issue was further raised and discussed. In this regard it was decided that the Central Bank of Cyprus shall proceed with the drafting of a revised Directive to Banks, incorporating the Moneyval recommendations as well as the EU Third Money Laundering Directive, which will be subsequently discussed and shared with the other supervisory authorities for the purpose of achieving a uniform approach on AML/CFT guidance to financial institutions.

There is an extensive and established cooperation and coordination among supervisory authorities through an MOU signed between them which covers all supervisory/regulatory matters, including the issue of money laundering prevention. Furthermore, in line with the recommendation made in the Moneyval Evaluation Report, meetings of technical experts from the supervisory authorities are held on a regular basis for the purpose of co-ordinating the drafting and issue of Directives to supervised entities and achieving a uniform approach on the implementation of preventive measures.

- b) Has Cyprus introduced a specific provision requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks (Criterion 18.3 of the Methodology)?**

The Directive of the Central Bank specifically prohibits the opening of accounts in the name of Banks without a physical presence (Shell Banks). With regard to the issue raised above, the Directive to banks issued by the Central Bank of Cyprus is in the process of being revised. This matter shall be covered and clarified in the revised Directive.

- c) What further progress has been made in the introduction of company service provider regulation?**

The Cyprus authorities have drafted legislation which provides for the licensing and regulation of trust and company service providers in line with the requirements of the EU's Third Money Laundering Directive and FATF's recommendations. The draft legislation is now the subject of discussion with the interested professional associations of the private sector and the competent governmental bodies before being finalized and be forwarded to the Council of Ministers for approval and submission to the House of Representatives. It is expected that the draft legislation will be enacted and come into force in the second half of 2007.

- d) Has legislation concerning the supervision of trust service providers been enacted which requires such providers to obtain, verify and retain adequate, accurate and current records on the beneficial ownership and control of legal arrangements (criteria 34.1 and 34.2 of the Methodology)?**

See answer to (c) above.

e) Have on-site inspections by the Bar Association commenced in respect of lawyers? If so, what AML/CFT issues are specifically covered?

The requirement for on-site inspections by the Bar Association is not included in the Methodology. Thus, apart from the anti-money laundering Directives and Training Seminars there is no intention nor obligation to conduct on-site inspections.

f) In relation to trusts, has the guidance to the investment brokers been amended to include reference to the identity of settlors and beneficiaries?

The Cyprus Securities and Exchange Commission is in the process of revising its Directives to stockbrokers and investment service providers. This issue shall be dealt with in the revised Directives.

g) What progress has been made either by amendment to the law or Guidance Notes to ensure that non-bank financial institutions pay special attention to complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purposes (criterion 11.1; see Action Plan)?

Section 58 of the Law requires that banks, non-banking financial institutions and DNFBP maintain appropriate procedures of internal control, communication and detailed examination of any transactions which by their nature may be considered to be associated with money laundering for the purpose of preventing and forestalling money laundering. The Directives issued by the Insurance Control Service and the Securities and Exchange Commission contain examples of suspicious transactions and activities as a means of assisting supervised entities in detecting and recognizing transactions which may be associated with money laundering.

h) Do the AML Guidance Notes now cover techniques of terrorist financing (Criterion 25.1 of the Methodology)?

The supervisory authorities are in the process of revising their Directives in the context of which guidance shall also be given on terrorist financing techniques.

However, it is noted that the FIU with circulars has submitted to the Financial Institutions cases which cover techniques on terrorist financing, including typologies.

5. Statistics

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

a. Money Laundering and Financing of terrorism cases

2004 (for comparison purposes)												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	325	404	19	19	6	6	7	1.543.390 & 4 plots of land			4	2.026.667
FT	2	14										

Note: Furthermore, the FIU issued 9 Administrative restraint orders affecting bank accounts

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	379	415	6	6	1	1	9	890.382 & 5 offices 6 plots of land 1 shop			1	5,605
FT	9	38										

Note: Furthermore, the FIU issued 12 Administrative restraint orders affecting bank accounts

2006

	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	409	456	12	12	7	7	4*	2.227.375& three cars			1	1.329.791
FT	1	4										

Note: Furthermore, the FIU issued 13 Administrative restraint orders affecting bank accounts

*2 of them were Foreign Restraint Court Orders registered and enforced by Cyprus Courts upon an application made by the FIU

b. STR/CTR

2004 (for comparison purposes)											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		109	-	143	-	N/A	N/A	19	-	6	-
insurance companies											
Notaries											
Currency exchange											
broker companies											
securities' registrars											
lawyers		1	-								
accountants/auditors											
company service providers											
trusts											
money remittance		2	-								
police		29	-								
customs		2	-								
others (Government Departments, Embassies, Individuals, Publications)		10	-								
Total		153									

2005											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		114	-	151	-	N/A	N/A	6	-	1	-
insurance companies											
Notaries											
Currency exchange											
broker companies		3	-								
securities' registrars											
lawyers		3	-								
accountants/auditors		4	-								
company service providers											
trusts											
supervisory authorities		2	-								
money remittance		5	-								
police		13	-								
customs		3	-								
others (Government Departments, Embassies, Individuals, Publications)		4	-								
Total		151									

2006											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks		147	-	179	-	N/A	N/A	12	-	7	-
insurance companies		1	-								
Notaries											
Currency exchange											
broker companies		1	-								
securities' registrars											
lawyers		5	-								
accountants/auditors		1	-								
company service providers											
trusts											
supervisory authority		3	-								
money remittance		9	-								
police		7	-								
customs		-	-								
others (Government Departments, Embassies, Individuals, Publications)		5									
Total		179									

Notes

1. "Persons" include natural and legal persons.
2. "Cases" refer to all types of cases including STRs, Requests for information, Police Reports, formal Rogatory Letters.

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	<ul style="list-style-type: none"> The maintenance of meaningful and comprehensive statistics on AML/CFT performance, and for strategic analysis of Cyprus's AML/CFT vulnerabilities.
2. Legal System and Related Institutional Measures	
Criminalisation of Money Laundering (R.1 and 2)	<ul style="list-style-type: none"> Having regard to the broad and firm legal basis provided by the AML Law, further attention should be given to enhancing the effectiveness of money laundering criminalisation by placing more emphasis on third party laundering in respect of both foreign and domestic predicate offences and clarifying the evidence that may be required to establish the underlying predicate criminality in autonomous prosecutions. Cyprus authorities should also consider whether the benefits of negligent money laundering and corporate liability in the statute are being fully maximised by law enforcement and prosecutors.
Criminalisation of Terrorist Financing (SR.II)	<ul style="list-style-type: none"> In order to close the major gap in the criminalisation of terrorist financing, section 9 of the Ratification Law should be repealed without delay or amended to ensure section 2 applies to Cyprus citizens.⁵ Criminalisation should be extended to the collection of funds in the knowledge that they are to be used (for any purpose) by a terrorist organisation or an individual terrorist. Consideration should be given to achieving these goals by introducing a clear separate criminal offence of financing of terrorism which covers all the essential criteria in SR.II and all the characteristics of a financing of terrorism offence as explained in the Interpretative Note of June 2004.
Confiscation, freezing and seizing of proceeds of crime (R.3)	No action required.
Freezing of funds used for terrorist financing (SR.III)	<p>With regard to the lack of a comprehensive and effective freezing/confiscation regime, there is need for a clear statutory framework which covers:</p> <ul style="list-style-type: none"> procedures for considering de-listing requests and unfreezing assets of de-listed persons as well as for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism; a procedure for authorising access to funds/assets that

⁵ On 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and this difficulty no longer applies.

	<p>are frozen and that are determined to be necessary on humanitarian grounds in a manner consistent with S / Res / 1452 (2002);</p> <ul style="list-style-type: none"> • a procedure for court review of freezing actions.
The Financial Intelligence Unit and its functions (R.26, 30 and 32)	<ul style="list-style-type: none"> • Processing times for money laundering STRs should be kept under review; • More detailed breakdowns of STRs would assist strategic analysis (e.g. between domestic and offshore sectors). • Review S.26(2)(c) of the AML Act as a statutory basis for suspending transactions.
Law enforcement, prosecution and other competent authorities (R.27, 28, 30 and 32)	<ul style="list-style-type: none"> • Investigative competencies of the various police bodies could usefully be delineated; • MOKAS should be informed of all AML/CFT investigations prosecutions and convictions, and the types of case to which they refer so that the Advisory Authority has a complete statistical overview of the law enforcement response; • Some re-orientation of existing police resources should be considered for more financial investigation; • Prosecutors (and investigators) need more training on types of evidence a court may accept in cases of money laundering by third parties; • Consideration of prosecutorial guidance on third party laundering, possibly by the Attorney General.
3. Preventive Measures– Financial Institutions	
Risk of money laundering or financing of terrorism	<ul style="list-style-type: none"> • Improve or enhance the Guidance Notes as outlined in the report particularly in respect of CDD and identification of beneficial ownership of companies and trusts.
Financial institution secrecy or confidentiality (R.4)	<ul style="list-style-type: none"> • Delete the requirement in Section 27(2) of the Banking Law that the CBC should not divulge any information relating to an individual deposit account; and • Draw a direct link in the regulatory legislation to the supervisory authorities’ (CBC, SEC, ICCS) ability to disclose information relating to money laundering and terrorist financing.
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> • Undertake CDD measures in cases of occasional wire transfers, when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to under the AML Law, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology); • On terminating a business relationship to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (all AML Guidance Notes; Criterion 5.16 of

	<p>the Methodology);</p> <ul style="list-style-type: none"> • Amend the AML Law and require financial institutions to verify the customer’s identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology); • Identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology); • Understand ownership and control structures (all AML Guidance Notes; Criterion 5.5.2(a) of the Methodology); • Obtain information on the purpose and intended nature of the business relationship; (the G-Investment Brokers, the G-Insurers, the G-International Businesses; Criterion 5.6 of the Methodology); • Conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology); • Perform enhanced due diligence for higher risk customers; the G-International Businesses; Criterion 5.8 of the Methodology); • Describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology). • Seek and obtain satisfactory evidence of identity of their customers in any case at the time of establishing an account relationship or describe cases where an identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken in the latter case (the G-Banks; Criteria 5.13, 5.14 and 5.14.1 of the Methodology); • Apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (the G-MTB, the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 5.17 of the Methodology).
(R.6)	<ul style="list-style-type: none"> • Have in place rules regarding PEPs according to Criteria 6.1-6.4 of the Methodology (all AML Guidance Notes except the G-Banks).
(R.8)	<ul style="list-style-type: none"> • Put in place procedures to prevent the misuse of technological developments (the G-Investment Brokers, the G-Insurers and the G-International Businesses; Criterion 8.1 of the Methodology).
(R.9)	<ul style="list-style-type: none"> • No recommendation.

Record keeping and wire transfer rules (R.10 and SR.VII)	<ul style="list-style-type: none"> • Repeal and amend section 66(3/b) of the AML Law, section 3.2.3(iii) of the G-Banks, section 3.2.3(iii) of the G-Investment Brokers and section 5 of the G-International Businesses and amend the G-Insurers so that it is clear that records must be maintained for at least five years following the termination of the business relationships (Criterion 10.2 of the Methodology); • amend the AML Law requiring all financial institutions to ensure that all customer and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology).
Monitoring of transactions and relationships (R.11 and 21)	<ul style="list-style-type: none"> • Investment, insurance and international business sectors need guidance to pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology); • Require financial institutions to examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology); • Amend the G-Investment Brokers, the G-Insurers and the G-International Businesses to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations; to examine the background and purpose of such transactions where they have no apparent economic or visible lawful purpose; and for written findings to be available to assist competent authorities (Criteria 21.1 and 21.2 of the Methodology); • All financial institutions to keep such findings available for competent authorities for at least five years (Criterion 11.3 of the Methodology).
Suspicious transaction reports and other reporting (R.13 and 14, 19, 25 and SR.IV and SR.IX)	<ul style="list-style-type: none"> • The Law should expressly provide for the reporting of attempted transactions; • The safe harbour provisions should clearly cover all civil and criminal liability; • The tipping off offence should be reconsidered to ensure the full range of coverage as required by criterion 14.2 of the Methodology without unnecessary restrictions; • More training and guidance to support the reporting of suspicious transactions related to financing of terrorism (SR.IV).
Internal controls, compliance, audit and foreign branches (R.15 and 22)	<ul style="list-style-type: none"> • Amend the AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology); • Include reference in the AML Guidance Notes to an <u>independent</u> audit function to test compliance (Criterion 15.2 of the Methodology);

	<ul style="list-style-type: none"> • Amend the various Guidance Notes (and possibly the AML Law) to require financial institutions to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology); • Ensure that financial institutions' foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations (Criteria 22.1 to 22.2 of the Methodology).
The supervisory and oversight system – competent authorities and SROs Roles, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)	<ul style="list-style-type: none"> • Introduce effective, proportionate and dissuasive sanctions for financial institutions in respect of money laundering and terrorist financing (Criterion 17.1 of the Methodology); • Increase staff resources at the ICCS, the CBA and ICPAC and technical resources at the ICCS (Criterion 30.1 of the Methodology) in a sustainable way; • Provide training on combating money laundering to the ICCS and the CBA and on combating the financing of terrorism to all supervisory authorities (Criterion 30.2 of the Methodology); • Introduce greater coordination between the supervisory authorities, including coordination of the AML Guidance Notes and consideration as to whether the number and functions of the supervisory authorities is appropriate. Quality control of Guidance Notes would be helpful; • Designate a supervisory authority under the Anti-Money Laundering Law for insurance intermediaries; • Pursue active vetting of controllers, directors and managers of foreign insurance undertakings.
Shell banks (R.18)	<ul style="list-style-type: none"> • Create a specific provision requiring financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks (see Criterion 18.3 of the Methodology).
Financial institutions – market entry and ownership/control (R.23)	<ul style="list-style-type: none"> • AML Guidance Notes have been issued by each of the supervisory authorities. The evaluators recommend that this framework should be enhanced by issuing transparent and explicit Guidance Notes to those sub-sectors – investment enterprises (other than brokers), insurance intermediaries and value transfer services – not yet in receipt of guidance.
Ongoing supervision and monitoring (R23, 29)	<ul style="list-style-type: none"> • Start on-site visits regarding money transfer business, insurers and insurance intermediaries on a risk based and random basis and formalise a programme of such visits for the investment sector (Criteria 23.4, 23.6 and 29.2 of the Methodology);
AML/CFT Guidelines (R.25)	<ul style="list-style-type: none"> • The AML Guidance Notes should cover techniques of terrorist financing (Criterion 25.1 of the Methodology); • Guidance Notes should be explicitly issued to insurance intermediaries and to all undertakings carrying on

	investment business (including UCITS managers and investment firms other than brokers) (Criterion 25.1 of the Methodology).
Money or value transfer services (SR.VI)	<ul style="list-style-type: none"> The relevant recommendations have already been made above.
4. Preventive Measures – Designated Non-Financial Businesses and Professions	
Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> Extend section 61 of the AML law to cover trust and company service providers, notaries, casinos and dealers in all high-value goods whenever payment is made in cash in an amount of EUR 15,000 or more (definitions of DNFBP in the Methodology and article 2(a) of the EU Directive); Undertake CDD measures in cases of occasional wire transfers, when there is a suspicion of money laundering or terrorist financing, regardless of any exemptions or thresholds that are referred to under the AML Law, and in cases of doubts about the veracity or adequacy of previously obtained customer data (Criteria 5.2(c), (d) and (e) of the Methodology); Amend the AML Law and require financial institutions to verify the customer’s identity using reliable and independent source documents as well as to verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person (Criteria 5.3 and 5.4(a) of the Methodology); Identify the beneficial owner, take reasonable measures to verify his identity using relevant information or data obtained from a reliable source and determine the controller of legal persons and arrangements (Criteria 5.5 and 5.5.2(b) of the Methodology); Conduct ongoing due diligence on the business relationship (Criterion 5.7 of the Methodology); Describe cases where identification after the establishment is essential not to interrupt the normal conduct of business, including the risk management procedures to be taken (Criteria 5.13, 5.14 and 5.14.1 of the Methodology); Repeal and amend section 66(3)(b) of the AML Law (Criterion 10.2 of the Methodology); Require DNFBP to ensure that all customers and transaction records and information are available on a timely basis to domestic competent authorities upon appropriate authority (Criterion 10.3 of the Methodology). <ul style="list-style-type: none"> - understand ownership and control structure (Criterion 5.5.2(a) of the Methodology); - obtain information on the purpose and intended nature of

	<p>the business relationship (Criterion 5.6 of the Methodology);</p> <ul style="list-style-type: none"> - perform enhanced due diligence for higher risk customers (Criterion 5.8 of the Methodology); - on terminating a business relationship to consider making an STR where the business relationship has already commenced and Criteria 5.3 to 5.5 cannot be satisfied (Criterion 5.16 of the Methodology); - apply CDD requirements to existing customers on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times (Criterion 5.17 of the Methodology); - have in place rules regarding PEPs (Criteria 6.1 to 6.4 of the Methodology); - put in place procedures to prevent the misuse of technological developments (Criterion 8.1 of the Methodology); - clarify the transaction records to be held (Criterion 10.1. of the Methodology).
Monitoring of transactions and relationships (R.12 and 16)	<ul style="list-style-type: none"> • Pay special attention to complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose (Criterion 11.1 of the Methodology); • Examine as far as possible the background and purpose of complex, unusual large transactions or unusual patterns of transactions and to set forth their findings in writing (Criterion 11.2 of the Methodology); • Keep such findings available for competent authorities for at least five year (Criterion 11.3 of the Methodology); • State that transactions by persons from or in countries which do not or insufficiently apply the FATF Recommendations, where those transactions have no apparent or legal purpose, the background and purpose should be examined and written findings be available to the competent authorities (Criterion 21.2 of the Methodology).
(R.13)	<ul style="list-style-type: none"> • The Law should expressly provide for the reporting of attempted transactions
(R.14)	<ul style="list-style-type: none"> • The examiners consider that the safe harbour provisions do not fully comply with Criterion 14.1. The examiners recommend that this issue is reconsidered to clearly cover all civil and criminal liability. • The tipping off offence should be reconsidered at outlined above.
Internal controls, compliance and audit (R.16)	<ul style="list-style-type: none"> • Amend the existing AML Guidance Notes to include training on countering terrorist financing (Criteria 15.1 to 15.4 of the Methodology); • Include reference in the AML Guidance Notes to an independent audit function to test compliance (Criterion 15.2 of the Methodology);

	<ul style="list-style-type: none"> • Include a training requirement in the AML Guidance Notes for developments in money laundering and terrorist financing techniques, methods and trends (Criterion 15.3 of the Methodology); • Amend the AML Guidance Notes (and possible the AML Law) and require DNFBP to put in place screening procedures to ensure high standards when hiring employees (Criterion 15.4 of the Methodology).
Regulation, supervision and monitoring (R.17, 24-25)	<ul style="list-style-type: none"> • Introduce effective, proportionate and dissuasive sanctions for DNFBP who will be covered by section 58(2)(a) of the AML Law (Criterion 17.1 of the Methodology); • Designate a supervisory or other authority for real estate agents, dealers in precious metals, dealers in precious stones and trust and company services providers which can apply sanctions (Criterion 17.2 of the Methodology); • Amend the existing Guidance Notes to cover CFT (Criterion 2.5.1 of the Methodology); • Issue guidelines on AML and CFT to all trust and company service providers, lawyers, real estate agents, dealers in precious metals and dealers in precious stone (Criterion 25.1 of the Methodology).
Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • Suggest AML framework is extended to all dealers in high value goods (EU Directive).
3. Legal Persons and Arrangements and Non-profit Organisations	
Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> • Introduce a framework for the supervision of company services providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, of the beneficial ownership and control of legal persons, and which allows the supervisor to have access to such records. (Criteria 33.1 and 33.2 of the Methodology).
Legal Arrangements–Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> • Introduce a framework for the supervision of trust service providers, which requires such providers to obtain, verify and retain records, which are adequate, accurate and current, on the beneficial ownership and control of legal arrangement (Criteria 34.1 and 34.2 of the Methodology); • Clarify the obligations regarding customers which are legal arrangements across the Guidance Notes (Criterion 34.1 of the Methodology); • Monitor implementation by all financial institutions and DNFBP of the FATF Recommendations.
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • Having first undertaken a formal analysis of the threats posed by this sector as a whole, review the existing system of laws and regulations so as to assess the adequacy of the current legal framework (Criterion VIII.1); • Consideration should be given to effective and

	<p>proportional oversight of the NPO sector and the issuing of guidance for financial institutions on the specific risks of this sector;</p> <ul style="list-style-type: none"> • Consider whether and how further measures need taking in the light of the Best Practices document for SR.VIII.
6. National and International Co-operation	
National Co-operation and Co-ordination (R.31)	<ul style="list-style-type: none"> • The Advisory Authority should deepen its role: by facilitating a co-ordinated response to AML/CFT issues: (e.g. co-ordinating Guidance Notes); by developing a strategic analysis of the AML/CFT threats and vulnerabilities; by reviewing the system periodically against developed key performance indicators (including the breakdown of the total number and types of AML/CFT investigations, prosecutions and convictions as set out in the report.
The Conventions and UN Special Resolutions (R.35 and SR.I)	<ul style="list-style-type: none"> • Provide for adequate domestic legislation implementing the UN Resolutions.
Mutual Legal Assistance (R.32, 36-38, SR.V)	<ul style="list-style-type: none"> • Since the definitional problems with the domestic financing of terrorism offence would severely limit MLA based on dual criminality, immediate legislative steps should be taken for the proper criminalisation (see above)⁶; • Complete, detailed and precise statistics must be kept on AML / CFT mutual legal assistance;
Extradition (R.32, 37 and 39, and SR.V)	<ul style="list-style-type: none"> • The problems with the offence of financing of terrorism would limit extradition possibilities as well, which makes the above mentioned legislative steps even more important (see above); • Complete, detailed and precise statistics must be kept on extradition in ML /FT cases.
Other forms of co-operation (R.32)	<ul style="list-style-type: none"> • FIU to keep more detailed statistical data on requests to it, including response times, and whether the request was able to be fulfilled. • Cyprus authorities to satisfy themselves that supervisory bodies are exchanging information with foreign counterparts.

⁶ After the on-site visit, on 22 July 2005 Parliament enacted a Law amending the Ratification Law deleting section 9 and now Cypriot citizens are clearly covered.