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

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Mutual Evaluation Report - Addendum

Anti-Money Laundering and Combating the Financing of Terrorism

ARMENIA

22 September 2009

Armenia is a member of MONEYVAL. This evaluation was conducted by the International Monetary Fund (IMF). A representative of MONEYVAL joined the IMF team for part of the evaluation exercise to examine compliance with the European Union anti-money laundering directives where these differ from the FATF Recommendations and therefore fall within the remit of the MONEYVAL examinations. The report was adopted by MONEYVAL as a third round mutual evaluation at its 30th Plenary (Strasbourg, 21-24 September 2009).

Compliance with the 3rd EU AML/CFT Directive

Armenia is not a member country of the European Union. It is not directly obliged to implement **Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing** (hereinafter: "the Directive") and the **Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis**.

The following sections describe the major differences between the Directive and the relevant FATF 40 Recommendations plus 9 Special Recommendations. For relevant legal texts from the EU legal standards see Appendix I.

1.	**Corporate Liability**
Art. 39 of the Directive	Member States shall ensure that natural and legal persons covered by the Directive can be held liable for infringements of the national provisions adopted pursuant to this Directive.
FATF R. 2 and 17	Criminal liability for money laundering should extend to legal persons. Where that is not possible (i.e. due to fundamental principles of domestic law), civil or administrative liability should apply.
Key elements	The Directive provides no exception for corporate liability and extends it beyond the ML offence even to infringements which are based on national provisions adopted pursuant to the Directive. What is the position in your jurisdiction?
Description and Analysis	Only natural persons can be subject to criminal liability according to Article 23 of the Penal Code, reflecting the principle of the personal character of criminal sanctions and on the *adagium "nullum crimen sine culpa"* (no crime without guilt). Although it is highly debatable that Article 23 PC is of such fundamental nature as to oppose any extension of the criminal liability of legal persons, this issue is irrelevant in the context of the Directive, as it does not formally impose such obligation and allows for sole corporate administrative liability for legal persons ((Art. 39.1 and 3). In Armenia legal persons are subject to administrative liability when involved in money laundering, as stipulated in Article 28 of AML/CFT Law. Furthermore all reporting entities, be they natural or legal persons, are administratively liable for infringements of the AML/CFT provisions (Art. 27 AML/CFT Law).
Conclusion	Compliant
Recommendations and Comments	

2.	**Anonymous accounts**
Art. 6 of the Directive	Member States shall prohibit their credit and financial institutions from keeping anonymous accounts or anonymous passbooks.
FATF R. 5	Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.
Key elements	Both prohibit anonymous accounts but allow numbered accounts.

	The Directive allows accounts or passbooks on fictitious names but always subject to full CDD measures. What is the position in your jurisdiction regarding passbooks or accounts on fictitious names?
Description and Analysis	The AML/CFT Law does not allow for any exception to the anonymous account prohibition in any form. Article 17 expressly stipulates the prohibition to open, service or provide (1) anonymous accounts or accounts in fictitious names, as well as other payment documents and (2) accounts which are expressed only in figures, letters or other conventional signs.
Conclusion	Compliant
Recommendations and Comments	

3.	**Threshold (CDD)**
Art. 7 b) of the Directive	The institutions and persons covered by the Directive shall apply CDD measures when carrying out occasional transactions amounting to EUR 15 000 or more.
FATF R. 5	Financial institutions should undertake CDD measures when carrying out occasional transactions above the applicable designated threshold.
Key elements	Are transactions and linked transactions of EUR 15 000 covered?
Description and Analysis	Any occasional transaction involving an amount of more than 400 times the minimal salary (i.e. approx. 1.000 €) is subjected to the CDD identification rules (Article 15.2.2 AML/CFT Law).
Conclusion	Compliant
Recommendations and Comments	

4.	**Beneficial Owner**
Art. 3(6) of the Directive (see Annex)	The definition of 'Beneficial Owner' establishes minimum criteria (percentage shareholding) where a natural person is to be considered as beneficial owner both in the case of legal persons and in the case of legal arrangements
FATF R. 5 (Glossary)	'Beneficial Owner' refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or legal arrangement.
Key elements	Which approach does your country follow in its definition of "beneficial owner"? Please specify whether the criteria in the EU definition of "beneficial owner" are covered in your legislation.
	Art. 3(6)of the Directive refers to (a) corporate entities, and (b) legal entities (such as foundations) and legal arrangements (such as trusts). The AML/CFT Law is in line with the Directive, where in its Article 3.15 it defines beneficial owner in relation to legal persons (which notion covers both corporate and legal entities) as: ".. the natural person who exercises factual (real) control over the legal person or transaction (business relationship) and (or) for whose benefit the business relationship or transaction are being conducted. A natural person may be considered as the beneficial owner of a legal person if such a natural person: 1) owns 20 percent or more of the voting stocks (shares, interest; hereinafter referred to as the stock) or by virtue of his or her participation or under the agreement concluded with the legal person, is able to predetermine its decisions; 2) is a member of the management body of the legal person

	concerned; 3) acts in agreement with the legal person concerned, based on common economic interests." The "legal person" concept of Art. 3.15 AML/CFT law however does not cover legal arrangements(such as trusts) of a contractual nature, that are devoid of legal personality. Although inexistent in Armenia and not part of its legal system, this circumstance obviously does not invalidate the express obligation of Article 3(6)(b) of the Directive to cover also the beneficial ownership in case of foreign legal arrangements, whenever they are active in Armenia.
Conclusion	Partially compliant, as far as legal persons is concerned. Beneficial ownership is not covered under Armenian law in relation to legal arrangements, as specifically provided by the Directive.
Recommendations and Comments	Armenia should define beneficial ownership in line with the specific terms of the Directive, also in respect of legal entities and arrangements

5.	**Financial activity on occasional or very limited basis**
Art. 2 (2) of the Directive	Member States may decide that legal and natural persons who engage in a financial activity on an occasional or very limited basis and where there is little risk of money laundering or financing of terrorism occurring do not fall within the scope of Art. 3(1) or (2) of the Directive. Art. 4 of Commission Directive 2006/70/EC further defines this provision.
FATF R. concerning financial institutions	When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially (2004 AML/CFT Methodology para 23; Glossary to the FATF 40 plus 9 Special Recs.).
Key elements	Does your country implement Art. 4 of Commission Directive 2006/70/EC?
Description and Analysis	Article 3.4 of the AML/CFT Law, listing the entities subject to the AML/CFT obligations, does not provide for any exception based on the occasional or limited character of the financial activity.
Conclusion	No derogation for occasional or limited financial activities has been introduced in Armenian Law or regulation
Recommendations and Comments	

6.	**Simplified Customer Due Diligence (CDD)**
Art. 11 of the Directive	By way of derogation from the relevant Article the Directive establishes instances where institutions and persons may not apply CDD measures. However the obligation to gather sufficient CDD information remains.
FATF R. 5	Although the general rule is that customers should be subject to the full range of CDD measures, there are instances where reduced or simplified measures can be applied.
Key elements	Is there any implementation and application of Art. 3 of Commission Directive 2006/70/EC which goes beyond the AML/CFT Methodology 2004 criterion 5.9?

Description and Analysis	Simplified CDD measures are allowed by virtue of Article 15.6 of the AML/CFT Law . Categories of lower risk are stipulated by Chapter 6 of the Regulation on AML-CFT Related Minimal Requirements and Part 7 of the Guidance on Risk-Based Approach. Articles 3.1 and 3.2 and 3.3 of the Commission Directive provide for very detailed and specific criteria in the definition of "public authorities or public bodies" and in the definition of "customers who are legal entities which do not enjoy the status of public authority or public body", as well as the criteria/conditions for "products" before a SCDD may be applied. Armenia has not implemented, nor does it apply the specific technical criteria laid down in Art. 3 of the Comm. Dir 2006/70/EC. Consequently, the possibilities to apply SCDD are broader than the limited instances stipulated by art. 11 EU Dir, and art. 3 Comm. Directive. Furthermore, there is no obligation to apply SCDD in the sense of Art. 11.1 EU Dir. in relation to credit and financial institutions covered by the Directive or equivalent third countries. The application of SCDD remains optional.
Conclusion	Armenia does not apply SCDD according to the strict criteria of the EU and Commission Directive, nor does it make an exception for EU or equivalent banks, which is mandatory under the EU Directive.
Recommendations and Comments	Armenia should have regard to the specific and strict criteria for the application of SCDD, as laid down in the EU and Comm. Directive.

7.	**Politically Exposed Persons (PEPs)**
Art. 3 (8), 13 (4) of the Directive (see Annex)	The Directive defines PEPs broadly in line with FATF 40 (Art. 3(8)). It applies enhanced CDD to PEPs residing in another Member State or third country (Art. 13(4)). Directive 2006/70/EC provides a wider definition of PEPs (Art. 2) and removal of PEPs after one year of the PEP ceasing to be entrusted with prominent public functions (Art. 2(4)).
FATF R. 6 and Glossary	Definition similar to Directive but applies to individuals entrusted with prominent public functions in a foreign country.
Key elements	Does your country implement Art. 2 of Commission Directive 2006/70/EC, in particular Art. 2(4), and does it apply Art. 13(4) of the Directive?
Description and Analysis	The high-risk approach towards PEPs is imposed by Article 15.7 AML/CFT Law. This provision not only targets the PEPs as such, but also their family members and affiliated persons. This is in line with Articles 3.8 and 13.4 of the Directive, although the Directive refers to "close associates". The term "affiliates" used in the AML/CFT law is defined in Article 8.2 of the Law on Banks and Banking as persons who "*… jointly run business activities, or have been acting in accord aiming at common economic interests"*, which basically and substantially covers the "close associate" notion of the Directive. Armenia follows the FATF approach targeting PEPs exercising public functions in a foreign country, irrespective of the place of residence (EU Dir. criterion). The definition of PEPS is not limited to the one year period as allowed under Art. 2.4 of the Directive 2006/70/EC.
Conclusion	Compliant

Recommendations and Comments	

8.	**Correspondent banking**
Art. 13 (3) of the Directive	For correspondent banking, Art. 13(3) limits the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.
FATF R. 7	Recommendation 7 includes all jurisdictions.
Key elements	Does your country apply Art. 13(3) of the Directive?
Description and Analysis	The AML/CFT legislation of the Republic of Armenia (Article 15.10 of the AML/CFT Law) accepts the "all jurisdictions approach", that is it does not limit the application of Enhanced Customer Due Diligence (ECDD) to correspondent banking relationships with institutions from non-EU member countries.
Conclusion	Armenia does not apply the limitation of Art.13(3) of the Directive and makes no exception for EU member countries, as it is entitled to.
Recommendations and Comments	

9.	**Enhanced Customer Due Diligence (ECDD) and anonymity**
Art. 13 (6) of the Directive	The Directive requires ECDD in case of ML or TF threats that may arise from products or transactions that might favour anonymity.
FATF R. 8	Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity [...].
Key elements	The scope of Art. 13(6) of the Directive is broader than that of FATF R. 8, because the Directive focuses on products or transactions regardless of the use of technology. How are these issues covered in your legislation?
Description and Analysis	Article 8 of the AML/CFT Law provides that in their internal legal acts, financial institutions should provide for and apply relevant measures for counteracting money laundering or terrorism financing risks associated with new or developing technologies. When establishing business relations or conducting ongoing due diligence of their customers, financial institutions should, in the manner established by their internal legal acts, provide for preventive mechanisms to address all risks associated with non face-to-face business relationships or transactions." Article 15, paragraph 7 and 8 of the AML/CFT Law state that in the case of the presence of "high risk criteria", reporting entities should take adequate measures to the risks of ML and TF, and that in the presence of high risk criteria, financial institutions should perform enhanced due diligence. The details of the criteria for high risk and rules for their determination are substantiated by Chapter 5 of the Regulations on Minimal requirements. The criteria include among others, the establishment of non face-to-face business relationships or occasional transactions through electronic means or correspondence (non face-to-face relationships).
Conclusion	Although there is no express provision to apply ECDD in case of ML or TF threats that may arise from products or transactions that might favour anonymity, the existing relevant provisions, as above, impose an appropriate risk-based approach and enhanced customer due diligence in situations targeted by Article 13.6.
Recommendations and	

Comments	

10.	Third Party Reliance
Art. 15 of the Directive	The Directive permits reliance on professional, qualified third parties from EU Member States or third countries for the performance of CDD, under certain conditions.
FATF R. 9	Allows reliance for CDD performance by third parties but does not specify particular obliged entities and professions which can qualify as third parties.
Key elements	What are the rules and procedures for reliance on third parties? Are there special conditions or categories of persons who can qualify as third parties?
Description and Analysis	Article 15.11 AML/CFT Law generically allows reporting entities to use of data obtained in customer identification and verification process performed by other reporting entities, specialized intermediaries, or persons empowered to represent third parties, as "a basis", in the "course of customer identification and verification". However the possibility to rely on third parties to perform elements of the CDD is not further substantiated by the law or by any other regulations and guidance. The law defers to the FIs for the determination of the conditions/procedures for the reliance on third parties by stating that such can be done "only in cases and in the manner established by the internal legal acts of the reporting entities". The reference in Article 15, paragraph 11 to "specialized intermediaries or persons empowered to represent third parties" is not defined by the AML/CFT law, and it is inconsistent with the Directive definition of subjects which can be relied upon for the purpose of CDD. The Armenian definition is too broad, in that it would encompass any person, as long as this person is empowered to represent the third party.
Conclusion	The rule of Article 15.11 AML/CFT Law is too broad to comply with the restrictive specification of Article 15 of the Directive
Recommendations and Comments	The notion of "specialized intermediaries or persons empowered to represent third parties" should be defined in a manner that is consistent with the Directive, in particular limit it to the requirement to "third parties" that are FIs or DNFBPs only and not to "persons empowered to represent third parties.

11.	Auditors, accountants and tax advisors
Art. 2 (1)(3)(a) of the Directive	CDD and record keeping obligations are applicable to auditors, external accountants and tax advisors acting in the exercise of their professional activities.
FATF R. 12	CDD and record keeping obligations 1. do not apply to auditors and tax advisors; 2. apply to accountants when they prepare for or carry out transactions for their client concerning the following activities: • buying and selling of real estate; • managing of client money, securities or other assets; • management of bank, savings or securities accounts; • organisation of contributions for the creation, operation or management of companies; • creation, operation or management of legal persons or arrangements, and buying and selling of business entities (2004 AML/CFT Methodology criterion 12.1(d)).
Key elements	The scope of the Directive is wider than that of the FATF standards

	but does not necessarily cover all the activities of accountants as described by criterion 12.1(d). Please explain the extent of the scope of CDD and reporting obligations for auditors, external accountants and tax advisors.
Description and Analysis	The profession of tax advisor does not exist in Armenia and consequently is not regulated as such. This activity is exercised by other professionals (such as accountants and lawyers), who are subject to the AML/CFT obligations. However, the AML/CFT provisions do not apply to the overall professional activities of these professions (see also art. 5.2(3) AML/CFT Law for the reporting duty). Article 15.12 AML/CFT Law provides that Customer due diligence rules apply to independent auditors and auditing firms, independent accountants and accounting firms only with regard to the following transactions prepared or carried out for their clients: ▪ buying and selling of real estate; ▪ managing of client money, securities, or other assets; ▪ management of bank accounts; ▪ provision of funds or other assets for establishment, operation, or management of legal persons; ▪ performing functions of establishment, operation, or management of legal persons, as well as buying and selling of more than 75 percent of the stocks (contribution, shares and the like) in the authorized capital (equity capital and the like) of legal persons, or buying and selling of stocks (equities, shares) of legal persons at a nominal or market value above 20 million drams."
Conclusion	The Armenian AML/CFT law is not in line with the Directive requiring that the auditors and accountants should be covered when acting in the exercise of their professional activities, without limitation.
Recommendations and Comments	The Armenian legislator should extend the scope of the AML/CFT obligations to <u>all</u> professional activities of the auditors and accountants

12.	**High Value Dealers**
Art. 2(1)(3)e) of the Directive	The Directive applies to natural and legal persons trading in goods where payments are made in cash in an amount of EUR 15 000 or more.
FATF R. 12	The application is limited to those dealing in precious metals and precious stones.
Key elements	The scope of the Directive is broader. Is the broader approach adopted in your jurisdiction?
Description and Analysis	Article 5.4 of the AML/CFT Law limits its application to dealers in precious metals and precious stones, dealers in artworks and organizers of auctions, when they are dealing with cash transactions with their clients. Other persons trading in goods over certain threshold (*e.g.* car dealers, boat salesmen, *etc...)* are not covered.
Conclusion	Only partial compliance with the EU Directive, with deficient coverage of the high value dealers as a whole.
Recommendations and Comments	All high value dealers should be brought under the scope of the AML/CFT Law, in respect of cash payments of 15.000 € or more.

13.	**Casinos**
Art. 10 of the Directive	Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2 000 or more. This is not required if they

	are identified at entry.
FATF R. 16	The identity of a customer has to be established and verified when he or she engages in financial transactions equal to or above EUR 3 000.
Key elements	In what situations do customers of casinos have to be identified? What is the applicable transaction threshold in your jurisdiction for identification of financial transactions by casino customers?
Description and Analysis	In accordance with Article 15.12 of the AML/CFT Law customer due diligence rules apply to casinos only with regard to transactions carried out by their clients in a gambling context (such as chips purchase, betting and collecting winnings) above 1 million dram (AMD), i.e. approximately 1.900 €.
Conclusion	The threshold of the equivalent of 1.900 € is consistent with the Directive minimal amount (2.000 €)
Recommendations and Comments	

14. Reporting by accountants, auditors, tax advisors, notaries and other independent legal professionals via a self-regulatory body to the FIU	
Art. 23 (1) of the Directive	This article provides an option for accountants, auditors and tax advisors, and for notaries and other independent legal professionals to report through a self-regulatory body, which shall forward STRs to the FIU promptly and unfiltered.
FATF Recommendations	The FATF Recommendations do not provide for such an option.
Key elements	Does the country make use of the option as provided for by Art. 23 (1) of the Directive?
Description and Analysis	Armenia did not opt for a reporting regime through a self-regulatory body for this particular category of reporting entities.
Conclusion	No remarks
Recommendations and Comments	

15. Reporting obligations	
Arts. 22 and 24 of the Directive	The Directive requires reporting where an institution knows, suspects, or has reasonable grounds to suspect money laundering or terrorist financing (Art. 22). Obliged persons should refrain from carrying out a transaction knowing or suspecting it to be related to money laundering or terrorist financing and to report it to the FIU, which can stop the transaction. If to refrain is impossible or could frustrate an investigation, obliged persons are required to report to the FIU immediately afterwards (Art. 24).
FATF R. 13	Imposes a reporting obligation where there is suspicion that funds are the proceeds of a criminal activity or related to terrorist financing.
Key elements	What triggers a reporting obligation? Does the legal framework address *ex ante* reporting (Art. 24 of the Directive)?
Description and Analysis	Pursuant to article 5 of the AML/CFT law, that regulates the reporting of transactions requirements, the reporting obligation is triggered when the FMC receives 3 types of reports: - Transactions above the threshold of 20 million drams (appr. $ 55,000); from all reporting entities except attorneys, as well as for persons providing legal services, independent auditors and auditing firms,

	independent accountants and accounting firms. - Transactions related to real estate above the threshold of 50 million drams (appr. $130,000); - Suspicious transactions or business relationships, regardless any amount. Based on Article 7.6 of the AML/CFT Law, the Central Bank Decision 231-N of 31 July 2008 sets a deadline for suspicious transaction reports "within the same working day or, if impossible, before noon of the next working day". Furthermore, Article 24 AML/CFT law "entitles" financial institutions to suspend a business relationship or transaction for a maximum of 5 days, while "promptly" filing a report. Whilst these provisions create a deadline and a legal framework protecting the reporting entity against any liability for not executing the transaction immediately or resulting from its freezing actions, they do not install an explicit general requirement for an *"a priori"* disclosure to the FIU, giving it the opportunity to take the necessary conservatory measures. Consequently there is no general obligation to disclose up front, only to be deviated from in specific circumstances, as stated in Article 24.2 of the Directive.
Conclusion	Non compliant
Recommendations and Comments	The Law should provide for the general rule of reporting before executing the suspect transaction, allowing only an exception under the specific conditions of Article 24.2 Directive.

16.	**Tipping off (1)**
Art. 27 of the Directive	Art. 27 provides for an obligation for Member States to protect employees of reporting institutions from being exposed to threats or hostile actions.
FATF R. 14	No corresponding requirement (directors, officers and employees shall be protected by legal provisions from criminal and civil liability for "tipping off", which is reflected in Art. 26 of the Directive)
Key elements	Is Art. 27 of the Directive implemented in your jurisdiction?
Description and Analysis	Art. 27 Directive is implemented by Art 12 of the AML/CFT law providing that the Authorized Body shall be prohibited to publicize or otherwise provide any information (except for the information provided to criminal investigation or other authorities in the manner established by law) disclosing or facilitating disclosure of any person having reported on a suspicious transaction (business relationship) and (or) having participated in its reporting to the Authorized Body or in sending a statement to criminal investigation authorities by the Authorized Body
Conclusion	Compliant
Recommendations and Comments	

17.	**Tipping off (2)**
Art. 28 of the Directive	The prohibition on tipping off is extended to where a money laundering or terrorist financing investigation is being or may be carried out. The Directive lays down instances where the prohibition is lifted.
FATF R. 14	The obligation under R. 14 covers the fact that an STR or related information is reported or provided to the FIU.
Key elements	Under what circumstances are the tipping off obligations applied?

	Are there exceptions?
Description and Analysis	Article 5, Part 4, of the AML/CFT Law stipulates that "A reporting entity, its employees, and representatives shall be prohibited to inform the person on whom a report or other information has been submitted to the Authorized Body, as well as other persons, about the fact of submitting such report or information". This prohibition knows no exception whatsoever, and also applies to the relation between the reporting entity and the supervisory and law enforcement authorities. Furthermore, no lifting of the tipping-off prohibition in line with Art. 28.2 to 6 EU Dir. has been provided for by Armenia.
Conclusion	The requirements of art 28. 1 of the Directive is not fully complied with, as the tipping off prohibition does not extend to the fact that ML or TF investigations are being carried out or may be carried out. There are no exceptions to this prohibition in line with art. 28.2 to 6 of the Directive.
Recommendations and Comments	The Law should adapt the tipping off prohibition regime to bring it fully in line with Article 28.1 and 2 of the Directive.

18.	**Branches and subsidiaries (1)**
Art. 34 (2) of the Directive	The Directive requires credit and financial institutions to communicate the relevant internal policies and procedures where applicable on CDD, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication to branches and majority owned subsidiaries in third (non EU) countries.
FATF R. 15 and 22	The obligations under the FATF 40 require a broader and higher standard but do not provide for the obligations contemplated by Art. 34 (2) of the EU Directive.
Key elements	Is there an obligation as provided for by Art. 34 (2) of the Directive?
Description and Analysis	Article 19.3 of the AML/CFT Law provides that reporting entities shall be obligated to instruct their branches and representative offices located in foreign states or territories to apply the requirements of this Law and other legal acts adopted on basis of this Law, if the norms established by them are stricter than those established by the laws and other legal acts applicable in the country of location of such branches or representative offices.
Conclusion	Compliant
Recommendations and Comments	

19.	**Branches and subsidiaries (2)**
Art. 31(3) of the Directive	The Directive requires that where legislation of a third country does not permit the application of equivalent AML/CFT measures, credit and financial institutions should take additional measures to effectively handle the risk of money laundering and terrorist financing.
FATF R. 22 and 21	Requires financial institutions to inform their competent authorities in such circumstances.
Key elements	What, if any, additional measures are your financial institutions obliged to take in circumstances where the legislation of a third country does not permit the application of equivalent AML/CFT measures by foreign branches of your financial institutions?
Description and Analysis	Article 19.3 of the AML/CFT Law provides in that respect that where the laws and other legal acts of the country of location of a branch or

	representative office prohibit or do not make it possible to apply the requirements of this Law and other legal acts adopted on basis of this Law, the branch or representative office shall notify the reporting entity, and the reporting entity shall accordingly inform the Authorized Body. It is not specified what measures the relevant authority would then take to counter the enhanced ML/TF risk.
Conclusion	Partially compliant
Recommendations and Comments	The AML/CFT regime is unclear on how the enhanced ML/TF risk could be effectively dealt with and should further specified on this point.

20.	**Supervisory Bodies**
Art. 25 (1) of the Directive	The Directive imposes an obligation on supervisory bodies to inform the FIU where, in the course of their work, they encounter facts that could contribute evidence of money laundering or terrorist financing.
FATF R.	No corresponding obligation.
Key elements	Is Art. 25(1) of the Directive implemented in your jurisdiction?
Description and Analysis	Article 26. 2 of the AML/CFT Law provides that in the manner established by the Authorized Body, supervisory bodies shall inform the Authorized Body about the findings of examinations conducted in the field of combating money laundering and terrorism financing, as well as about the imposed sanctions. This rule, in particular relating to the financial supervisor, is further elaborated in the Manual on Cooperation Between the Financial Monitoring Center and the Financial Supervision Department of the Central Bank of the Republic of Armenia. Although the general terminology ("findings of examinations") might also be interpreted to include specific instances of non-disclosure, the obligation is unspecified, allowing for different interpretations.
Conclusion	The obligation for supervisory authorities to inform the FIU of cases of non-reporting is insufficiently specified.
Recommendations and Comments	The Law should expressly and specifically require the supervisory authorities to inform the FIU of all instances of failing to report suspicious transactions that might have evidentiary value.

21.	**Systems to respond to competent authorities**
Art. 32 of the Directive	The Directive requires credit and financial institutions to have systems in place that enable them to respond fully and promptly to enquires from the FIU or other authorities as to whether they maintain, or whether during the previous five years they have maintained, a business relationship with a specified natural or legal person.
FATF R.	There is no explicit corresponding requirement but such a requirement can be broadly inferred from Recommendations 23 and 26 to 32.
Key elements	Are credit and financial institutions required to have such systems in place and effectively applied?
Description and Analysis	In accordance with Article 20 of the AML/CFT Law provides in that regard that : "Reporting entities shall maintain records of at least the following information specified in this Law in the manner established by the normative legal acts of the Authorized Body: 1) Customer identification data, including account files and flows on

	account, as well as data on business correspondence – for at least 5 years following completion of the business relationship or, in cases prescribed by law, for a longer period; 2) Data on the main conditions of the transaction (business relationship), which would permit reconstruction of the real nature of the transaction (business relationship) – for at least 5 years following completion of the transaction (termination of business relationship) or, in cases prescribed by law, for a longer period. The information required by this Law and maintained by reporting entities should be sufficient for provision of comprehensive information about transactions (business relationships) requested by the Authorized Body or, in cases prescribed by law, by criminal investigation authorities." Article 20, paragraph 2, of the AML/CFT Law further states that the information required by the Law and maintained by reporting entities, including on transactions, should be sufficient to provide comprehensive information about transactions (or business relationships) in the case this is requested by the Authorized Body or by criminal investigative authorities. This obligation is substantiated by Article 39 of the Regulation on Minimal Requirements, that clarifies that the information subject to registration and keeping should be maintained in "a way which will ensure its use in the future as evidence". The authorities referred to norms of the Civil and Criminal Procedure Codes that establish what and in what form can be considered "evidence".
Conclusion	Compliant
Recommendations and Comments	

22.	**Extension to other professions and undertakings**
Art. 4 of the Directive	The Directive imposes a *mandatory* obligation on Member States to extend its provisions to other professionals and categories of undertakings other than those referred to in A.2(1) of the Directive, which engage in activities which are particularly likely to be used for money laundering or terrorist financing purposes.
FATF R. 20	Requires countries only to consider such extensions.
Key elements	Has your country implemented the mandatory requirement in Art. 4 of the Directive to extend AML/CFT obligations to other professionals and categories of undertaking which are likely to be used for money laundering or terrorist financing purposes? Has a risk assessment been undertaken in this regard?
Description and Analysis	The Armenia authorities state they undertook a risk assessment at the occasion of the 2008 revision of the AML/CFT Law, extending, its application to the following non-financial institutions or persons: - pawnshops - realtors (real estate agents); - notaries; - attorneys, as well as independent lawyers and firms providing legal services; - independent accountants and accounting firms; - independent auditors and auditing firms; - dealers in precious metals; - dealers in precious stones;

	- dealers in artworks; - organizers of auctions; - persons and casinos organizing prize games and lotteries, including the persons organizing internet prize games; - trust and company service providers. As said, the revised Law failed to subject all DNFBPs considered ML/TF sensitive by Art. 2(1) of the Directive (see it. 11 & 12 above). On the other hand it goes beyond the Directive by bringing other enterprises, such as auctioneers and pawnshops, under the scope of the AML/CFT Law without threshold limitation.
Conclusion	Compliant
Recommendations and Comments	

23. Specific provisions concerning equivalent third countries?	
Art. 11, 16(1)(b), 28(4),(5) of the Directive	The Directive provides specific provisions concerning countries which impose requirements equivalent to those laid down in the Directive (e.g. simplified CDD).
FATF R.	There is no explicit corresponding provision in the FATF 40 plus 9 Recommendations.
Key elements	How, if at all, does your country address the issue of equivalent third countries?
Description and Analysis	The AML/CFT legislation of the Republic of Armenia does not envisage specific provisions allowing for less stringent obligations, such as simplified CDD, in respect of equivalent third countries.
Conclusion	No remarks
Recommendations and Comments	

APPENDIX I – Relevant EU texts

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.