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

MONEYVAL(2011)21- SUMM

Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the Financing of Terrorism

SLOVAK REPUBLIC

26 September 2011

The Slovak Republic is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4th assessment visit of the Slovak Republic was adopted at its 36th Plenary (Strasbourg, 26-30 September 2011).

LIST OF ACRONYMS USED

AML/CFT	Anti-money laundering and counter-terrorist financing
AML/CFT Act	Act No. 297/2008 Coll. on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing (hereinafter referred to as AML/CFT Act)
ATM	Automatic Telling Machine
CARIN	Camden Asset Recovery Interagency Network
CC	Criminal Code
CDD	Customer Due Diligence
CIS	Collective Investments Act
CPC	Criminal Procedure Code
DNFBP	Designated Non-Financial Businesses and Professions
EAW	European Arrest Warrant
ECDD	Enhanced Customer Due Diligence
ESW	Egmont Secure Web
FIU	Financial Intelligence Unit named "Spravodajská Jednotka Finančnej Polície" in Slovakia
IIEG	Interagency Integrated Group of Experts
IT	Information Technology
MER	Mutual Evaluation Report
MLA	Mutual legal assistance
MoF	Ministry of Finance
MOU	Memorandum of Understanding
NBS	National Bank of Slovakia
NPO	Non Profit Organisation
ML	Money Laundering
PEPs	Politically Exposed Persons
SROs	Self Regulatory Authorities
SCC	Slovak Criminal Code
SCDD	Simplified Customer Due Diligence
TF	Terrorist Financing
UN	United Nations
UNSCR	United Nations Security Council Resolution
UTR	Unusual Transaction Report

EXECUTIVE SUMMARY

Background information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Slovakia at the time of the 4th on-site visit (4 to 9 October 2010) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4th cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which Slovakia received non-compliant (NC) or partially compliant (PC) ratings in its 3rd round report. This report is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the Slovak AML/CFT system.

Key findings

- Slovakia enacted on 1 September 2008 a new Act No. 297/2008 Coll. on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing transposing the third EU Money Laundering Directive, and Implementing Directive. Overall, the new law has brought the Slovak preventive AML/CFT system broadly into line with the FATF standards. Notably it established a clear legal basis for reporting suspicions of financing of terrorism, which was missing at the time of the last evaluation.

- Even though no formal action plan (at policy level) aimed at reviewing the implementation of AML/CFT policies domestically was promulgated by the Government after the adoption of the 3rd round mutual evaluation report (MER) for the implementation of the recommendations, most of the elements of the action plan as set out in the 3rd round report appear to have been addressed and significant progress has continued to be made since the adoption of the 3rd round MER in September 2006.

- The evaluators were not advised of any specific AML/CFT risk assessment undertaken since the last evaluation. Nonetheless, they were advised that there is a significant threat from domestic organised crime investing its proceeds overwhelmingly within the Slovak economy. Other prevalent economic and financial crimes include official corruption, theft of vehicles, tax evasion, fraud, and smuggling.

- The authorities consider the TF risk to be low. The major improvement with regard to the fight against terrorist financing since the adoption of the third round report has been the incrimination of financing of terrorism offence as an autonomous offence, which is broadly in line with the international standards, though some issues, as noted beneath, remain outstanding.

- Overall, Slovakia has continued to develop and strengthen its AML/CFT regime since the adoption of the third round report. There is, however, still a very low level of prosecutions for money laundering (ML) (and, though this is less clear, of orders to confiscate assets). The evaluators have serious concerns about how effectively money laundering is being used as a tool to fight major proceeds-generating crime and organised crime. Given the centrality of the FIU in the Slovak AML/CFT system, its present level

of resources and position in the overall police structure, as well as its operational independence and autonomy, still need to be further strengthened.

Legal Systems and Related Institutional Measures

2. Several modifications have been introduced to the Slovak Criminal Code (SCC) resulting in the present legislation, which has brought ML incrimination largely into compliance with the Vienna and Palermo Conventions. However, some uncertainties and shortcomings still appear to remain. The "property" for the purposes of the money laundering offence has not yet been clearly defined in the criminal legislation. This was also raised as a deficiency in the 3rd round MER. The requirement of the purposive element of "concealing the origin of the thing" for the laundering acts under Section 233 appears to impose an extra burden on the practitioners for the acts of disguising of or possession or personal use of the property.

3. The 3rd round MER noted the lack of criminal, civil or administrative sanctions for ML offences applicable to legal persons as deficiencies. Slovakia, with the enactment of the Act no. 224/2010 Coll. amending the Criminal Code, has introduced what may be regarded as a form of criminal liability for legal persons. These amendments came into force on 1 September 2010 and make it possible to impose protective/security measures on legal entities and confiscation of a property belonging to a legal entity. The sanctions applicable for natural and legal persons for ML offences appear to be effective, proportionate and dissuasive.

4. The statistics provided do not show how many convictions relate to third party laundering on behalf of others, as opposed to self laundering, or indeed, how many cases were generated by the police through financial investigations in parallel with their investigations into the predicate offences. The available ML statistics present a low number of convictions and agreements on guilt and punishment. Furthermore, the use of the ML offence in the context of the use of stolen cars, which in many jurisdictions would generally be prosecuted as receiving offences, continues to be a feature of criminal prosecution in this area. Car theft is the predicate offence in no less than 62% of the money laundering cases, since in total 292 out of 471 cases were linked to car theft. Furthermore, theft of other things or documents consists of 37 cases in total, which increases the offences treated as receiving offences to 70% of the money laundering cases. The evaluators consider that prosecution of crimes of these types as ML offences is not the primary goal of the AML regime. There is no evidence of money laundering prosecutions or convictions in relation to major and more serious proceeds-generating cases perpetrated by organised crime or others for pure economic gain. Therefore, the reasons for the discrepancy between the extent of organised crime in Slovakia and the type and quality of ML cases brought forward (and which have resulted in convictions) need to be analysed by the Slovak authorities.

5. The evaluation team welcomed the amendments made to the Slovak Criminal Code that came into force on 1 January 2010, which introduced an autonomous TF offence into Slovak law, as recommended as a matter of urgency in the third round MER. However, a number of shortcomings still prevent it from being fully in line with the requirements of Special Recommendation II. The financing of an individual terrorist's day-to-day activities is not criminalised as required under SR II. In addition, the Slovak Criminal Code needs to be revised so as to fully incriminate the financing of some of the acts defined in the treaties listed in the annex to the UN Terrorist Financing Convention. As there had been no investigations, prosecutions and convictions for TF offences in Slovakia at the time of the on-site visit, the existing legislative framework has not been tested in practice.

6. The legislative steps taken by Slovakia since the adoption of the third round MER has brought the Slovak general criminal freezing and confiscation system more into line with the international standards, though further steps are needed for full compliance. The Slovak Republic however could not demonstrate that the implementation of freezing and confiscation measures is being effectively pursued, as no meaningful statistical information on freezing and confiscation were made available.

7. The implementation of SR.III relies primarily upon the application of binding EU legislation. However, to supplement current EU procedures, a requirement to freeze assets of EU internals was adopted by Government Regulation No. 397/2005 Coll. (on execution of international sanctions to ensure international peace and security). Certain generic shortcomings which exist in the EU Regulation apply also in Slovakia. The Slovak Government Regulation contains the list of sanctioned persons, whose activity is confined to the territory of EU Member States or EU nationals. Financial institutions in Slovakia are obliged to freeze immediately all funds and economic assets of the persons included on the list in the Annex to Government Regulation No. 397/2005 Coll. Nevertheless, Slovakia does not have any effective national law or procedure, apart from the EU's mechanism, to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions, which ensure the prompt determination and the subsequent freezing of funds or other assets without delay. Slovakia does not have a publicly available procedure in place for any individual or entity to apply for a review of the designation from the designating authority, with the ability to seek further review of an adverse finding by the designating authority, to a review body. Similarly, there is no specific procedure which deals with unfreezing in a timely manner the funds or other assets of persons or entities inadvertently affected by a freezing mechanism, upon verification that the person or entity is not a designated person. As at the time of the third round mutual evaluation, there are still no appropriate measures in place for monitoring the effective compliance with SR III. As no guidance was provided to DNFBPs and financial institutions other than banks, the level of awareness of these sectors in respect of the freezing obligations still needs increasing. There has been no case of freezing of assets under the UNSCRs, which raises the concerns about the effectiveness of the existing procedures.

8. The AML/CFT Act defines the FIU as the national unit for the area of prevention and detection of money laundering and terrorist financing. The Act describes in detail the competences of the FIU. The FIU, one of departments of the Bureau for Combating Organized Crime of the Presidium of the Police Force, is central to the Slovak AML/CFT system. The third round MER emphasised its rather weak position in the overall police structure. Other than defining its roles and competencies more clearly in the new AML/CFT Act, no substantive steps have been taken by the authorities to strengthen the position of the FIU in the system. That said, it should be noted that the evaluators have not found any indication that the operational independence of the FIU has been affected so far by this issue. Nevertheless, reiterating the findings of the previous report, the present evaluators identified a continued lack of legal safeguards to ensure the FIU's operational independence and autonomy. Employees in the FIU have direct access to a variety of police databases and publicly available sources, which were integrated within a satisfactory IT system. This enables it to act quickly and effectively in its analytical functions.

9. The FIU is required to disseminate cases to law enforcement bodies which relate to all criminal offences, not just ML and TF. Especially, internet fraud activities like phishing and pharming have a significant place in the FIU's daily work. Moreover, the FIU is obliged to inform tax authorities of possible tax evasion cases, and to maintain a separate database of

information extracted from unusual transaction reports, which is made available to the security services in Slovakia. The Slovak authorities consider that, as a police unit, the FIU should not concentrate on just a few specific criminal offences. They noted that the FIU analyses and disseminates information on all criminal offences equally, which they consider adds value to the FIU's work. The evaluators none-the-less consider that these additional requirements do not allow the FIU to concentrate sufficiently on ML and TF. This gives rise to concerns about the effectiveness of the overall AML/CFT system in place, bearing in mind that the AML/CFT Act itself puts the FIU at the centre of that system, with responsibility for coordination and development of the whole system. The FIU employees are professional and motivated. The FIU shows a very high level of dedication to its responsibilities. It is however debatable whether their large responsibilities can be performed with the present level of resources and its current position in the overall police structure.

10. The present cross-border declaration system in Slovakia is based on the directly applicable EU Regulation; hence it only applies to the movements at the borders between Slovakia and non-EU Member States. In addition to the EU Regulation, there are several other laws in place which are used in Slovakia in order to implement requirements of SR IX. A very low number of declared transfers of cash or other bearer negotiable gives rise to concerns about the effectiveness of the implementation of the declaration system. Moreover, no cases of false declarations or failure to declare have been recorded.

Preventive Measures – Financial Institutions

11. As an EU member state, Slovakia was required to implement the third EU AML/CFT Directive (Directive 2005/60/EC) and the implementing Directive 2006/70/EC. The Act No. 297/2008 Coll. of 2 July 2008 on the Prevention of Legalization of Proceeds of Criminal Activity and Terrorist Financing and on Amendments and Supplements to Certain Acts as amended by the acts No. 445/2008 and No. 186/2009 entered into force on the 1st September 2008. The Act implements the third EU AML/CFT Directive in Slovakia, and stipulates basic rights and obligations of legal entities and natural persons in the prevention and detection of legalisation of proceeds of criminal activities and terrorist financing. Overall, the new AML/CFT Act has addressed most of the deficiencies identified in the 3rd round MER and established the legal preventive AML/CFT framework broadly in line with the FATF standards.

12. Slovakia has adopted and implemented a risk-based approach to AML/CFT, particularly in relation to customer/beneficial owner identification and verification requirements. Pursuant to the AML/CFT Act financial institutions are entitled to specify the extent of customer due diligence measures on a risk-sensitive basis and apply it to all their customers.

13. Implementation of CDD requirements by banks has been recorded as quite effective, since they have developed a comprehensive preventive regime. Though most of the other financial sector representatives met on-site seemed to have a good understanding of international AML standards, some of them, such as securities pension funds and payment services, appeared to be less aware of the ML risks and threats in their sectors. A need for issuing methodological guidelines for each sector, as has been provided for the banking sector, in order to improve general performance of CDD measures, is noted in the report. The new AML/CFT Act has introduced the concept of PEPs into the Slovak law, though the definition of PEPs should be revisited to ensure the full coverage is given to the definition provided in the Glossary to the FATF Recommendations in terms of senor politicians, senior government officials and important party officials.

14. The legislation on financial institution secrecy appears to enable the authorities to access the information that they require in order to exercise their functions in the fight against money laundering and terrorist financing, and does not inhibit the implementation of the FATF Recommendations. Furthermore, no problems appear to have been experienced in practice.

15. Overall, the record keeping requirements, which are embedded in Section 19 of the AML/CFT Act and in the sectoral laws, are broadly in line with the FATF standards. Nevertheless, there is still no legal obligation that requires the maintenance of account files and business correspondence.

16. One of the important deficiencies in the third round evaluation was the absence of any broad requirement for financial institutions to pay special attention to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF Recommendations. This situation remains unchanged. The Slovak law still does not have a requirement for financial institutions to pay special attention to such relationships and transactions. Similarly, the Slovak authorities are not in a position to apply countermeasures at present, as required under Recommendation 21.

17. Significant improvements have been made in the reporting system since the 3rd round evaluation. The obligation to report unusual transactions is stipulated in Section 17 of the AML/CFT Act. An unusual transaction is defined in the Act as a legal act or other act which indicates that its execution may enable legalisation or terrorist financing. The AML/CFT Act goes further in defining unusual transaction, implicitly providing reporting entities with some guidance or indicators for recognising suspicion. The Act requires obliged entities to postpone an unusual transaction if there is a danger that its execution may hamper or substantially impede seizure of proceeds of criminal activity or funds intended to finance terrorism. With the adoption of the new AML/CFT Act a clear legal basis for reporting suspicions of financing of terrorism now exists and attempted transactions are now clearly covered within the scope of the reporting obligation. Deficiencies in the definition of terrorist financing in the AML/CFT Act could have a negative impact on the reporting of TF related suspicious transactions. The reporting level from the banking and, to some extent, insurance sector appears to be satisfactory. However, other financial institutions show a significantly lower level of reporting. This gives rise to concerns about the effectiveness of the reporting regime. There are no indicators for recognizing suspicious transactions as guidelines for other financial sectors (securities market, currency exchange etc).

18. The requirements of the AML/CFT Act relating to the obligations to create an internal control system, internal procedures, policies to prevent ML and TF are broadly in line with the FATF standards.

19. There have been important changes in the supervisory structure for financial institutions in Slovakia since the adoption of the 3rd round MER. For instance, the NBS has been the single supervisory authority over the entire financial market in the Slovak Republic since January 2006. The procedure which is being used by the NBS during on-site visits is comprehensive; however, more training for the NBS staff focusing on TF is needed. Gambling operators and internet casinos are supervised by the Ministry of Finance. Supervision of the financial sector over AML/CFT issues is conducted by the FIU. The NBS and the Ministry of Finance, before starting an on-site visit, inform the FIU of the business name, place of business or registered office, identification number and type of obliged entity which is to be controlled. After a control is completed the FIU is made aware of the results and measures taken. If the NBS or the Ministry of Finance detects an unusual transaction or other facts that may be associated

with ML or TF, the FIU is informed without undue delay. The authorities are also authorized to conduct on-sites together. Even though no sole body responsible for sanctioning has been explicitly named, there have been no cases of double sanctioning and the cooperation between the NBS and the FIU seems to be on a good level. Further improvement is needed in cooperation between the FIU and the Ministry of Finance. The evaluators believe that overall the supervisory system works properly. The range of sanctions that may be imposed by the supervisory authorities is wide and the sanctions are effective, proportionate and dissuasive. However, some sanctions stipulated in the sectoral laws cannot be imposed by the FIU as it is not authorised to impose sanctions on directors and senior management of financial institutions.

Preventive Measures – Designated Non Financial Businesses and Professions (DNFBP)

20. Overall the meetings with the DNFBP sector demonstrated that, apart from the external auditors, the DNFBP sector in general is not aware at all of their obligations arising from the AML/CFT Act. Although some outreach activities have been performed by the FIU, the provision of more extensive outreach to this sector on their obligations is urgently needed. The low number of STRs, in the opinion of the evaluators, is evidence of inadequate implementation of the FATF standards. This was also a deficiency identified in the third round evaluation. Only 1 UTR has been received from lawyers (in 2006) and 8 from notaries since the adoption of 3rd round MER. Only 2 UTRs have been reported by real estate agencies and a very low number of STRs has been reported by accountants and auditors. No data has been made available as to whether dealers in precious metals and stones have ever reported any UTRs. Leaving aside some legislative refinements, the same concerns identified in the third round MER over the effectiveness of the implementation in all aspects of these Recommendations, remain valid.

21. All of the DNFBPs mentioned in Section 5 of the AML/CFT Act are under the supervision of the FIU apart from the gambling sector, which is supervised also by the Ministry of Finance. Some of them (lawyers, auditors, accountants and tax advisers) have their own SROs. This does not limit the powers of the FIU for AML/CFT related supervision. Given the statistics on on-site visits and the size of the unit (the FIU), as well as the number of entities to be supervised, the evaluators consider that supervision over this sector cannot be conducted effectively by the FIU with its present level of resources.

Legal Persons and Arrangements & Non-Profit Organisations

22. No comprehensive review appears to have been made of commercial, corporate, and other laws with a view to taking measures to provide adequate transparency with respect to the beneficial ownership, as recommended in the third round MER. Therefore, the deficiencies regarding this Recommendation still appear to remain valid. This evaluation team reiterates the findings of the third round evaluators that Slovak law still does not require adequate transparency concerning beneficial ownership and control of legal persons. It appears that, since the adoption of the third round MER, insufficient steps have been taken to bring the Slovak system into conformity with SR.VIII. A review of the sector has still not been undertaken and there has been insufficient outreach to the NPO sector. Concerns remain about the transparency of the sector and insufficient steps have been taken to strengthen the legal basis for supervision and oversight over NPO fundraising.

National and International Co-operation

23. The authorities have a variety of mechanisms in place to facilitate cooperation and policy development. There are also mechanisms to facilitate cooperation between the agencies involved in investigating ML and TF. More effective mechanisms however are needed at operational level. The authorities need to consider the creation of joint investigative teams or other forms of operational interagency coordination mechanisms in order to investigate and bring before the courts more money laundering cases which are related to major proceed-generating criminal offences.

24. Slovakia has ratified the Vienna and Palermo Conventions and the UN Terrorist Financing Convention. The legislation has been amended in order to implement the Conventions, but existing legislation does not cover the full scope of these Conventions. Furthermore, measures still need to be taken in order to properly implement UNSCRs 1267 and 1373.

25. Legal provisions for providing mutual legal assistance are laid down in domestic law, bilateral and multilateral treaties and apply both to ML and FT and thus international cooperation can cover a wide range of forms.

26. The Slovak authorities appear to have sufficient powers to enable them to provide different forms of assistance, information and cooperation without undue delay or hindrance. The responses received to MONEYVAL's standard enquiry on International Cooperation, which was sent to MONEYVAL and FATF members, were generally positive. However, deficiencies identified in relation to the definition of the TF offence might limit the ability of Slovak authorities to provide mutual legal assistance in TF cases.

Other Issues

27. While internal cooperation between the FIU and the NBS appears to be satisfactory, especially in the area of outreach and providing guidance to entities in the financial sector, more emphasis needs to be placed on enhancing the quality and frequency of day-to-day cooperation involving other stakeholders. Deficiencies in this co-operation have the potential to hamper the effectiveness of the Slovak AML/CFT regime.

28. Notwithstanding the existence of the Integrated Interagency Group of Experts, at a more strategic level, it appears to the evaluators to be essential that steps be taken to ensure that the national AML/CFT risk and the overall effectiveness of the national AML/CFT system are assessed on a regular basis.

TABLE :RATINGS OF COMPLIANCE WITH FATF RECOMMENDATIONS

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Slovakia. *It includes ratings for FATF Recommendations from the 3rd round evaluation report that were not considered during the 4th assessment visit. These ratings are set out in italics and shaded.*

Forty Recommendations	Rating	Summary of factors underlying rating[1]
Legal systems		
1. Money laundering offence	**PC**	• The definition of "property" is not sufficiently clear and the ML offence does not clearly extend to the indirect proceeds of crime. • Not all designated categories of offences are fully covered as predicates, as there is no full criminalisation of financing of individual terrorists' day-to-day activities or of the financing of the acts defined in the treaties annexed to the UN TF Convention. • There is insufficient evidence of effective implementation.
2. Money laundering offence Mental element and corporate liability	**C**	
3. Confiscation and provisional measures	**PC**	• Confiscation of indirect proceeds for ML offences is unclear. • Though the confiscation from third parties is clearly provided by the law, the relevant provisions are not used in a sufficient manner in practice. • There are not sufficient provisions for protection of the rights of bona fide third parties. • There is no clear authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in

[1] These factors are only required to be set out when the rating is less than Compliant.

		their ability to recover property subject to confiscation. • Serious concerns over effectiveness of implementation.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**C**	
5. Customer due diligence	**LC**	• Lack of specific guidelines for each financial sector apart from the banking sector for improving general performance of CDD measures. • Lack of sufficiently comprehensive provision regarding reasonable measures to be taken by financial institutions in order to verify the identity of the beneficial owner. • Certain categories of low risk business can be exempted from CDD instead of requiring simplified or reduced measures. • Lack of awareness in some sectors such as securities, pension funds and payment services about the AML/CFT risks.
6. Politically exposed persons	**PC**	• No provision to verify if the beneficial owner is PEP in the Slovak Law is present. • Provisions do not apply to foreign PEPs residing in Slovakia. • The definition of PEPs is not sufficiently broad to include all categories of senior government officials. • No provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes PEP.
7. Correspondent banking	**LC**	• No enforceable requirement to document the respective AML/CFT responsibilities of each institution. • Special measures apply only to non-EU correspondent relationships.
8. New technologies and non face-to-face business	**PC**	• Effective compliance is not demonstrated. • Lack of guidance concerning new technologies risks and on how CDD measures should operate in non- face to face transactions.
9. Third parties and introducers	*Largely*	• *Though intermediaries are rarely used, there is*

	Compliant	*the possibility for investment service providers (which are a small part of the financial sector), to act in this way and the examiners had insufficient information on their compliance.*
10. Record keeping	**LC**	• Record keeping obligation does not clearly require the maintenance of "account files and business correspondence".
11. Unusual transactions	**LC**	• No enforceable keeping term for written findings on unusual transactions exists.
12. DNFBPs – R.5, 6, 8-11	**PC**	• The same formal shortcomings under R.5, 6, 8, 10 and 11 equally apply to DNFBPs. • The awareness of the legal obligations under the AML/CFT Act especially under R.5, 6, 8 and 11 is insufficient. • The said obligations are not at all being used by most of the DNFBP in practice. • The outreach to this sector is insufficient. • The threshold of € 2,000 does not apply regardless whether the transaction is carried out in a single operation or in several linked operations. Recommendation 5 • The real estate agents, lawyers, notaries and other independent legal professionals and accountants have insufficient knowledge of any CDD requirements. Recommendation 6 • Insufficient level of awareness of the obligation imposed on the DNFBPs sector when it comes to dealing with PEPs Recommendations 8 and 9 • The real estate agents, lawyers, notaries and other independent legal professionals and accountants have no knowledge of any CDD requirements whatsoever. Recommendation 10 • The provisions of AML/CFT Act on record keeping are generally not recognised, and the extent of data kept by the obliged institutions from this sector is dictated rather by the legal provisions applying directly their ore activities, than by the provisions of the AML/CFT Act on this. Recommendation 11 • The knowledge of obligations of unusual

		transactions reporting and sector specific indicators is not sufficient enough.
13. Suspicious transaction reporting	**PC**	• No clear reporting obligation covering funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. • Deficiencies in the definition of terrorist financing in the AML/CFT Act could have an impact on the reporting of suspicious transactions. • Specific guidance or indicators for recognising suspicious transactions needed for all reporting institutions. • Effectiveness issues due to the fact that only banking and in some extent insurance sectors are reporting satisfactorily.
14. Protection and no tipping-off	*Largely Compliant*	• *It should be clarified that all civil and criminal liability is covered.*
15. Internal controls, compliance and audit	**PC**	• Lack of provision concerning timely access of the compliance officer to CDD and other relevant information • Lack of provision for compliance officers to be designated at managerial level. • No legal obligation introduced -in law, regulation or other enforceable means- for financial institutions to put in place comprehensive screening procedures to ensure high standards when hiring employees.
16. DNFBPs – R.13-15 & 21	**PC**	• The same formal shortcomings under R.13, 15 and 21 equally apply to DNFBPs. Applying Recommendation 13 • Serious lack of proper understanding of the reporting requirements among DNFBPs. • No indicators or guidelines provided to DNFBPs. • Serious concerns about the effectiveness of implementation in all aspects of Recommendation 16. • The same shortcomings as identified under R. 13 – 15, 21 and SR IV in respect of financial institutions apply to DNFBPs. Applying Recommendation 15 • The Act on Gambling does have certain provisions related to employees and

		shareholder screening. However, there are no such provisions for other DNFBPs. • The poor recognition of the obligation imposed by the AML/CFT Act (especially those on CDD measures) hampers the overall effectiveness of the execution of training obligation. • Lack of an explicit obligation for DNFBPs to have internal controls or to appoint a compliance officer at the managerial level. • There is no explicit obligation to have internal controls by the DNFBP, nor a compliance officer at managerial level. • No independent audit function is required. • The trainings provided to this sector are not effective as the recognition of the obligations under the AML/CFT Act remains poor. Applying Recommendation 21 • As the obligations arising from R.21 are not met in regard to financial institutions in general, they also do not apply to DNFBP.
17. Sanctions	**PC**	• Sanctions are mostly not applicable to directors and senior management by the FIU and MoF. • Full range of sanctions is not available for the use of the FIU. • No provisions available to avoid double sanctioning.
18. Shell banks	*Largely Compliant*	• *The Act on Banks imposes licensing conditions which require conditions for establishment of banks with a physical presence in Slovakia. Decree No. 9/2004 of the NBS establishes the particulars to be required of an applicant for a banking license. Both sets of provisions could act as a barrier against shell banks operating in Slovakia. However, there is no legally binding prohibition on financial institutions on entering into or continuing correspondent banking relationships with shell banks. Neither is there any obligation on financial institutions to satisfy themselves that a respondent financial institution in a foreign country does not permit its accounts to be used by shell banks.*
19. Other forms of reporting	**C**	
20. Other DNFBPs and secure transaction techniques	**LC**	• No national overreaching strategy on the development and use of modern secure techniques.

21. Special attention for higher risk countries	**NC**	• No enforceable requirement for financial institutions to pay special attention to business relationships and transactions with persons from countries which do not or insufficiently apply the FATF Recommendations. • No effective measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. • No mechanisms in place that would enable the authorities to apply counter-measures to countries that do not apply or insufficiently apply FATF recommendations. • No requirement to examine, as far as possible, the background and purpose when transactions have no apparent economic or visible lawful purpose, and to make available written findings to assist competent authorities and auditors.
22. Foreign branches and subsidiaries	**LC**	• No requirement to ensure that foreign branches and subsidiaries observe AML/CFT measures consistent with the FATF Recommendations other than the requirements of R. 5 and 10. • No requirement to apply the higher standard where requirements differ. • The requirement to ensure observing AML/CFT measures in respect of branches and subsidiaries is limited to institutions located in non-EU Member States (third countries).
23. Regulation, supervision and monitoring	**LC**	• The level of on-site inspections conducted by the MoF is not sufficient enough.
24. DNFBPs - Regulation, supervision and monitoring	**PC**	• No clear strategy for DNFBP supervision demonstrated to the evaluators. • Not sufficient outreach to this sector, also in the way of on-site inspections. • Effectiveness concerns about the supervision of DNFBPs by the FIU.
25. Guidelines and Feedback	**PC**	• The cooperation with the DNFBP is unsatisfactory. Not all reporting entities have received specific guidelines. • No sector specific guidelines to cover financial market participants other than banks. • Feedback provided to reporting entities not always substantive and descriptive enough.

		• Sector specific guidelines for DNFBPs do not cover the entire sectors. • More detailed and prompt case-by-case feedback is needed.
Institutional and other measures		
26. The FIU	**PC**	• Concerns over the weak position of the FIU in the police structure and the system as a whole. • Lack of legal safeguards for its operational independence. • Annual reports should contain information on trends and typologies. • The FIU does not concentrate sufficiently on ML and TF which should be the main focus, but rather on all criminal offences equally. • Effectiveness of the FIU work on specific ML/FT cases cannot be appropriately established since statistics relate to all criminal offences.
27. Law enforcement authorities	*Largely Compliant*	• *While there are designated law enforcement authorities with responsibility for money laundering and terrorist financing investigations, with adequate powers, there is a reserve on the effectiveness of money laundering and terrorist financing investigations.*
28. Powers of competent authorities	*Compliant*	
29. Supervisors	**LC**	• Not enough focus is placed in the scope of the on-site visits on issues of SR.VII.
30. Resources, integrity and training	**PC**	• Inadequate number of staff in the FIU for dealing with its all responsibilities such as supervision and more detailed national coordination. • Number of staff in the Ministry of Finance for the supervision of the gambling sector is not adequate. • Not enough training focusing on or comprising the subject of TF for the NBS staff involved in the AML/CFT supervision.. • No effective mechanism exists for supervision of NPOs and supervision of the implementation of SR III requirements.
31. National co-operation	**PC**	• Lack of sufficient co-ordination between major players of the AML/CFT regime.

		• More effective mechanisms needed to co-ordinate at the operational level. • More detailed statistics are required across the board to assist proper co-ordinated policy analysis. • The mechanisms in place not utilised effectively.
32. Statistics	**PC**	• Inconsistencies between the various tables, even as provided most recently (following frequent contradictory updates from different authorities), lead to serious concerns with regard to the accuracy of these statistics. • Statistics collected by the FIU does not focus sufficiently on ML and TF cases, but rather on general criminality. • No statistics on international co-operation and requests for assistance from foreign supervisory authorities. • No detailed and comprehensive statistics were from the MoF. • No collective review of the Slovak system done at any level. • No comprehensive and adequately detailed statistics on MLA are kept and maintained by the Slovak authorities both in general terms and specifically on ML/TF offences. • No statistics on the NBS's and MoF's international cooperation on supervisory issues are kept.
33. Legal persons – beneficial owners	**PC**	• Lack of adequate transparency concerning beneficial ownership and control of legal persons. • Access to information on beneficial ownership and control of legal persons, when there is such access, is not always timely. • No measures to ensure the adequacy, accuracy and currency of the beneficial ownership information. • Transparency of bearer shares.
34. Legal arrangements – beneficial owners	*N/A*	
International Co-operation		
35. Conventions	**PC**	• Reservations about certain aspects of the implementation of the Vienna, Palermo and the TF Conventions.

		• Effectiveness of the implementing the standards in relation to ML and TF gives rise to doubts. • Financing of some of the Acts defined in the treaties appearing in the Annex to the Convention are not criminalised as terrorist financing offence.
36. Mutual legal assistance (MLA)	**LC**	• Lack of criminalisation of individual terrorists' for purposes other than specific acts of terrorism could negatively impact mutual legal assistance based on dual criminality. • No information was provided on whether the authorities have considered best venue for prosecution in cases subject to prosecution in more than one country, other than as provided under the membership in Eurojust.
37. Dual criminality	**LC**	• The limitations in the definition of the financing of terrorism may limit the ability of the Slovak Republic to provide MLA.
38. MLA on confiscation and freezing	**PC**	• The limitations in the definition of the financing of terrorism may limit the ability of the Slovak Republic to provide MLA. • Difficulties in forfeiting property from third parties may limit the ability of the Slovak Republic to provide MLA. • No evidence of concrete arrangements for coordination of seizure and confiscation actions with other countries or for sharing confiscated assets with them, other than those provided under the Framework Decision applicable for EU Member States. • Absence of adequately detailed statistics makes judgment on effectiveness difficult.
39. Extradition	*Largely Compliant*	• *In the absence of statistics it is not possible to determine whether these requests are handled without undue delay.*
40. Other forms of co-operation	**LC**	• Lack of detailed statistics undermines the assessment of effectiveness. (for supervisory authorities)
Nine Special Recommendations		
SR.I Implement UN instruments	**PC**	• Financing of some of the Acts defined in the treaties appearing in the Annex to the Convention are not criminalised. • Implementation of UNSCRs 1267 and 1373 is

		not yet sufficient.
SR.II Criminalise terrorist financing	**PC**	• No full criminalisation of financing of an individual terrorist's day-to-day activities. • Non-criminalisation of the financing of the acts defined in the treaties annexed to the TF Convention. • Effectiveness concerns.
SR.III Freeze and confiscate terrorist assets	**PC**	• The situation envisaged by the UNSCR 1267 for the freezing of assets in the event of control or possession of assets by persons acting in the name of or at the direction of designated persons or entities is not covered in Council Regulation No. 881/2002. • The time taken for EU Regulations to be adopted aimed at dealing with amendments made to the list published by the 1267 Committee can be relatively long; in this respect the obligation to freeze terrorist funds without delay is not observed. • Lack of any national mechanism to consider requests for freezing from other countries. • Insufficient guidance and communication mechanisms with financial institutions (except banks) and DNFBPs regarding designations and instructions including asset freezing. • Lack of clear and publicly known procedures for de-listing and unfreezing in appropriate cases in a timely manner. • Insufficient monitoring for compliance of financial institutions and DNFBPs.
SR.IV Suspicious transaction reporting	**PC**	• No clear reporting obligation covering funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations. • Deficiencies in the definition of terrorist financing in the AML/CFT Act limit the reporting obligation. • Indicators or guidelines to reporting entities limited to cases related to international sanctions. No specific indicators provided except two, presented in the AML/CFT Act and one another published on the FIU website. • Only banks reported UTRs regarding TF (effectiveness issues).
SR.V International co-operation	**LC**	• The limitations in the definition of the

		financing of terrorism may limit the ability of the Slovak Republic to provide MLA. • Lack of detailed statistics undermines the assessment of effectiveness.
SR.VI AML requirements for money/value transfer services	*Largely Compliant*	• *The NBS is obliged to register and license the persons performing money or value transfer services. However there was no provision determining what kind of information regarding transactions should be recorded as a minimum, no regulation requiring money exchange companies to examine the purpose of complex, unusual large transactions or unusual patterns of transactions.*
SR.VII Wire transfer rules	**C**	
SR.VIII Non-profit organisations	**NC**	• No risk assessment of NPOs has been undertaken, although there is some transparency and annual reporting structure for foundations. • No review of the adequacy of legislation to prevent the abuse of NPOs for TF has been undertaken. • Authorities do not conduct outreach or provide guidance on TF to the NPO sector. • There is no supervision or monitoring of the NPO sector as envisaged by the Interpretative Note to SR VIII. • No obligation for keeping detailed domestic and international transaction records. • No measures or procedures in place to respond to international requests for information regarding particular NPOs that are suspected of TF or other forms of terrorist support.
SR.IX Cross Border declaration and disclosure	**PC**	• Inconsistency regarding reporting forms exists in the legal framework due to the existence of two pieces of legislation dealing with the cash reporting system (one on the EU level and one national). • The system itself is rather ineffective since there are a very low number of declared transfers, no cases of false declaration or failure to declare, no cases of ML or TF triggered by the system and no sanctions imposed for false declaration. • Deficiencies in the implementation of SR III may have an impact on the effectiveness of the

		regime.