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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

DRAFT REPORT ON ARMENIA ON THE STANDARDS FOR ANTI-MONEY LAUNDERING AND COUNTERING TERRORIST FINANCING

Memorandum prepared by
the Secretariat
Directorate General I (Legal Affairs)

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Introduction

1. This Report on the Observance of Standards and Codes (ROSC) for the FATF 40 Recommendations for Anti-Money Laundering and 8 Special Recommendations for Combating the Financing of Terrorism (FATF 40+8 Recommendations) was prepared by the MONEYVAL Secretariat on the basis of the Detailed Assessment report[1] on Armenia, which was adopted at the plenary meeting of the MONEYVAL Committee in Strasbourg, 9 July 2004. The report summarizes the level of observance of the FATF 40+8 Recommendations and provides recommendations to enhance observance.

A. Information and Methodology used for the Assessment

2. This assessment is based on a review of the AML/CFT legislation and regulations of Armenia. Furthermore, the assessment team received from the Armenian authorities information on the capacity and implementation of criminal law enforcement systems, and on supervisory and regulatory systems to deter money laundering and financing of terrorism. The assessment team held discussions with officials and technical experts from a number of Armenian departments and agencies, as well as financial institution representatives from the private sector. The assessment is based on the information available at the time of the on-site visit in Yerevan, 22-26 September 2003.

B. Main Findings

3. The AML/CFT regime in Armenia lacks a large number of essential components. Most importantly, there is not yet in place a Financial Intelligence Unit (FIU), and there is no general anti-money laundering law. There are for the financial sector as a whole and for other relevant sectors no general reporting obligations in cases of suspicion of money laundering or terrorist financing. However, for banks and other credit institutions, the Central Bank has issued a Regulation covering certain aspects of a suspicious transaction reporting (STR) regime, but without including a specific reference to reporting on terrorist financing. Customer identification and record keeping requirements are being dealt with in sector-specific legislation, but the legislative basis remains fragmented. Armenia has an all-crimes money laundering offence, but has no specific provision on terrorist financing. The country thus is relying on a combination of the provisions on terrorism and the generic provisions on aiding and abetting. The regime on provisional measures and confiscation needs considerable improvement. At the time of the on-site visit, the Central Bank had received 5 suspicious transaction reports, but no money laundering or terrorist financing investigations had been launched and no indictments or convictions had been obtained. On the positive side, it should further be noted, that the Armenian authorities are taking the problem seriously, and that a general anti-money laundering act at the time of the on-site visit was in the process of being drafted, and that the Armenian authorities generally have accepted

[1] The detailed assessment was prepared by the MONEYVAL Secretariat based on contributions from an evaluation team which consisted of Mrs Izabela Fendekova, the Slovak Republic; Ms Elena Cocchi, Itlay; Mr. Alion Cenolli, Albania; Mr. Klaudijo Stroligo, Slovenia, and a member of the MONEYVAL Secretariat.

the need to establish a FIU. However, the general AML/CFT response given by Armenia is still too fragmented, and as a consequence, Armenia is materially non-compliant with regard to a large number of the FATF 40 Recommendations and the 8 Special Recommendations.

(i) Criminal Justice Measures and International Co-operation

Criminalisation of Money Laundering and Financing of Terrorism

4. Armenia has ratified and implemented the UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention). The UN 2000 Convention against Transnational Organised Crime (the Palermo Convention) has also been ratified by Armenia. The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (the Strasbourg Convention) have not been ratified. The Council of Europe 1990 and the UN 1999 Conventions should be ratified and implemented as soon as possible[2].

5. Money laundering is criminalised under Article 190 of the Criminal Code. It covers "financial or other deals with evidently criminally obtained pecuniary means or other equity, for the use of these material values for entrepreneurial or other economic activities with the aim of hiding or distorting the nature of the aforementioned values or rights referring to the latter, sources of origin, place of incorporation, allocation, motion or real affiliation" and carries a maximum penalty of 4 to 12 years, with or without the confiscation of property. The evaluators recommend considering extending the money laundering provision to also include the acquisition, use and possession of laundered funds. There is no specific provision on terrorist financing in Armenian legislation. As a consequence, for the criminalisation of terrorist financing, Armenia is relying on a combination of the provisions on terrorism (article 217 and article 389 of the Criminal Code on respectively domestic and international terrorism) and the generic provisions on aiding and abetting in article 38 of the Criminal Code. In the light of this, the evaluators recommend that Armenia, as a matter of priority, adopts a specific provision on terrorist financing.

Confiscation of Proceeds of Crime or Property used to Finance Terrorism

6. In Armenia there is no general principle of mandatory confiscation of proceeds from crime. The confiscation regime is applied only as a supplementary punishment. Furthermore, the confiscation can only be assigned for grave and particularly grave crimes committed with mercenary motives. This means, for example, that confiscation of property is not possible even in respect of Article 190, paragraph 1, of the Criminal Code, which deals with ordinary money laundering. Confiscation of property is neither mandatory in cases of financing of terrorism, but due to the

[2]Subsequent to the evaluation visit, the evaluation team was informed by the Armenian authorities, that the UN 1999 Convention was ratified on March 3rd 2004 and became effective on April 15th 2004. The Council of Europe 1990 Convention was ratified on October 8th 2003 and became effective on March 1st 2004.

prescribed sanctions for terrorism it is possible to apply confiscation as a supplementary punishment. However, the property, which is intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations, cannot be confiscated. The UN Security Council resolutions 1267, 1269 and 1373 relating to the prevention and suppression of the financing of terrorist acts have not been implemented by a specific normative act. There is generally a lack of relevant statistics with regard to freezing, seizure and confiscation orders.

7. The evaluators consider that the confiscation regime should be mandatory in particular types of offences, including money laundering, and possibly drug trafficking and other major proceeds-generating offences. The Armenian authorities should carefully review their legislation to satisfy themselves that it is generally capable of confiscating both proceeds (with the wide meaning that is attached to the term by the Strasbourg Convention), property and instrumentalities. There should also be put in place a detailed and comprehensive regulatory mechanism to implement freezing or seizure of property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism.

8. In order to reach a sufficient level of expertise in the field of asset tracing, freezing and seizure and investigation of money laundering and financing of terrorism cases, much more training is necessary for the relevant agencies, including training in modern financial investigative techniques.

The FIU and processes for receiving, analysing, and disseminating intelligence at the domestic and international levels

9. There is no FIU or any other mechanism in place, which receives reports of cases of suspicious transactions or activities from the whole financial sector and other relevant sectors. According to Central Bank Regulation no. 5, the Central Bank receives some STRs from banks and other credit institutions, but only on certain types of money laundering operations, and not on terrorist financing. The evaluation team recommends the creation of an FIU as a matter of urgency. The proposed FIU should be adequately structured, funded and staffed, and provided with sufficient technical and other resources to fully perform its functions. The FIU should have access to relevant registers, and it should be authorised to disseminate financial information and other intelligence both to the national law enforcement authorities and to foreign FIUs.

Law enforcement and prosecution authorities, powers and duties

10. The Police are under the responsibility of the State Body of the Internal Affairs. Within the Police there is a Department of Organised Crime with special Divisions e.g. on Economic Crime and Corruption. The Ministry of National Security is responsible for the investigation of criminal cases related to terrorism and serious economic crime. The investigations by both the Police and the Ministry of National Security are carried out under the supervision of the Office of the Prosecutor General. The latter is responsible for the investigation of cases concerning article 190 of the Criminal Code.

All investigators can exercise investigative techniques such as monitoring of correspondence, mail, telegrams and other communications if it relevant to the investigation. However, legislation does not provide for the use of controlled delivery and for undercover operations. The evaluation team recommends that controlled delivery and the monitoring of accounts should be regulated and included among the investigative techniques, which can be used by the law enforcement and prosecutorial authorities. The Armenian authorities stated that those measures can be conducted on the basis of bilateral agreements signed with other states. The law enforcement and prosecutorial authorities do not have direct access to the documents and information on bank accounts, belonging to the suspect or charged. With some exceptions relating to the information on bank transactions of legal persons, only courts may during the criminal investigation order the production of bank account records.

11. The Customs Service checks the flow of large cash transactions (above the equivalent of USD 10.000), the import and export of goods across the border and is in charge of investigations against smuggling and Customs violations.

12. Generally, the law enforcement authorities in Armenia have sound investigative powers, and broadly the evaluation team had a positive impression of the way the law enforcement authorities handle their responsibilities. Nonetheless, very few concrete results in relation to AML/CFT are produced. There have been no investigations, prosecutions or convictions in relation to article 190 of the Criminal Code. Furthermore, very little attention is paid to financial investigations, just as no training is provided on how and when to conduct financial investigation in relation to a criminal case. The evaluation team thus recommends that these issues should be addressed by all relevant law enforcement authorities as a matter of urgency.

International Co-operation

13. As for requests for mutual legal assistance, these can be satisfied if the same process could be exercised in a similar domestic case. Furthermore, Armenia carries out legal assistance only on the basis of reciprocity (if no specific agreement with the requesting country). As for coercive measures, dual criminality is always needed. The specific issue of co-operative investigations has not been addressed by Armenia. Cross-border controlled deliveries are in principle possible, but only on the basis of an agreement, and no such agreements have yet been concluded.

14. The issue of extradition is covered both by article 16 of the Criminal Code and articles 480-493 of the Criminal Procedure Code. According to article 480 of the Criminal Procedure Code, extradition for the purpose of legal proceedings is possible where the envisaged punishment is imprisonment for not less than one year. Where the purpose of the extradition is the execution of a conviction, extradition is possible, if the person was sentenced to a minimum of 6 months of imprisonment. Article 481 of the Criminal Procedure Code defines some of the grounds that might deny a request for extradition. One example is where the requested person is an Armenian citizen.

15. The evaluators recommend the Armenian authorities to consider, whether a more pro-active approach in respect of co-operative investigations could be relevant, including possibly concluding agreements with neighbouring countries on the subject of cross-border controlled deliveries. The evaluators furthermore recommend the Armenian authorities to analyse whether the non-extradition of own nationals is being followed up by a proper transfer of criminal proceedings from the foreign country to Armenia, and to ensure that this occurs.

(ii) Preventive measures for Financial Institutions

Prudentially-regulated sectors

General framework

16. The most serious general impediment to effective implementation of the FATF Recommendations and other international standards is the lack of a general preventive law and the lack of a central authority to ensure the proper implementation of the law. The evaluators recommend that the Armenian authorities urgently draft the law on prevention of money laundering and terrorist financing. This law must – apart from defining the general AML/CFT obligations – provide for the establishing of a competent state authority (the FIU) to receive suspicious transaction reports.

Customer Identification

17. The client identification requirements for banks in relation to account opening are based on the Law on Banks and Banking article 38, according to which relations to clients must be based on contracts. According to article 5 and 6 of Regulation no. 5 of the Central Bank, each bank is obliged to have in place internal rules and procedures, which determine the scope of information required from each client when providing banking services and products. Insurance products and services are provided based on insurance contracts. Basic requirements of such a contract are set out in article 16 of the Law on Insurance. Paragraph 2, letter c), of this article refers to the identification of the insured person. According to article 19 of the Law on the Securities Market Regulation a prohibition of circulation of unregistered securities is in force. Furthermore, dealing with securities through intermediaries is executed only on a contractual basis and subsequent changes of ownership are subject to the notification and registration with the Securities Commission.

18. With regard to the existence of anonymous accounts, the Armenian authorities confirmed that according to the Civil Code, accounts can only be opened on the basis of written contracts setting out all parties of the contract. However, in the view of the evaluators this is not necessarily the same as a prohibition of anonymous accounts.

19. The evaluators are of the opinion that the current know-your-customer (KYC) rules for banks are insufficient since the Law on Banks and Banking only provides a provision stating that client relations must be based on

contracts. The evaluators therefore recommend Armenia to provide clear legal obligations for banks and credit organisations to identify and record the identity of their permanent clients. Furthermore, the same requirements should apply for occasional clients when performing transactions over a specified threshold. The KYC rules for the insurance sector seem appropriate. By contrast, the evaluators recommend as a matter of priority, that a clear customer identification regime should be put in place for the securities sector.

Ongoing monitoring of accounts and transactions

20. There are no rules which specifically require any part of the financial sector to pay special attention to complex, large unusual transactions or unusual patterns of transactions. Neither are there in place any rules, which require an intensified monitoring of high risk accounts. There is also a lack of specific rules or guidelines concerning how the financial sector should react to transactions from institutions located in jurisdictions that have poor "know-your-customer" standards or have been identified as being non-cooperative in the fight against money laundering. The evaluators recommend the Armenian authorities to provide in enforceable legislation that financial institutions must perform ongoing monitoring of accounts and transactions. The evaluators recommend the Central Bank to consider providing all financial institutions in Armenia with information about which countries and jurisdictions should be considered non-cooperative in an AML/CFT context, and updating it periodically.

Record-keeping

21. Article 6 and article 9 of the Central Bank Regulation no. 5 contain certain provisions obliging banks and credit organisations to keep records. In article 6 it is stated, that banks and credit organisations must have internal regulations (rules, procedures, orders, regulations) on how to record and keep information on customers, and how to collect, record and maintain information on suspicious transactions. Article 9 sets out, that this information shall be kept at least for a five year period. Thus, while there are some requirements in place in the banking sector, these are not sufficiently detailed and concise. There are no explicit record-keeping requirements for the insurance and securities companies. The evaluation team recommends Armenia as soon as possible to introduce formal record-keeping requirements for the entire financial sector and other relevant sectors.

Suspicious transactions reporting

22. According to Central Bank Regulation no. 5, banks and other credit institutions must report certain suspicious transactions to the Central Bank. However, these obligations are too limited and do not deal with terrorist financing. For other sectors, no reporting regime is in place. The lack of appropriate reporting obligations is crucial to the effectiveness of the entire AML/CFT framework. The evaluators recommend that Armenia, as a matter of the highest priority, should set up a system of mandatory reporting of suspicious transactions and activities. The reporting obligation should relate

both to suspicions concerning money laundering and to suspicions concerning financing of terrorism.

Internal controls, compliance and audit

23. According to Central Bank Regulation 5, all banks must have internal regulations in the following areas: 1) General procedures to perform financial operations, 2) the scope of information required by a bank from a client, 3) the compliance control procedure and 4) the responsibility of managers, staff members and compliance officer/unit. However, there are no obligations to train the employees on an on-going basis. With regard to screening procedures when hiring employees, the evaluation team was advised that the Central Bank applies strict procedures even though there is no legal basis for this. All securities companies must have internal control units and the same applies to joint stock insurance companies. The evaluators recognise that some standards are in place but do at the same time recommend including in a new comprehensive preventive law also general components relating to the internal control of AML/CFT procedures and training of staff. Such provisions should apply in a uniform manner to all subjects of a new law.

Integrity standards

24. The licensing procedure for banks consists of 3 stages: Preliminary approval, registration and issuing of the license. Requirements are stipulated in articles 25-29 of the Law on Banks and Banking. The applicants must e.g. provide information relating to the founders, to the amount of capital invested in a newly established bank, to its future business plan, fit and properness of future managers etc. For insurance companies, according to 2 regulations from the Ministry of Finance and Economy, information about e.g. the financial condition of the investors (potential owners) must be provided to the Ministry and a business plan likewise. In the securities sector, licensing criteria are determined by the Law on Securities Market Regulation. In case the applicant is a legal persons the existence of the minimum capital must be demonstrated, but the Securities Commission does not ask about the source of the capital. Where the applicant is a natural person a clean criminal record is sought. Proposed managers have to comply with professional and personal integrity requirements. In the view of the evaluators, generally the requirements to obtain a license in the financial sector are comparable with international standards, but a more effective co-operation between supervisory authorities in the area of monitoring the integrity of large investors and managers in financial entities is crucial and should be put into place as soon as possible.

Enforcement powers and sanctions

25. Articles 60-66 of the Law on Banks and Banking give the authority to the Central Bank to conduct different enforcement actions. The scope of actions ranges from instructions, through fines, and enables also the Central Bank to deprive a bank manager of his qualification certificate and to withdraw the license of the bank. Also the Ministry of Finance and Economy and the Securities Commission, as supervisor for insurance and securities

companies, can enforce sanctions against the supervised entities if they do not comply with the legislation. Both supervisory authorities have the right to revoke the license of the supervised entity if instructions are not followed.

Co-operation between supervisors and other competent authorities

26. The co-operation between different financial supervisory authorities is based on the Law on Public Institutions which contains a general provision obliging all public institutions to co-operate. However, in the view of the evaluators, the co-operation in practice is quite limited, and could be improved.

Non-prudentially regulated sectors

Foreign exchange offices and money remitters

27. Foreign exchange offices and money remitters are not applying any client identification procedures, not even for large exchange operations. While it is obvious, that exchange offices and money remitters rarely create real permanent business relations with their clients, there should at least be in place an obligation to identify clients exchanging large portions of money. Foreign exchange offices do not have in place internal control units. Nonetheless, they are supervised by a department of the Central Bank, but not on a regular basis. The Central Bank issues licenses for foreign exchange offices. To get a license the professional integrity of the applicant is tested. However, it seems that a clean criminal record is not one of the criteria to get a license.

Other businesses

28. The gaming industry is quite well-developed in Armenia. Both casinos and lotto companies need a license from the Ministry of Finance and Economy in order to become operational. The evaluators recommend that the entire preventive regime, including customer identification, record keeping, training, internal reporting and suspicious transaction reporting should apply to all institutions and persons subject to the EC Directives 91/308/EEC and 2001/97/EC.

C. Summary Assessment of the FATF Recommendations

29. Armenia still is a long way from a sufficient level of compliance with the FATF 40 + 8 Recommendations. One immediate priority should be the drafting and adoption of a general anti-money laundering act (covering also suspicions of terrorist financing), which should put in place legal obligations concerning identification of clients, record-keeping, reporting of suspicions, training etc. Obligated parties under this law should be all intermediaries comprised by the two EU anti-money laundering directives. The second immediate priority should be the establishing, and making operational, of a Financial Intelligence Unit (FIU), which should be properly resourced and which should be able to exchange information, both with national law enforcement authorities and with foreign counterparts. Table 1 beneath

summarizes recommended actions in areas relating to the FATF 40 + 8 Recommendations, and Table 2 contains other recommendations to further enhance the AML/CFT regime.

Table 1. Recommended Action Plan to Improve Compliance with the FATF Recommendations

Reference FATF Recommendation	Recommended Action
40 Recommendations for AML	
Scope of the criminal offence of money laundering (FATF 4-6)	Ratification of the UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime[3].
Provisional measures and confiscation (FATF 7)	Adopt provisions making it possible to seize and confiscate both proceeds, property and instrumentalities. Consider adopting provisions making confiscation mandatory in particular types of offences, including money laundering, and possibly drug trafficking and other major proceeds-generating offences.
Customer identification and record-keeping rules (FATF 10-13)	Adopt provisions for all relevant intermediaries on identification and record-keeping on occasional customers when performing transactions over a specified threshold. Adopt clear customer identification provisions for the securities sector.
Increased diligence of financial institutions (FATF 14-19)	Adopt provisions for all relevant intermediaries on the performance of on-going monitoring of accounts and transactions. Adopt for all relevant intermediaries a mandatory reporting regime on suspicious transactions and activities.
Measures to cope with countries with insufficient AML measures (FATF 20-21)	Consider on an up-dated basis providing all relevant intermediaries with information about which countries and jurisdictions should be considered non-cooperative in an AML/CFT context.
Administrative Co-operation – Exchange of information relating to suspicious transactions (FATF 32)	Adopt an STR regime making it possible internationally to exchange information relating to suspicious transactions, persons and corporations.
8 Special recommendations on terrorist financing	
II. Criminalising the financing of terrorism and associated ML	Adopt a separate offence on terrorist financing.
III. Freezing and confiscating terrorist assets	Adopt a comprehensive normative act providing a mechanism to implement the freezing without delay of assets suspected to be related to the financing of terrorism.
IV. Reporting suspicious transactions related to terrorism	Adopt for all relevant intermediaries a mandatory reporting regime on suspicious transactions and activities related to the financing of terrorism.
VI. Alternative remittance	Adopt an obligation to identify clients exchanging or transferring large portions of money or other assets (as a minimum, transactions exceeding the equivalent of Euro 15 000).

[3] See footnote no.2.

Table 2. Other Recommended Actions

Reference	Recommended Action
Law Enforcement and Prosecution	Setting up and making operational a Financial Intelligence Unit (FIU). The FIU should be properly resourced and should be able to exchange relevant information with national law enforcement authorities as well as foreign counterparts. A comprehensive training strategy for the agencies involved in AML/CFT issues should be embarked upon. Further use of investigative means, including special investigative techniques, such as controlled deliveries. All relevant law enforcement authorities and the Office of the Prosecutor General should address the issue of the importance of financial investigations.

Information and methodology used for the assessment

1. Further to the accession in 2001 to the Council of Europe and its subsequent participation in the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) Armenia voluntarily agreed to participate in a first round Detailed Assessment (Mutual Evaluation) according to the procedures agreed by the Moneyval. Armenia was the second country to be evaluated by MONEYVAL according to the Joint Methodology of the IMF, the World Bank and the Financial Action Task Force (FATF). MONEYVAL will use this Joint Methodology for those member states undergoing their first mutual evaluation in 2003, of which Armenia is one of four countries. The use of the Joint Methodology implies that both the anti-money laundering regime (AML) and the combatting of the financing of terrorism (CFT) regime are evaluated. The AML evaluation covers all standards included in MONEYVAL's reference documents, including Directive 91/308/EEC and Directive 2001/97/EC (the European Directives).

2. The evaluation team consisted of Mrs. Izabela FENDEKOVA, Banking Expert, the National Bank of the Slovak Republic, who served as financial evaluator, Mr. Alion CENOLLI, Director of Approximation of Legislation, the Ministry of Justice of Albania, who served as legal evaluator, Mr. Klaudijo STROLIGO, Director, Office for Money Laundering Prevention, Ministry of Finance of Slovenia, who served as law enforcement evaluator and Ms. Elena COCCHI, Financial Advisor, Anti-Money Laundering Department, Ufficio Italiano dei Cambi of Italy, who served as financial evaluator and observer from the FATF. The team was accompanied by a member of the MONEYVAL Secretariat.

3. The evaluators reviewed the relevant AML/CFT laws and regulations, and the supervisory and regulatory systems in place to deter money laundering and the financing of terrorism through banks and other financial institutions. The evaluators also looked at the regulatory system in place for the insurance sector and the securities sector.

4. The evaluation team met with officials from relevant Armenian authorities in Yerevan from 22 to 26 September 2003. Meetings took place with officials from the following agencies: The Ministry of Finance and Economy, the Securities Commission, the Central Bank, the State Customs Committee, the Office of the General Public Prosecutor, the Police Department of Fighting Organised Crime, the Ministry of Justice and the Ministry of National Security. The evaluators also met with the Deputy Minister of Finance and Economy. Moreover, the evaluators met with representatives from a private commercial bank and a private commercial insurance company. Prior to the visit, the evaluators had received from the Armenian authorities a reply to a standard mutual evaluation questionnaire.

5. Following the on-site evaluation visit, the MONEYVAL evaluators, in consultation with their FATF associate, submitted to the Secretariat their individual observations, from which this report has been prepared. The report takes account of the situation as it was at the time of the on-site evaluation visit. The FATF evaluator agrees with the content and shares the conclusions of this report.

Introduction to the country and to the economy

6. Armenia is situated in the Caucasus, and has common boundaries with Azerbaijan, Turkey, Iran and Georgia. The country has a surface area of 29.800 square kilometres and a population of approximately 3,3 millions. Armenia was part of the Union of Soviet Socialist Republica (USSR) until it proclaimed its state sovereignty in 1991. Armenia is a republic and a president is elected for a five years term. A prime minister is appointed by the president. Members of the National Assembly (the Azgayin Zhoghov), which consists of 131 persons, are elected for a four years term.

7. Armenia has experienced rapid growth with low inflation in recent years. Since 1999, real GDP has grown at an average of 8 percent per years and inflation has remained below 3 percent. Economic growth has been primarily export-led, fueled by continued expansion in agriculture, manufacturing, construction and tourism industries. The external current account deficit has more than halfed since 1998. The official unemployment rate has declined from 11,7 percent at end-2000 to 9,5 percent by mid-2002.

Overview of the financial sector

8. Generally, there is a mistrust in the population to banks and other financial institutions. Consequently, the economy of Armenia is heavily cash based. For example, it is not common to have a bank account for the receiving of salaries. Nevertheless, various kinds of financial institutions operate in Armenia.

9. There are 20 private commercial banks in Armenia, all of them licensed by the Central Bank. There are no foreign banks or branches in Armenia, but there is one Armenian subsidiary in the Russian Federation. As for the share capital structure of the Armenian banks, approximately 50 % is foreign capital. 5 banks have Russian capital and 2 banks have capital from respectively Iran and the USA. The banks usually are joint stock companies, but it is also possible to operate banks as limited liability companies or cooperative companies.

10. Furthermore, there are 6 credit organisations, being either credit unions, saving unions, factoring organisations, leasing organisations or universal credit organisations. There are 270 entities licensed as Forex dealers (excl. branch offices). The Forex dealers can be licensed either as exchange dealers or remittance dealers. One settlement organisation is licensed in Armenia, and this organisation deals with the processing and clearing of transactions[4].

4 A license as settlement organisation may also include a permission to transfer money and to issue payment cards. No such settlement organisation is in place in Armenia.

11. Moreover, there are 18 brokerage firms, one Central Depository and one Stock Exchange (in Yerevan). Somewhat more than 200 companies are listed on the

Stock Exchange. As for the insurance market, there are 22 insurance companies and 4 insurance brokerage houses. All companies are resident companies.

General situation of Money Laundering and Financing of Terrorism

12. During the on-site visit, the evaluators were not provided with any precise statistics on crimes believed to be the main sources of illegal proceeds[5]. However, the evaluators were informed, that during the first 7 months of year 2003, a total of 5.965 crimes had been registered. This is a decrease of 18 % compared with the same periode in year 2002. Of the 5.965 crimes, 198 were categorised as economic crimes, 154 as buying and selling of drugs and 46 as organised burglary.

13. The Armenian authorities are of the opinion that no organised crime exists in Armenia. When asked what would constitute the most serious economic crime problem in Armenia, the general response was corruption and smuggling. As for corruption, this relates also to the privatisation process, where there still are approximately 1.500 state owned enterprises. As for smuggling, this relates to all kinds of goods, including cigarettes and alcohol, whereas the use of Armenia for purposes of transit for drugs is believed to be of little significance.

14. The Armenian authorities have no experience related to cases on the financing of terrorism. Furthermore, very few acts of domestic terrorism have occurred, even in times where Armenia was having armed conflicts with some of its neighbours. As the only incident of terrorism, the Armenian authorities reported of an attack on 27 October 1999 against the National Assembly; a case where the investigation is still on-going, and where 5 Armenian citizens are being held in custody.

Overview of the measures to prevent Money Laundering and Financing of Terrorism

Legislative measures in place

15. Money laundering is criminalised in Armenia by article 190 of the Criminal Code[6]on "legalisation of illegally gained revenues", which came into force on 1 August 2003, and which reads as follows:

> *"190.1. Fines in the amount ranging from 300 folds to 500 folds of minimum salaries or custodial coercion of maximum of 4 years with or without fines in the amount of 50 folds of salaries shall be imposed on financial or other deals with evidently criminally obtained pecuniary means or other equity, for the use of these material values for entrepreneurial or other economic activities with the aim of hiding or distorting the nature of the aforementioned values or rights referring to the latter, sources of origin, place of incorporation, allocation, motion or real affiliation.*

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5 Subsequent to the visit, the Armenian authorities informed the evaluators, that the main source of illegal proceeds are believed to be so-called speculative offences, which include larceny, robbery, burglary and misuse or abuse of official authority.

6 For excerpts of the Criminal Code, see Annex 1.

> *190.2. The same deed, performed*

1) in a large range
with the prior agreement of a group of people shall be punished by custodial coercion of 4-8 years with or without confiscation or property.
190.3. The deed, foreseen in paragraph 1 and 2 of this article, which has been performed
1) in an especially large range
2) by an organised group
3) with the abuse of the official capacity
shall be punished by custodial coercion of 6-12 years with or without confiscation of property.
190.4. In this article "large range" shall refer to the amount (value) which 1000 times exceeds the minimum salary at the moment, when the crime is committed. The term "especially large range" shall be deemed as the amount (value) which 3000 times exceeds the minimum salary set the very moment the crime is committed."

16. Article 217 of the Criminal Code criminalises terrorism. The provision reads as follows:

Article 217. Terrorism.

1. Terrorism, i.e. committal of explosion, arson or actions causing significant human losses, or other actions inflicting significant damage to property or actions causing danger to public, or threat of such actions, if these actions were committed with the purpose of violation of public security, intimidation of the population or exerting pressure on decision making by a state official, as well as, for the purpose of fulfilling another demand of the perpetrator, is punished with imprisonment for the term of 5 to 10 years.

2. The same action committed
1) by several persons with a prior agreement,
2) using firearms, is punished with imprisonment for the term of 8 to 12 years.

3. Actions envisaged in parts 1 or 2 of this Article, if they were committed:
1) by an organised group;
2) were accompanied with use of mass destruction weapon, radioactive materials or with a threat to use other means causing mass losses,
3) caused death by negligence or other grave consequences, is punished with imprisonment for the term of 10 years to 15 years.

4. A person who participated in terrorism is exempted from criminal liability if he advised the authorities on time, or otherwise, contributed into the prevention of terror act, and if his actions do not contain the elements of other crime.

Article 389 of the Criminal Code criminalises international terrorism. The provision reads as follows:

Article 389. International terrorism

International terrorism, i.e., organization or implementation of an explosion or arson or other acts in the territory of a foreign sate, with the purpose of international complications or provocation of war or destabilization of a foreign state, aimed at the destruction of people, or bodily injuries, destruction or spoilage of facilities, roads and means of transportation, communications, or other assets, is punished with imprisonment for 10-15 years, or for life.

17. The financing of terrorism is not criminalised by a specific article of the Criminal Code. However, according to the Armenian authorities, article 217 and article 389 combined with the generic provision on aiding and abetting in article 38 of the Criminal Code, would make it possible to sanction the financing of terrorism.

18. Armenia has no general preventive anti-money laundering act. However, some sector specific provisions impose on the financial institutions certain obligations concerning customer identification and record keeping. Moreover, the Central Bank has issued a regulation requiring banks and credit organisations to follow certain anti-money laundering obligations, including the reporting of suspicious transactions[7].

Systems in place

19. The anti-money laundering regime in Armenia is not yet very developed, but the evaluation team recognises that government officials seem committed to combat money laundering and financing of terrorism, and that steps are being taken in order to set up a more developed regime. Below is a brief description of each of the key bodies involved[8.]

20. Apart from exercising usual central bank functions the Central Bank of Armenia issues licenses and supervises commercial banks, foreign exchange offices and money remitters. The Central Bank issues binding regulations for the banking sector. Regulation 5[9] has been issued specificly in relation to measures against money laundering. The Central Bank has an Internal Control and Supervision Department which deals with the prudential supervision and a separate division which deals with anti-money laundering measures. The National Bank has the right to impose sanctions on commercial banks for breaches of laws or regulations.

21. The Ministry of Finance and Economy supervises insurance companies. There is no AML/CFT component in the supervisory activities. The ministry also has a Control Department, which controls institutions collecting revenues for the state.

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7 For more details see below in the detailed assessment.
8 For a more detailed description of the law enforcement agencies, see section IV of the Detailed Assessment of Criminal Justice Measures and International Co-operation.
9 See Annex 2.

22. The Securities Commission regulates and supervises the securities market. It performs both on-site and off-site inspections, but the inspections do not carry any AML/CFT component, and the Commission has not issued any guidance for the market on the subject. The Commission can impose administrative sanctions on the supervised entities for violations of requirements of the laws or regulations.

23. The State Custom Service checks the flow of cash, the import and export of goods across the border and is in charge of the investigations against smuggling and customs violations.

24. The Police is organised as an integral part of the State Body of the Internal Affairs and the Head of the State Body of the Internal Affairs is carrying out the general management of the Police. The Police has a Department of Organised Crime which has an Economic Crime Division. That division has several subdivisions, including the Subdivision on Crimes in Financial and Credit Institutions, that is responsible also for cases of the receiving of stolen property and money laundering. The Ministry of National Security is responsible for the investigation of criminal cases on acts of terrorism and might also be in charge of serious cases of money laundering, if the money laundering operations could undermine the economy of the state. The investigations by both the Police and by the Ministry of National Security are carried out under the supervision of the Prosecutor General. The office of the Prosecutor General is responsible for the investigation of cases concerning article 190 of the Criminal Code[10]. The office of the Prosecutor General is also the competent authority for dealing with requests for mutual legal assistance.

25. The Ministry of Justice has the authority to conclude agreements on legal assistance and co-operation with foreign countries and international organisations. The Ministry of Foreign Affairs has an overall role of co-ordination regarding the entering into international agreements by Armenia, including within the field of AML/CFT.

26. In terms of improving the AML/CFT framework, an important step has been the setting up in the second part of year 2002 of a Governmental Committee in Armenia, which had the objective of drafting a general preventive money laundering act and to analyse the feasibility of establishing a Financial Intelligence Unit (FIU). The members of the Committee were experts from the Ministry of Finance and Economy, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Justice, the Ministry of National Defense, the State Custom Service, the General Public Prosecutor and the Central Bank.

27. A draft law was completed by the beginning of 2003 and sent in internal hearing amongst the authorities involved. The hearing procedure revealed, that the Ministry of Justice opposed a general preventive anti-money laundering act, whereas the rest of the authorities involved would favor such a preventive act. As for the setting up of the FIU, the Ministry of Justice also opposed this, but when having meetings with the evaluators, the representatives from the Ministry of Justice expressed the support of the Ministry for the setting up of an FIU.

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10 This follows from article 190 of the Code of Criminal Procedure, which defines the division of labour between the various investigative bodies.

However, since the internal hearing process in Armenia came to an end, no formal decisions have yet been taken. The evaluators were advised, that this had to do with internal disagreements in relation to where exactly to place an FIU. In parallel with this, the evaluators were informed, that the Central Bank was drafting a different preventive law, which was thought also to include aspects of the prevention of financing of terrorism. However, the evaluators were not provided with this draft. The evaluators were informed, that a decision regarding where to place an FIU needs to be taken by the government, but that this procedure had not yet been initiated.
The evaluation team is of the opinion, that the competent executive body should ensure it rapidly takes the decisions needed in order to achieve progress in the adoption of a general preventive law and the establishing of an FIU.

B. DETAILED ASSESSMENT

The following detailed assessment was conducted using the 11 October 2002 version of *Methodology for assessing compliance with the AML/CFT international standards, i.e. criteria issued by the issued by the Financial Action Task Force (FATF) 40 + 8 Recommendations* (the Methodology).

Detailed Assessment of Criminal Justice Measures and International Co-operation

I – Criminalisation of Money Laundering and Financing of Terrorism (Criteria 1-6)

Description

International instruments

28. Armenia has ratified and implemented[11] the UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention). The UN 2000 Convention Against Transnational Organised Crime (the Palermo Convention) has also been ratified by Armenia. The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (the Strasbourg Convention) have not yet been ratified[12]. The UN Security Council resolutions 1267, 1269 and 1373 relating to the prevention and suppression of the financing of terrorist acts have not been implemented by a specific normative act, but the evaluators were told, that the Central Bank already has the competence to freeze accounts[13]. Furthermore, Armenia has ratified the CIS Convention on Co-operation between CIS Member States in the Fight Against Terrorism[14].

11 In force since 13 September 1993.
12 Subseduent to the evaluation visit, the evaluation team was informed by the Armenian authorities, that the UN 1999 Convention was ratified on 3 March 2004 and became effective on 15 April 2004. The Council of Europe 1990 Convention was ratified on 8 October 2003 and became effective on 1 March 2004.
13 According to article 20 of the Law on the Central Bank.
14 Convention adopted in Minsk, 4 July 1999.

Domestic legislation

Criminalisation of money laundering

29. The laundering of "evidently criminally obtained pecuniary means or other equity" is considered a criminal offence according to article 190 of the Criminal Code. The evaluators were told that the concept of "means or other equity" would include also indirect proceeds.
    The evaluation team was furthermore informed, that the concept of own proceeds laundering would apply if such a case was to be investigated, however, it was not possible to verify this, since no case law exists and since the principle does not follow explicitly from the letter of the money laundering provision. The evaluators were also informed that a prior conviction for the predicate crime is not a prerequisite for a money laundering conviction.

30. Apart from the specific laundering offence in article 190, there is a provision in article 217[15] of the Criminal Code concerning acquisition or sale of property obtained in an obvious criminal way. This article remains in force also after the adoption of article 190.

31. As for the question whether article 190 would also apply to money laundering committed abroad, the evaluators were directed to article 14 and 15 of the Criminal Code. Article 14, paragraph 3, seems to cover cases, where the criminal acts are committed both in Armenia and abroad. Cases where the crime is committed solely abroad seem to be covered by article 15 of the Criminal Code. Article 15, paragraph 1, relates to the situation where an Armenian citizen has committed a crime abroad. In such a situation the person can be convicted also in Armenia if the principle of dual criminality is fulfilled. Article 15, paragraph 3, relates to situations, where a foreign citizen has commmitted a crime abroad. In this case he can be convicted in Armenia only if the crime in question are "*such crimes which are provided in an international treaty of the Republic of Armenia; or such grave and particularly grave crimes which are directed against the interest of the Republic of Armenia or the rights and freedoms of the RA citizens.*"

32. From the letter of article 190 it is unclear whether the provision also covers cases where the predicate crime is committed abroad and where the laundering operation subsequently takes place in Armenia. However, the evaluators were informed by the Armenian authorities that the said situation is covered by article 190.

15 See Annex 1

Criminalisation of financing of terrorism

33. As already mentioned above Armenia has not ratified the UN 1999 Convention for the Suppression of the Financing of Terrorism[16], and Armenia has in place no specific provision related to the criminalisation of the financing of terrorism, but relies on a combination of the general provisions on aiding and abetting in article 38 of the Criminal Code and the specific provisions on terrorism in article 217 and international terrorism in article 389 of the Criminal Code.

Liability

33. Armenia does not apply the principle of corporate criminal liability, so legal entities cannot be sanctioned for money laundering or financing of terrorism.

34. Regarding the mental element of article 190 and 217, as a rule negligence is only covered if it is stated explicitly in the relevant provision[17], which is not the case of article 190 and article 217. The evaluators were informed, that the intentional element of the money laundering and terrorist financing offences might be inferred from objective factual circumstances, however, because of the lack of relevant case law, this was not possible to verify.

35. According to article 190 of the Criminal Code, the range of different possibilities to punish money laundering is very wide, ranging from a fine to a maximum term of imprisonment of 12 years. Confiscation can be applied as an additional punishment if there are aggravating circumstances. The more severe types of punishment for money laundering can be applied in case of aggravating circumstances, for example where the crime is committed by an organised group or where it concerns a vast amount of money. The financing of terrorism (aiding and abetting to terrorism) is punishable by imprisonment of between 5 and 15 years. Here an aggravating circumstance is for example where the action was committed by an organised group or was connected to the use of weapons of mass destruction.

Analysis of Effectiveness

36. The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (the Strasbourg Convention) have not yet been ratified and the Armenian officials were unable to provide a specific date when the conventions would be ratified[18]. Nevertheless, Armenia has had in place since 1 August 2003 a provision criminalising money laundering. The new provision is clearly a step in the right direction, eventhough the provision suffers from some deficiencies.

16 See footnotes numbers 2 + 12.
17 According to article 28, paragraph 2, of the Criminal Code.
18 See footnotes no. 2 and 12.

37. First of all, the "actus reus" – the physical element of the offence – is not entirely clear. At one point the laundering operation is described as "financial or other deals", whereas later in the provision it is described as "entrepreneurial or other economic activities".

38. Furthermore, the provision relates only to hiding or distorting the nature of the proceeds. This makes the scope of the offence more narrow than required by the UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and the UN 2000 Convention Against Transnational Organised Crime (the Palermo Convention).

39. Moreover, the evaluators were not certain about what evidentiary standard should be applied to reach a money laundering conviction. On the one hand the evaluators were told, that the intentional element might be inferred from objective factual elements, but on the other hand the reference in the provision to "*evidentially* criminally pecuniary means" seems to indicate the opposite.

40. As mentioned above, in Armenia there is no specific provision on financing of terrorism. Generally, a combination of a provision on terrorism and the general rules on aiding and abetting might be sufficient to comply with FATF Special Recommendation no. 2. However, a separate provision on terrorism financing clearly is advantageous, e.g. because reporting of suspicious transactions related to financing of terrorism also is an international requirement[19], and it is easier to draft and apply such a reporting requirement, if there is a uniform provision on terrorism financing.

41. The offences of money laundering and financing of terrorism do not extend to legal entities. The law does not specify explicitly that the offence of money laundering should extend to any type of property that directly or indirectly represents the proceeds of crime, eventhough this was claimed by the Armenian authorities.

42. The articles 190, 217 and 389 of the Criminal Code would seem to provide for effective, proportionate and dissuasive criminal sanctions. As for the exemption for liability in article 217, paragraph 4, it was not entirely clear to the evaluators whether the provision related to attempted or concluded crimes or both[20].

43. The evaluation team expresses its reservations concerning whether the legal means and resources in Armenia currently are adequate to enable an effective implementation of money laundering and terrorist financing provisions.

19 According to FATF Special Recommendation no. 4.

20 Subsequent to the evaluation visit, the evaluators were informed by the Armenian Authorities, that the possibility of exemption of liability relates only to attempted crimes.

Recommendations and Comments

44. The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (the Strasbourg Convention) should be ratified as soon as possible[21]. The evaluators recommend to Armenia to adopt a more clear money laundering offence, which gives no reason to doubt concerning which money laundering operations are criminalised. The evaluators also recommend Armenia consider extending the "*actus reus*" of the offence to acquisition, use and possession of laundered funds. Consideration should also be given to the introduction, as defined by the Strasbourg Convention, of the concept of negligent money laundering. A mental element based on suspicion could also usefully be considered.

45. The evaluators also recommend Armenia to satisfy itself that the evidentiary standard to reach a money laundering indictment and conviction is not hampering the effort to fight money laundering and that proof of a specific predicate offence is not required.

46. Armenia should also seriously consider whether it for the criminalisation of terrorism financing in the future wishes to rely on the above mentioned combination of article 38 and article 217 of the Criminal Code, or whether a separate provision on financing of terrorism should be drafted. The evaluators are clearly in favor of the latter solution.

47. The evaluators recommend Armenia to consider also extending the offences of money laundering and (financing of) terrorism to legal entities.

48. The evaluators also recommend Armenia clarify that the possiblity of exemption of liability according to article 217, paragraph 4, has to do only with the situation where the act of terrorism is still at the stage of an attempt.

49. The law should provide the necessary legal base to establish a Financial Intelligence Unit (FIU). The fact that investigators and prosecutors rarely pursue cases of money laundering (article 190 or article 217) in comparison with the corresponding predicate offence is a critical issue which must be addressed by, in particular, the Prosecutor General. The evaluators believe that there is a growing interest by investigators and prosecutors in pursuing money laundering, however, for Armenia this is a new area that needs additional investigative and prosecutorial effort.

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21 See footnote no. 2 + 12

Implications for compliance with FATF Recommendations with FATF Recommendations 1, 4, 5, SR I, SR II

Recommendation 1:	Compliant
Recommendation 4:	Largely Compliant
Recommendation 5:	Compliant
Special Recommendation I:	Non-Compliant
Special Recommendation II:	Materially Non-Compliant

II – Confiscation of proceeds of crime or property used to finance terrorism (Criteria 7-16)

Description

Confiscation

50. In Armenia there is no general principle of mandatory confiscation of proceeds from crime. The confiscation regime is applied only as a supplementary punishment. This follows from article 50 of the Criminal Code, where paragraph 3 states that *"Deprivation of special titles or military ranks, categories, degrees or qualification class, as well as confiscation of property are applied only as a supplementary punishment"*. Paragraph 5 of the same article goes as follows: *"Fines, confiscation of property and the prohibition to hold certain posts or practice certain professions, as supplementary punishment, can be assigned only in cases envisaged in the Special Part of this Code"*.

51. The general conditions to apply confiscation of property are defined into more detail in article 55 of the Criminal Code, which has the following wording:

> *"Article 55. Confiscation of property*
> 1. *Confiscation of property is the enforced and uncompensated seizure of the property considered to be the convict's property or part thereof in favor of the state.*
> 2. *The amount of confiscation is determined by the court, taking into consideration the damage to property inflicted by the crime, as well as amount of criminally acquired property. The amount of confiscation cannot exceed the amount of criminally acquired property or profit.*
> 3. *Confiscation of property can be assigned in cases envisaged in the Special Part of this Code and for grave and particularly grave crimes*[22] *committed with mercenary motives.*
> 4. *The property necessary for the convict or the persons under his care is not subject to confiscation, in accordance with the list envisaged by law."*

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22 According to article 19 of the Criminal Code grave crimes are those crimes carrying a penalty of between 5 and 10 years of imprisonment whereas particularly grave crimes carry a penalty of more than 10 years of imprisonment. The crimes can only be categorised as grave or particularly grave, if the crimes are committed intentionally.

52. As for confiscation related to money laundering cases it follows from article 190, paragraph 2 and 3 (aggravated money laundering), that confiscation of property can be applied as a supplementary penalty, whereas paragraph 1 (ordinary money laundering) does not include a reference to confiscation.

53. According to the principles in article 19 and article 55 of the Criminal Code, also in cases of financing of terrorism (aiding and abetting to terrorism) it is possible to apply confiscation as a supplementary punishment, since the minimum penalty for terrorism is imprisonment for 5 years. However, it is not possible to confiscate property (including financial assets), which is intended to be used for committing a crime, including an act of terrorism.

54. The legislation of Armenia does not provide for civil *in rem* confiscation.

55. The mechanism of sharing assets with other states is not anticipated in Armenian legislation, and until now there has been no consideration given to establishing an asset forfeiture fund. According to the annual laws on the Armenian State Budget all the confiscated property becomes state property and is included in a budget as an income.

Seizure

56. There are no specific rules in Armenia on the seizure of proceeds from crime. However, in the Criminal Procedure Code there are various provisions relevant to search, seizure and arrest of property.

57. Articles 225 and 226 of the Criminal Procedure Code[23] relate to respectively search and seizure of instruments of crime, articles and valuables acquired by criminal way, as well as other items or documents, which can be significant for the case. Search is conducted, where it is uncertain where to find the relevant articles etc., whereas seizure is applied, where it is known where to find the articles etc. Both in case of search and seizure the relevant articles etc. are taken away but only on the basis of a court order.

58. Articles 13 and 232 of the Criminal Procedure Code deal with the arrest of property. According to article 13 imposition of an arrest on bank deposits and other property of a person may only be ordered in the course of criminal proceedings and upon a decision of the court, the agency for inquest, the investigator, or the prosecutor. Article 232 determines that arrest can be applied to secure property in civil claims, to prevent possible seizure and for coverage of court expenses. Article 233 states that arrest of property can only be applied where there is suspicion that the perpetrator will hide, spoil or consume the property. The arrest can be enforced by a decree issued by the investigating body, the investigator or the public prosecutor.

23 For excerpts of the Criminal Procedure Code, see Annex 3.

59. Arrest is applied to the property of the suspect and the accused as well as those persons whose actions can cause financial responsibility, regardless of who posseses the property. Arrest can also be applied to the property commonly shared by spouses or the family of the suspect if there is sufficient evidence that the property was acquired in a criminal way.

60. Provisions on seizure of funds and other assets deposited with a bank are also contained in article 926 of the Civil Code.

Suspension of transactions

61. In addition to the Criminal Procedure Code some provisional measures are also included in the financial laws and regulations. Hence, article 40, paragraph 1 of the Law on Banks and Banking authorises the Central Bank to suspend operations on the accounts owners of which are suspected in circulation of assets acquired by criminal means or in financing of terrorism. Moreover, also the already mentioned Regulation 5 issued by the Central Bank in Articles 14 and 15 requires banks and credit institutions to suspend the operations carried out through the accounts if the owner of the account or a party involved in such operations is suspected in circulation of criminally obtained funds or in financing of terrorism.

Powers to identify and trace property

62. Besides the already mentioned powers to seize and arrest the property the evaluators could not find any other provisions in the Criminal Procedure Code or in the Law on the Police, which would explicitly address the issue of identification and tracing of property that may become subject to confiscation. During the on-site visit the Armenian authorities stated that it is possible to apply the investigative measure of monitoring an account, but the evaluators were not given an opportunity to scrutinise the legal basis for it.

63. The FIU does not exist in Armenia but the Central Bank according to article 16 of Regulation 5 is entitled to receive reports on suspicious transactions related to money laundering and financing of terrorism from the banks and credit institutions.

64. Provisions on bank secrecy are contained in article 925 of the Civil Code and in article 20 of the Law on Banks and Banking. According to those provisions information on legal entities, the status of their accounts and their banking transactions may be provided to the supervisory bodies, arbitration tribunals and examining jurisdictions, and depending on the circumstances, to the Central Bank, as well as to the tax authorities with regard to tax matters. On the other hand information concerning accounts and deposits of natural persons can only be provided to tribunals and examining jurisdictions within the scope of their competence, and where it is possible to proceed with the seizure and placing under seal or blockage of monetary and other assets.

65. The evaluation of property, which is subject to confiscation, is regulated by article 234 and 235 of the Criminal Procedure Code. According to those provisions the value of property should be determined at market prices and an

expert in commodity should be involved to determine the approximate value of arrested property.

Bona fide third parties

66. Article 237 of the Criminal Procedure Code establishes the right to appeal against arrest of property. The complaint should be sent to the prosecutor, however it does not prevent the execution of the decision. Moreover, the Armenian authorities reported that the rights of bona fide third parties are protected on the basis of Article 14 of the Civil Code, which deals with the annulment of the disputable transaction, the application of results of annulment of non-existing transactions, the confiscation of damages and the disclosing of legal co-operation.

Statistics

67. During the on-site visit the Armenian authorities stated that no funds or other property had been frozen, seized or confiscated in relation to money laundering or terrorism financing. The representatives of the Central Bank mentioned that they have issued an order to freeze an account on the basis of information received from the Armenian NCB of Interpol, but were not able to provide any further details, just like no other authority could confirm this information.

68. As far as statistics on seized or confiscated assets in relation to other criminal offences are concerned, the evaluators were told that the office of the Prosecutor General is keeping some statistics.

Training

69. The evaluators were advised that the law enforcement and judicial authorities had not, so far, received any training in the field of money laundering and financing of terrorism. Nevertheless, the representatives of the office of the Prosecutor General mentioned a seminar for prosecutors, which was organised in September 2003 to discus the newly adopted Criminal Code (including the Article 190).

Analysis of Effectiveness

70. The legal regime on confiscation of instrumentalities and proceeds is too limited since it is not mandatory and it is applied only as a supplementary punishment. Furthermore, the confiscation can only be assigned for grave and particularly grave crimes committed with mercenary motives. This means, for example, that confiscation of property is not possible even in respect of Article 190, paragraph 1, which deals with ordinary money laundering. Such restrictions are contrary to the provisions of the Vienna Convention, the Strasbourg Convention and the Palermo Convention.

71. Confiscation of property is neither mandatory in cases of financing of terrorism, but due to the prescribed sanctions for terrorism it is possible to apply confiscation as a supplementary punishment. However, the property, which is intended or allocated for use in, the financing of terrorism, terrorist acts or

terrorist organisations, cannot be confiscated. This is neither in line with the FATF Special Recommendation III nor with the provisions of the UN International Convention on the Suppression of the Financing of Terrorism.

72. In Armenia the confiscation regime is based on a criminal conviction; thus there is no notion of *in rem* confiscation. Confiscation is not limited only to the instrumentalities or direct proceeds from crime, but it can be applied to all, including legally obtained property of the convicted person. The only exception is envisaged in article 55, paragraph 4 of the Criminal Code, which protects from confiscation the property necessary for the convict or the person under his care. Although the Criminal Procedure Code does not contain any explicit provision on the *bona fide* third parties, the general provisions of the Code Civil protect their rights.

73. As can be seen from above, several provisions dealing with provisional measures are contained in different laws and regulations. Some are of a general nature and others are more specifically linked to bank deposits and accounts. Concerning search and seizure, chapter 31 of the Criminal Procedure Code determines grounds for conducting these measures and defines the procedure. It is expressed in article 225 and 226 that seizure can apply to instruments of crime, articles and valuables acquired by criminal way, as well as to other items or documents, which can be significant for the case. Seizure of funds deposited with a bank is regulated by article 21 of the Law on Banks and Banking and article 926 of the Civil Code. The seizure of funds deposited with a bank by natural persons can only be ordered by a court, whereas the seizure of assets belonging to legal persons can also be ordered by arbitration tribunal or tax authorities.

74. Another provisional measure – arrest of property – is regulated in article 13 and chapter 32 of the Criminal Procedure Code. The majority of conditions for applying this measure, set in articles 13, 232 and 233, are in line with international standards and can also be seen in the legislation of other countries. However, article 13 defines that "imposition of an arrest of property of a person may (only) be ordered in the course of criminal proceedings". It has to be emphasised, that the term "criminal proceeding" is not defined in article 6 (Definitions of the Basic Notions Used in the Criminal Procedure Code), thus it remains unclear to the evaluation team whether arrest of property can be ordered also in a stage of preliminary (pre-juridical) criminal procedure when the criminal case has not yet been formally initiated[24].

24 Subsequent to the evaluation visit, the evaluators were informed by the Armenian Authorities, that a formal initiation of a criminal case is a precondition to arrest property.

75. As for freezing of assets of terrorists, those who finance terrorism and terrorist organisations, there is no comprehensive normative act providing for a mechanism to implement the freezing in all financial and non-financial sectors in accordance with the United Nations resolutions. The only relevant provisions are contained in article 40 of the Law on Banks and Banking and Regulation 5, issued by the Central Bank. By virtue of those provisions the Central Bank, banks and credit institutions are authorised to suspend operations on the accounts linked to money laundering and financing of terrorism. However, it should be pointed out that this measure could only be applied in respect of assets held in banks and credit institutions, and not in respect of assets, which are at disposal of other financial and non-financial institutions. This is not in accordance with the international standards and can certainly diminish the effectiveness of the system to prevent and detect financing of terrorism.

76. During the on-site visit the evaluators were told that sharing of confiscated property with other states is not prohibited. Moreover, according to the Armenian authorities this should be possible if envisaged by an international agreement or on basis of reciprocity regulated in chapter 54 of the Criminal Procedure Code, which deals with the mutual legal assistance in criminal matters. When checking provisions of this chapter the evaluators could only find article 499, which allows for transfer of items[25] to the foreign state, yet after the end of the criminal proceedings these items must be returned to the institution, which transferred them. It is clear to the evaluators that neither this article nor any other provision of chapter 54 could be used as legal basis for the sharing of confiscated assets.

77. The possibility of establishing an asset forfeiture fund has not been envisaged in Armenia. Confiscated assets become part of a general state budget and they are not shared among the competent domestic authorities. The authorities were not able to provide any data on number of cases in relation to which the property was confiscated or on amounts of confiscated property, thus it was very difficult, if not impossible, to evaluate the effectiveness of the existing confiscation regime. The level of awareness with the relevant authorities in terms of the importance of financial investigations in proceeds-generating offences is rather low and until now no specific training on these issues has been organised.

Recommendations and Comments

78. The evaluation team recommends that the legal regime on confiscation of instrumentalities and proceeds should be put in line with international conventions and standards. Confiscation should be mandatory at least in respect of organised crime, drug trafficking, money laundering, financing of terrorism and other major proceeds-generating offences.

25 This article regulates transfer of items, which : were used during commitment of crime, including instruments of crime; were obtained in a criminal way or received by the criminal as compensation for items obtained in a criminal way.

79. Armenia should also introduce legislation to implement without delay the freezing or seizure of assets of terrorists, those who finance terrorism and terrorist organisations in all financial and non-financial sectors in accordance with the relevant United Nations resolutions. In this respect the existing legal provisions, which cover banks and credit institutions, may serve as a model. However, it should be pointed out that after establishing the FIU, the latter could also be vested with power to suspend suspicious transactions wherever needed.

80. As was explained above, it is not clear whether the Criminal Procedure Code makes the arrest of property possible already in the stage of preliminary criminal procedure when the criminal case has not yet formally been opened[26]. Subject to other legal conditions, it is important that provisional measures are taken as soon as possible, thus to prevent disappearing of assets. The Armenian authorities should consider making this clear by amending the law or by providing guidelines to the relevant law enforcement and judicial bodies.

81. The Armenian authorities may wish to consider establishing an asset forfeiture fund into which all or a part of confiscated property will be deposited and will be used for law enforcement, health, education, compensation of victims or other appropriate purposes. Furthermore, the authorities may also wish to consider adopting legislation to enable them to share confiscated property with other countries, particularly when confiscation is the result of coordinated law enforcement actions or the property belongs to victims from another country.

82. Once the remaining legal requirements concerning provisional and confiscation measures have been fulfilled, the Armenian authorities may wish to consider adopting provisions which would allow for confiscation without conviction (civil forfeiture). Consideration should be given at least to cover situations, where the conviction is not possible either because the offender dies or absconds or for some other reason.

83. The evaluators believe that the effectiveness of the seizure and confiscation regime will be particularly enhanced if all relevant law enforcement, prosecutorial and judicial authorities were provided with adequate training. Seminars should cover topics on tracing the proceeds of crime and financial investigations and should be organised on a regular basis.

Implications for compliance with FATF Recommendations 7, 38, SR III

Recommendation 7:	Materially Non-Compliant
Recommendation 38:	Largely Compliant
Special Recommendation III:	Materially Non-Compliant

[26] See footnote no. 24.

III - The FIU and processes for receiving, analyzing, and disseminating financial information and other intelligence at the domestic and international levels (Criteria 17-24)

Description

84. Armenia has no general preventive anti-money laundering act. However, some sector specific provisions impose on the financial institutions certain obligations concerning customer identification and record keeping. Moreover, the Central Bank has issued a Regulation no. 5 requiring banks and credit organisations to follow certain anti-money laundering obligations, including the reporting of suspicious transactions.

Analysis of Effectiveness

85. Since in Armenia there is no FIU or other equivalent authority, there is currently no general mechanism in place whereby the entire financial sector and other businesses should report cases of suspicious transactions or activities. Neither is in place any general system, according to which the financial sector and other businesses should report a suspicion of funds related to the financing of terrorism.

86. For banks and credit institutions, the Central Bank Regulation no. 5 imposes a reporting obligation in case of suspicious transactions. From June 2003 five STRs from three banks were reported to the Central Bank. According to the Central Bank representative's one case was forwarded to the Public prosecutors office but the latter could not confirm that. It is clear to the evaluators that the above mentioned Regulation can only serve as a temporary solution while a general preventive act is being prepared. Consequently, in the present situation law enforcement agencies get access only to little information from the financial sector, which means that a case concerning money laundering or financing of terrorism usually will have to be based upon the law enforcement agencies' own information. This, naturally, makes the system ineffective and seriously hampers the possibilities of Armenia to prevent and detect money laundering and financing of terrorism.

Recommendations and Comments

87. The evaluation team recommends the creation of an FIU as a matter of urgency. The creation of an FIU should be given first priority by the Governmental Committee established in 2002. The proposed FIU should be adequately structured, funded and staffed, and provided with sufficient technical and other resources to fully perform its functions. The FIU should have access to relevant registers, and it should be authorised to disseminate financial information and other intelligence both to the national law enforcement authorities and to foreign FIUs. Together with the creation of an FIU the evaluators also recommend the introduction of an obligation for all financial intermediaries and other relevant professions to report suspicious transactions and activity to the FIU. The FIU should consider keeping adequate statistics on received suspicious transaction reports as well as on requests for assistance.

Implications for compliance with FATF Recommendations 14, 28, 32

Recommendation 14:	Materially Non-Compliant
Recommendation 28:	Materially Non-Compliant
Recommendation 32:	Non-Compliant

IV - Law enforcement and prosecution authorities, powers and duties (Criteria 25-33)

Description

Law enforcement structures in place to combat money laundering and financing of terrorism

88. The Criminal Procedure Code in articles 189 and 190 determines that preliminary investigation of all criminal cases is conducted by the investigators of the prosecutor's office, internal affairs and national security bodies. Furthermore, article 6 defines the term "investigator", which means "an official serving at the prosecutor's office or in the internal affairs or national security bodies who conducts preliminary investigation of the criminal case within the limits of his competence." The role and tasks of investigators are prescribed in details in article 55 of the Criminal Procedure Code.

89. In article 56 of the Criminal Procedure Code the following "bodies of inquiry"[27] are listed:

- the police,
- the heads of military units and institutions, regarding the cases of military crimes,
- the bodies of state fire control, regarding the cases on fires,
- the state tax bodies, regarding the tax crimes,
- the custom's bodies, regarding the cases on smuggling, and
- the national security bodies.

90. The Armenian Police is organised as an integral part of the State Body of the Internal Affairs. Within the Police there is a Department of Organised Crime, which has the following three divisions: Criminal Investigation Division, Analytical Division and Economic Crime and Corruption Division. The latter has five subdivisions, including Subdivision on Crimes in Financial and Credit Institutions, which is responsible also for money laundering. On a basis of an order issued by the Chief of Police only state police forces are responsible for investigation of cases related to organised crime and money laundering, thus local police units do not have any competence in these matters.

27 Body of inquiry, as defined in article 6 of the Criminal Procedure Code, means "officials of an appropriate division in the state agency, authorised to carry out inquiry, in accordance with this Code".

91. The Law on the Police and the Criminal Procedure Code regulates the objectives, duties and rights of the Police, which are relevant for this report. With a respect to criminal offences both laws provide for a vast range of obligations that normally fall under the responsibility of the Police. For example the Police is responsible for carrying out the following activities: Register applications and reports on criminal offences; perform urgent investigatory actions to disclose the perpetrators and secure the traces of crime; perform investigation of criminal cases; arrest and detain the suspects; take measures to ensure the compensation of material damages caused by the crime; discover stolen property; interrogate the suspects and other persons; conduct observations, searches, seizures and initiate criminal prosecutions.

92. The Ministry of National Security is responsible for the investigation of criminal cases related to terrorism and serious economic crime, including money laundering. Its tasks and duties are regulated by the Law on National Security Services and the Criminal Procedure Code. Within this ministry there are two departments responsible for dealing with the above mentioned criminal offences, namely the Department for Economic Crime and the Department for Fighting Terrorism.

93. The evaluators were informed that the officers of the Ministry of National Security attended seminars on money laundering and financing of terrorism, organised by the EU, where also case studies were discussed.

94. The role and the powers of prosecutors regarding criminal offences are regulated in the Criminal Procedure Code. Articles 52 to 54 of this Law provide for a detailed description of their tasks in the pre-trial proceedings and during consideration of the criminal case in the court. The above mentioned articles and article 190 of the Criminal Procedure Code, which deals with investigative subordination, clearly determine that the investigators serving at the prosecutor's office are primarily responsible for the investigation of cases concerning money laundering and that prosecutors can investigate personally any criminal case in its full volume. If various bodies are involved in the preliminary investigation of a certain criminal case the prosecutor decides who has the jurisdiction.

95. The Prosecutor General's office is divided into 5 divisions and on the local level there are 10 regional Prosecutor's offices, including the largest one in Yerevan. The President of the Republic appoints the Prosecutor General on the basis of a proposal of the Prime Minister. All together there are 550 prosecutors and investigators, serving at the prosecutor's offices in Armenia.

96. Special investigative techniques and conditions for their application are regulated in Chapters 33 and 39 of the Criminal Procedure Code. Article 239 of this Law authorises the Police and other authorities that fall under the definitions of the "investigator" and the "body of inquiry" to use the techniques of monitoring of correspondence, mail, telegrams and other communications if there is sufficient ground to believe that there are probatory facts in the mail or other correspondence and communications sent by the suspect or the charged, or to them by other persons. According to article 281 of the Criminal Procedure Code the above mentioned techniques may only be ordered by a court and

implemented on a basis of a court decree. The Criminal Procedure Code does not provide for any restrictions regarding the list of criminal offences, thus the special techniques may also be used in relation to criminal offences of money laundering and financing of terrorism.

97. As noted earlier, the law enforcement and prosecution authorities do not have direct access to the documents and information on bank accounts, belonging to the suspect or charged. With some exceptions related to the information on bank transactions of legal persons only the court may during the criminal investigation order the production of bank account records. This issue is regulated in article 925 of the Civil Code and articles 4, 10 and 17 of the Law on Bank Secrecy. As for the information and documents, which represent an official or commercial secret, they are also obtainable for the law enforcement and prosecution authorities, yet the Criminal Procedure Code in article 172 prescribes a special procedure in this respect.

Statistics

98. Due to the fact that the Criminal Code, envisaging the criminalisation of money laundering entered into force just two months before the evaluators visited Armenia, the authorities were not able to provide any statistical data on investigations, prosecutions, and convictions on money laundering. Furthermore, as regards the financing of terrorism the authorities stated that there was no case recorded, although they pointed out one case of terrorism, which is still pending in the court.

Analysis of Effectiveness

99. In general, the law enforcement and prosecution authorities in Armenia have on their disposal a number of measures, which may be used in the investigation of money laundering and financing of terrorism. Furthermore, the authorities are sufficiently staffed to perform their duties, and their organisational structures are well adapted to the problems encountered in practice. Police officers and other investigators can exercise a number of investigative powers, including the special investigative techniques of monitoring the correspondence, mail, telegrams and other communications. However, the relevant legislation does not provide for the use of controlled delivery and for undercover operations, which are important tools that every law enforcement body should be able to use in cases of organised crime, including money laundering and financing of terrorism. The Armenian authorities stated that the measures referred above could be conducted on a basis of bilateral agreements signed with other states. However, the evaluators were not guided to any legal basis to confirm this.

100. The evaluation team had a positive impression especially of the way the Ministry of National Security handles its responsibilities in the field of money laundering and financing of terrorism. Not only are they studying the foreign countries` experiences, but in collaboration with the Central Bank and the Ministry of Finance they are also analysing the risk of different sectors being used by criminals for illegal purposes. Ongoing privatisation process in several strategically important Armenian companies is also subject to their special attention, especially when funds are deriving from abroad.

101. As for the Police, the evaluation team was told that they are not conducting any financial investigations in respect of criminal offences that fall under their responsibility. Furthermore, the evaluators had the impression that the Police officers are still not aware of the risk that money laundering represents to every country, including Armenia. It seems that they are relying too much on the general obligation to declare the property and on its taxation. The Police officers did not organise or attend any special training on the issues of money laundering or financing of terrorism.

102. Since the amendments of the Criminal Code came into force only in August 2003, no cases of money laundering and financing of terrorism were passed to, or investigated by prosecutors. Thus, it is very difficult to evaluate at this stage, whether the prosecutors and courts are properly organised and sufficiently qualified to deal with such cases.

Recommendations and Comments

103. The evaluation team recommends that the controlled delivery and the monitoring of accounts should be regulated by the relevant laws of Armenia and included among the investigative techniques, which can be used by the law enforcement and prosecution authorities. In this way the Armenian authorities will be able not just to comply with the international standards, as envisaged in the Vienna, Palermo and Strasbourg conventions and to provide mutual legal assistance to foreign states, but also to deal more efficiently with the domestic criminal cases. Moreover, the authorities may also wish to consider regulating in the relevant laws the use of undercover operations and informers as additional tools in the investigations of money laundering, financing of terrorism and organised crime in general.

104. Financial investigations are important parts of the investigation of all proceed-generating offences. The evaluation team, having interviewed officials from the various segments of the Armenian criminal justice system, found that there is very little attention paid to this important method of work in the Police or Prosecutor's office. Likewise, there is no training provided on how and when to conduct financial investigation in relation to a criminal case. The evaluation team thus recommends that these issues should be addressed by all relevant law enforcement authorities as a matter of urgency.

105. After establishing an FIU the authorities may wish to consider, whether there is also a need to specialise officials in law enforcement and prosecution bodies to deal with the suspicious transaction reports which will be received from the FIU.

106. The existing procedure for the lifting of the bank and commercial secrecy is generally considered well-balanced. However, when the FIU will be established, as it was recommended earlier in this report, it should have direct access to all relevant information and documents, including those kept by banks and credit institutions, without a court order.

Implications for compliance with the FATF Recommendation 37

Recommendation 37	Compliant

V - International Co-operation
(Criteria 34-42)

Description

Co-operation in providing mutual legal assistance

107. As mentioned above[28] Armenia has ratified and implemented the UN 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and has ratified the UN 2000 Convention Against Transnational Organised Crime (the Palermo Convention). It is of equal importance, that Armenia has signed and ratified both the Council of Europe 1957 Convention on Extradition, the Council of Europe 1959 Convention on Mutual Legal Assistance and the Council of Europe 1983 Convention on the Transfer of Sentenced Persons. However, a number of other conventions in the field of international co-operation in criminal matters are still to be ratified, e.g. the Council of Europe 1972 Convention on the Transfer of Proceedings in Criminal Matters, the Council of Europe 1970 Convention on the International Validity of Criminal Judgments and as already mentioned the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

108. Armenia currently has in place bilateral agreements on different aspects of legal assistance in criminal matters with Bulgaria, Romania, Greece and Georgia.

109. In case there is no relevant agreement on legal assistance between Armenia and a requesting foreign country, provisions of the Criminal Procedure Code are used.

110. Article 474 of the Criminal Procedure Code sets out the procedure in cases where Armenia is the *requesting state* for legal assistance. It is stated that when in an Armenian criminal case it is necessary to conduct investigative steps abroad, these steps are referred to appropriate bodies of the foreign state on the basis of an instruction for investigatory actions by the General Public Prosecutor and an instruction on procedural actions by the Ministry of Justice. The investigative steps mentioned in 474 are the following: Interrogation, examination, seizure, search, expert examination and other investigatory and procedural actions.

28 See Section I of the Detailed Assessment – Criminalisation of Money Laundering and Financing of Terrorism.

111. As for the cases where Armenia is the *requested state*, this seems to be covered by article 477 of the Criminal Procedure Code. However, no precise information concerning under which circumstances Armenia is able to assist is indicated under this article. Equally no information is given concerning which measures Armenia can carry out on the basis of a foreign request. It is simply stated, that the court, the prosecutor and the investigator perform their instructions *"based on general rules"*.

112. In meetings with the Armenian authorities the range of international co-operation was clarified. Generally, the requested legal assistance can be carried out if the same process could be exercised in a similar domestic case. Furthermore, Armenia carries out legal assistance only on the basis of reciprocity (if no specific agreement with the requesting country). The Armenian authorities reported of cases where Poland and Iran had been assisted solely on the basis of reciprocity. As for coersive measures dual criminality is always needed.

113. The specific issue of co-operative investigations has not been addressed by Armenia. Cross-border controlled deliveries are in principle possible, but only on the basis of an agreement, and no such ones have yet been concluded.

114. The statistics for the years 2002-2003 (until the time of the on-site evaluation) on mutual legal assistance in criminal matters show that there has been just 8 requests[29]. Of the 8 cases, 2 were from Turkey, 3 from Bulgaria and 3 from Poland. The requests concerned cases of illegal crossing of state borders and prostitution. During the same period of time, Armenia has sent 11 requests for assistance in criminal matters.

Jurisdiction Issues

115. In case of a crime committed in Armenia by a foreign citizen, where the person has escaped to another state, in accordance with article 478 of the Criminal Procedure Code, Armenia can transfer the case to the other state even where the criminal procedure has already commenced in Armenia. The transfer includes forwarding all material of the initiated case.

116. According to article 479 of the Criminal Procedure Code, Armenia can also take over the proceedings from another state, if a case concerns Armenian citizens. It is for the General Public Prosecutor to decide whether the proceedings should be transferred to Armenia.

117. As for the questions whether a person can be convicted in Armenia for money laundering committed abroad, this is – to a certain extent – covered by article 15 of the Criminal Code.

29 The total number of requests received during the said period of time is 108 (including requests on civil matters). The total number sent during the same period of time is 20.

Extradition

118. The issue of extradition is covered both by article 16 of the Criminal Code and articles 480-493 of the Criminal Procedure Code.

119. According to article 480 of the Criminal Procedure Code, extradition for the purpose of legal proceedings is possible where the envisaged punishment is imprisonment for not less than one year. Where the purpose of the extradition is the execution of a conviction, extradition is possible, if the person was sentenced to a minimum of 6 months of imprisonment.

120. Article 481 of the Criminal Procedure Code defines some of the grounds that might deny a request for extradition. Examples could be where the requested person is Armenian citizen, where the person has been granted political asylum in Armenia or where the person is prosecuted for political, racial or religious reasons.

121. Article 16 of the Criminal Code repeats that Armenian citizens cannot be extradited, and adds furthermore a number of other reasons for refusing a request for extradition. Moreover, following from article 16, paragraph 5, in case of refusal to extradite a person, the legal proceedings is done in accordance with the Armenian legislation[30].

122. The evaluation team was not provided with any information about the number of request for extradition sent and received by the Armenian authorities.

Safe Haven Issues

123. The evaluators were told, that according to article 6 of the Law on Refugees and the Law on Political Asylum, a status as refugee or a right for political asylum cannot be granted to person, who endangers the national security or who has committed a crime against peace and humanity (including war crimes) before entering the territory of Armenia, or where legal proceedings has been opened in Armenia or abroad against the person for committing such a crime.

124. Article 19, paragraph 2, of the Law on the Legal Status of Foreign Citizens entitles the Ministry of Interior, in case of internal political instability, to impose restrictions upon the free movement of persons holding a temporary residence status. Article 8 of the same Law indicates the circumstances under which the authorities can deny a request for the issuance of an entry visa. The Armenian authorities also wished to emphasize, that foreign citizens who are charged for a crime committed abroad can be extradited to a requesting country in accordance with the general rules on extradition.

30 Articles 14-15 of the Criminal Code.

Analysis of Effectiveness

125. The possibilities for Armenia to provide mutual legal assistance in criminal matters are fairly well-balanced. Generally speaking, Armenia can provide as assistance to foreign states the same processes, as the authorities of Armenia themselves can exercise in domestic cases.

126. As mentioned above, the exercise of coersive measures (production of bank accounts, searches, seizure, interception of communication etc.) requires dual criminality, whereas non-coersive measures as for example observations, exchange of information and taking of statements can be exercised also where the dual criminality principle is not met.

127. The Armenian authorities reported no cases, where a foreign country requested Armania to conduct on their behalf seizure or confiscation. Reading the relevant articles on seizure and confiscation[31], the provisions themselves do not seem to prevent their use in mutual legal assistance. However, the fact that the provisions do not allow for general seizure and confiscation of proceeds, naturally has an impact on the possibility to provide legal assistance.

128. Article 15, paragraph 3, of the Criminal Code, to some extent also has implications for the general international co-operation in criminal matters, because the current wording of this provision makes it possible to indict in Armenia foreign citizens for crimes committed abroad only where this follows from an international treaty or where the crime is of particularly grave nature and is directed against the interests of Armenia or the rights and freedom of Armenian citizens.

129. Where the foreign request relates to a money laundering case, the dual criminality principle should in principle not restricts Armenia very much in providing assistance, due to the fact, that article 190 of the Criminal Code is an all-crime money laundering offence. However, the evaluators were somewhat concerned about the evidentiary standard given in article 190 and the possible implications for international assistance. As noted above[32] article 190 deals with *evidently* criminally obtained means, and since still there has been no requests from abroad related to money laundering cases, Armenia has not yet had the possibility to demonstrate that the country can provide assistance also to requesting countries using a lower evidentiary standard.

31 Respectively article 226 of the Criminal Procedure Code and article 55 of the Criminal Code.
32 See Section I of the Detailed Assessment – Criminalisation of Money Laundering and Financing of Terrorism.

130. Where the foreign request relates to the financing of terrorism, the evaluators furthermore believe, that the dual criminality requirement might prevent Armenia from providing the necessary assistance. Armenia has not ratified or implemented the UN 1999 Convention for the Suppression of the Financing of Terrorism, and has in place no specific provision on financing of terrorism. The evaluators therefore question whether a combination of the general provision on aiding and abetting and the provision on terrorism will satisfy the dual criminality requirement.

Recommendations and Comments

131. The Armenian authorities should take immediate steps to prepare for the ratification and implementation of the relevant international instruments, which have not yet been joined, particularly the Council of Europe 1990 Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and the UN 1999 Convention for the Suppression of the Financing of Terrorism, but also the Council of Europe 1972 Convention on the Transfer of Proceedings in Criminal Matters and the Council of Europe 1970 Convention on the International Validity of Criminal Judgments are very relevant.

132. Generally, the evaluators believe, that the Armenian legislation should be more precise in flagging out exactly what measures can be provided as assistance in criminal matters. The reference in article 477 of the Criminal Procedure Code to *"based on general rules"* is too vague, and a more precise reference should be indicated.

133. The Armenian authorities should also make sure, that assistance in the form of seizure or other kinds of provisional measures, as well as confiscation, can be provided to a requesting state, also where the request is related to the seizure or confiscation of proceeds of crime[33].

134. As noted above, the range of legal assistance is limited – if coersive measures are requested – to cases where dual criminality is observed. As already described, this might cause problems both in money laundering cases and in cases concerning financing of terrorism. The evaluators therefore recommend, that Armenia should satisfy itself, that the evidentiary standard proposed in article 190 of the Criminal Code does not prevent Armenia from assisting countries with a different evidentiary standard.

135. The evaluators also recommend Armenia to make sure, that the necessary assistance can be provided for requests concerning financing of terrorism. Currently, the fact that no specific provision on financing of terrorism exists probably prevents Armenia from assisting if coersive measures are requested. As already recommended, the Armenian authorities should therefore seriously – and as a matter of priority – consider whether a specific provision on financing of terrorism should be introduced.

33 See also the recommendations given above under section II – Confiscation of proceeds of crime or property used to finance terrorism.

136. On the jurisdiction issue, it is the view of the evaluators, that Armenia should make sure that article 15, paragraph 3, of the Criminal Code does not prevent Armenia from commencing a case on money laundering or financing of terrorism, where the criminal action has been committed abroad by an non-Armenian citizen, and where the perpetrator is caught in Armenia.

137. On the specific issue of co-operative investigations, the evaluators invite the Armenian authorities to consider whether a more pro-active approach in this respect could be relevant, including possibly concluding agreements with neightbouring countries on the subject of cross-border controlled deliveries.

138. The evaluators finally recommend the Armenian authorities to analyse whether the non-extradition of own nationals is being followed up by a proper transfer of criminal proceedings from the foreign country to Armenia, and to ensure that this occurs.

Implications for compliance with FATF Recommendations 3, 32, 33, 34, 37, 38, 40, SR I, SR V

Recommendation 3:	Largely Compliant
Recommendation 32:	Non-Compliant
Recommendation 33:	Largely Compliant
Recommendation 34:	Compliant
Recommendation 37:	Compliant
Recommendation 38:	Largely Compliant
Recommendation 40:	Compliant
Special Recommendation I:	Non-Compliant
Special Recommendation V:	Materially Non-Compliant

Detailed Assessment of the Legal and Institutional Framework for Financial Institutions and its Effective Implementation

I – General Framework
(Criteria 43-44)

Description

Confidentiality and secrecy laws

139. Armenia has a separate Law on Bank Secrecy, but the evaluators were not provided with copies of this law. However, the evaluators were explained, that this Law provides for the prohibition of disclosure of banking information in general. It was also explained, that access to information about the clients, their transactions etc. is possible only on the basis of a court order. Furthermore, the Central Bank as the supervisory authority over the banking sector is entitled to obtain any information about the banks themselves and the clients of the banks[34].

34 According to article 57 of the Law on Banks and Banking.

140. As for the insurance sector, secrecy provisions are to be found in the Law on Insurance[35]. The insurance company may not *"publish information containing commercial or banking secrets"*. Furthermore, it is stated in article 31 of the Law on Insurance, that the supervisory staff (from the Ministry of Finance and Economy) has no right to publish or use the information of commercial secrecy of insurers for their own interests.

141. Also securities companies are bound by rules on professional secrecy (information about clients etc.). Secrecy provisions for the supervisory body – the Securities Commission – can be found in the Law on Securities Market Regulation[36]. This Law defines "official" and "confidential" information and the responsibility to keep it secret.

142. As is the case for banks, also insurance companies and securities companies can be forced by a court order to provide information about their clients to the law enforcement authorities or to the court itself (in cases e.g. where the court wants to enforce a decision on confiscation).

Designation of competent authorities to ensure effective implementation by financial institutions of AML/CFT obligations

143. There is no general law on the prevention of money laundering and terrorist financing in Armenia, only some sector specific provisions on client identification and reporting of suspicious transactions are provided for. Moreover, there is no Financial Intelligence Unit (FIU) or other competent authority designated to ensure effective implementation of the international AML/CFT standards by all financial institutions.

144. Currently, the most active institution to fight money laundering and financing of terrorism is the Central Bank, which has issued Regulation no. 5[37], which introduces a reporting obligation for the supervised entities (banks and credit organisations).

145. Apart from the reporting obligation for banks and credit organisations based on Regulation no. 5 there is another obligation to report set out in article 17 of the Law on Bank Secrecy[38]. According to this provision bank managers should also report to the Central Bank if they have been firmly aware of a prepared or already committed crime.

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35 Article 17, paragraph 1, letter e).
36 Articles 68-72, article 128 and article 139.
37 Based on article 40 of the Law on Banks and Banking.
38 There is a reference to this article under point 17 of Regulation no. 5.

146. The supervisory agency for insurance companies is the Ministry of Finance and Economy, which has a special Supervisory Department. The Supervisory Department, however, has no AML/CFT component in its supervisory programme. As for securities companies, the Securities Commission is authorised to control all market participants by regular off-site monitoring and also on-site inspections. However, this supervision has so far not included specific AML/CFT measures.

147. According to article 335[39] of the Criminal Code there is a general obligation to report (to the relevant law enforcement authority) knowledge of a grave or particularly grave crime. This provision also applies to public authorities, including all financial supervisory agencies.

Analysis of effectiveness

148. Generally, the secrecy rules for financial institutions are not of a character which causes insurmountable problems for the investigation of cases concerning money laundering and financing of terrorism. The professional secrecy can be lifted on the basis of a court decision, if the law enforcement authorities and the Public Prosecutor agree that the question should be taken to court.

149. The serious general impediment for an effective implementation of the FATF Recommendations and other international standards is the lack of a general preventive law and the lack of a central authority to ensure the proper implementation of the law. As for having in place a reporting obligation article 335 of the Criminal Code is not sufficient since it applies only in cases of knowledge, which is more limited than a reporting obligation concerning suspicion.

Recommendations and comments

150. The evaluators recommend that Armenia urgently drafts the law on prevention of money laundering and terrorism financing. This law must – apart from defining the general AML/CFT obligations – provide for the establishing of a competent state authority to receive reports (the FIU) and bodies responsible for the supervision of implementation of measures against money laundering and terrorism financing.

Implications for compliance with FATF Recommendation 2

Recommendation 2	Materially Non-Compliant

II – Customer identification
(Criteria 45-48 for all financial institutions plus sector specific criteria 68-83 for the banking sector, criteria 101-104 for the insurance sector and criterion 111 for the securities sector)

39 See Annex 1

Description

Anonymous accounts

151. The Civil Code in several articles (the chapters 49 and 50 deals with *bank* deposit and *bank* account but are applicable also to other credit institutions) determines that bank accounts shall be opened only based upon a written contract.

Identification of clients

Banks

152. In the Law on Banks and Banking there is no explicit obligation for banks to identify clients. Article 38 states that relations to clients must be based on contracts. Furthermore, in case a deposit is made in a bank on behalf of a third party, the name and designation of that third person (regardless of natural or legal person) is a precondition for making a contract. Banks are allowed to confirm the contract by issuing "*a bankbook"* (a passbook). According to article 8 of Regulation no. 8 of the Central Bank, which entered into force on 2 April 2002, Armenian banks are allowed to open and keep any accounts for residents and non-residents. No special provisions or principles are being applied for non-resident accounts.

153. According to article 5 and 6 of Regulation no. 5[40] of the Central Bank, each bank is obliged to have in place internal rules and procedures, which determine the scope of information required from each client when providing banking services and products. The banks must also have in place due diligence requirements. These internal rules and procedures had to be submitted to the Central Bank within 3 months[41] after the entering into force of Regulation no. 5 and any subsequent changes to the internal program of a bank must be presented to the Central Bank within 1 week.

154. With regard to wire transfers, a separate legislation is in force (Law on Funds Transfers by Payment Order) but it was not available to the evaluation team[42]. Consequently, the evaluation team was not provided with any information concerning how Armenia comply with the requirement of accurate and meaningful originator information in banking transfers.

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40 See Annex 2.

41 Regulation no. 5 entered into force in March 2003, so the banks (and credit organisations) had until June 2003 to submit the required information to the Central Bank.

42 Subsequent to the evaluation visit an unofficial translation was made available to the evaluators. The Armenian authorities pointed notably to article3, paragraph 3, which sets out, that the Central Bank may determine the mandatory fields for payments orders, cancelling order and notifications. The Armenian authorities stated, that the Central Bank has issued an instruction on this, but the evaluators have not had an opportunity to scrutinise this instruction.

155. There are no particular identification requirements for trusts. Depending of the nature of the trust (e.g. banks, securities company or others), relevant identification requirements apply, where in existence.

156. The issue of creating special policies and procedures for handling banking facilities with high risk clients (including politically exposed persons) has not been addressed in Armenia.

157. No banks in Armenia offer private banking facilities to their customers, but the concept is not prohibited in Armenia.

Insurance and securities companies

158. Insurance products and services are provided based on insurance contracts. Basic requirements of such a contract are set out in article 16 of the Law on Insurance. Paragraph 2, letter c), of this article refers to the identification of the insured person. The identification should include *"name of the insured if it is a legal entity, legal address, banking and other requisites, and name, surname, father's name, passport data and address if he is a physical person."* Furthermore, article 5 and article 18, paragraph 2, letter e) provide the insured a right to conclude insurance contracts in favor of a third person, however, the evaluation team was informed, that the beneficiary of an insurance contract always needs to be identified.

159. According to article 19 of the Law on the Securities Market Regulation a prohibition of circulation of unregistered securities is in force. Securities are kept in dematerialised form at the Central Depository[43]. Also, a general prohibition of bearer securities is in place[44]. Only treasury bills have no indication of the name of the beneficiary. Dealing with securities through intermediaries is executed only on a contractual basis (in line with article 78, 82 and 85). Subsequent changes of ownership are subject to the notification and registration with the Securities Commission (when exceeding 10 % and 20 % ownership of the shares). There is furthermore a general obligation for every person who acquires more than 10% of any class of any equity security to inform the Securities Commission (and the issuing entity as well).

Registration of companies

160. In Armenia registration of shares of limited liability companies is carried out by a public State Registry. Ownership of all such shares have to be registrered with this authority when the shares are being issued and also all subsequent changes in the ownership have to be registered. Furthermore, if a company has more than 50 shareholders, registration of shares with the Securities Commission is obligatory. Such shares shall also be dematerialised and the share registry transferred to the Central Depository.

43 According to article 27 and article 42, paragraph 4.
44 According to article 42, paragraph 2.

Analysis of effectiveness

161. With regard to the existence of anonymous accounts, the Armenian authorities confirmed that according to the Civil Code accounts can only be opened on the basis of written contracts setting out all parties of the contract. However, in the view of the evaluators this is not necessarily the same as a prohibition of anonymous accounts.

162. With regard to identification requirements in the banking sector, some basic identification requirements (to clients and also beneficial owner) are in place in the banking sector, but the legislative basis remains fragmented and a question arises how far the new obligations imposed by the Regulation no. 5, which in principle follow the international standards, are applied to existing clients of banks. Generally, the requirements for the banks should be much more precise. It is clearly not sufficient simply to state that the banks should have in place internal rules concerning which information the clients should be asked for. Enforceable rules, either laws or regulations should into much more detail describe the minimum standards. However, the evaluators were informed, that all banks and credit organisations submitted the internal rules and regulations to the Central Bank within the prescribed period of time and the Supervisory Department of the Central Bank intends to control the adherence to this Regulation during their general on-site inspections (each bank is supervised on-site once a year as a rule).

163. For the insurance sector, the identification requirements for clients and "third persons" seem to be appropriate. For the securities sector it is clear that dealing through intermediaries can only be done on the basis of a contract. However, there seems to be no precise indications concerning which information has to be in the contract about the identity of the client.

Recommendations and comments

164. It would be of significant importance for Armenian authorities to clarify for themselves whether the Civil Code prohibits the anonymous accounts or allows them and whether in the banking practise such accounts are in existence or not. In case such accounts still exist, the evaluators recommend to close them down as a matter of urgency[45].

165. It is also recommended to provide in enforceable legal acts obligations for banks and credit organisations to identify and record the identity of their permanent clients. Furthermore, the same requirements should apply for occasional clients when performing transactions over a specified threshold. There should also be an obligation to renew identification when doubts appear as to their identity in the course of their business relationship.

45 Subsequent to the evaluation visit the evaluators were informed by the Armenian authorities, that no anonymous accounts exist in Armenia.

166. There are no provisions which provide an explicit requirement to keep customer identification information up-to-date and relevant by undertaking regular reviews of existing records. It is recommended to do so for example when a transaction of significance occurs, when customer documentation standards change substantially, when there is a material change in the way that the account is operated, or when the bank becomes aware that it lacks sufficient information about an existing customer.

167. The evaluators furthermore recommend as a matter of priority, that a clear customer identification regime should be put in place for the securities sectors. Binding legislation could be supplemented with guidance notes issued by the relevant supervisory authorities, i.e. the Securities Commission.

168. As stated above the identification requirements for insurance companies seem appropriate. Nevertheless, a relevant authority, e.g. the supervisory department of the Ministry of Finance and Economy should issue guidance notes for the insurance sector concerning the identification of clients. Such guidance notes should e.g. include rules concerning the verification of existence of the insurance subject (single or joint applicants, principals and policyholders). Requirements for the verification of the beneficiary should also be in place, where claims and commissions are paid to persons other than the policy holder.

169. As regards international transfers of funds Armenian authorities should as a matter of priority make sure, that they get in place appropriate provisions allowing Armenia to comply with the requirements of FATF Special Recommendation VII. Potential new provisions in this field should cover both domestic and international transfers.

Implications for compliance with FATF Recommendations 10, 11, SR VII

Recommendation 10	Materially Non-Compliant
Recommendation 11	Materially Non-Compliant
Special Recommendation VII	Non-Compliant

III – On-going monitoring of accounts and transactions
(Criteria 49-51 for all financial institutions plus sector specific criteria 84-87 for the banking sector and criterion 104 for the insurance sector)
Description

Special attention to unusual transactions and transactions from countries without adequate AML/CFT systems

Banks

170. According to article 12 of Central Bank Regulation no. 5, banks and credit organisations must, in a defined frequency and manner, verify information that has been required from customers, creditors or partners in concluding financial or other operations. No provisions give further guidance concerning how this verification should be carried out in practice.

171. The representatives from the Central Bank informed the evaluation team that a prohibition for all banks to open accounts for clients from two designated jurisdictions is in place. Furthermore, on the Central Bank's web-site there is a list of off-shore territories. When a client is from an off-shore country or territory, according to article 11 of Regulation no. 5, the origin of the income must be verified by a bank.

172. According to chapter 8 of the Central Bank Regulation no. 10, foreign exchange offices are obliged to report to the Central Bank in a prescribed forms but this reporting is purely for statistical purposes (volumes, types of currency, exchange rates used, etc.).

173. In just one case an Armenian bank has a subsidiary abroad (in the Russian Federation), so the question of transnational banks is not of the highest relevance to Armenia. However, the evaluators were not provided with information regarding whether generally something would prevent Armenian banks from consolidating balances and activities on a worldwide basis[46].

Insurance and securities companies

174. As for the insurance sector, there is no legislation in force concerning the on-going monitoring of contracts, accounts and transactions.

175. For securities all transactions are executed through the Stock Exchange. The Securities Commission is entitled to define mandatory conditions and requirements for listing and trading but it is not clear if such conditions are currently in place, and in any case the evaluators did not receive any information indicating that such requirements should also contain principles of on-going monitoring of accounts and transactions.

Analysis of effectiveness

176. There are no rules which specifically require banks or credit organisations to pay special attention to complex, large unusual transactions or unusual patterns of transactions. Neither are in place any rules, which require an intensified monitoring for higher risk accounts.

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46 Subsequent to the evaluation visit the evaluators were informed by the Armenian authorities, that there are no impediments for consolidation of balances and activities of Armenian banks on a world-wide basis.

177. There is also a lack of specific rules or guidelines concerning how banks should react to transactions from respondent banks located in jurisdictions that have poor "know-your-customer" standards or have been identified as being non-cooperative in the fight against money laundering. The provision in article 11 of Central Bank Regulation no. 5 concerning clients from off-shore jurisdictions is a first step. However, instead of applying such an enhanced scrutiny generally to off-shore jurisdictions, it should rather apply to jurisdictions, which have been identified as non-cooperative.

178. The legislation does not provide an obligation for banks to record findings of unusual transactions, or, with a view to assist bank supervisors or law enforcement agencies, to place the completed records at their disposal. Information on unusual transactions may, without a court decision, be submitted only to the Central Bank.

Recommendations and comments

179. The evaluators recommend the Armenian authorities to provide directly in enforceable laws or regulations that financial insitutions must perform ongoing monitoring of accounts and transactions. The legislation should be supplemented with guidance notes from the relevant supervisory agencies concerning specific issues like high risk clients and non-cooperative jurisdictions.

180. The evaluators recommend the Central Bank to consider on an up-dated basis to provide all financial institutions in Armenia with information about which countries and jurisdictions should be considered non-cooperative in an AML/CFT context, in order to allow the financial institutions to carry out an enhanced scrutiny of transactions from those areas.

181. The evaluators recommend to put in place also obligations concerning on-going monitoring of transactions in the non-bank financial sectors.

Implications for compliance with FATF Recommendations 14, 21 and 28

Recommendation 14	Materially Non-Compliant
Recommendation 21	Materially Non-Compliant
Recommendation 28	Materially Non-Compliant

IV – Record-keeping
(Criteria 52-54 for all financial institutions plus sector specific criterion 88 for the banking sector, criteria 106-107 for the insurance sector and criterion 112 for the securities sector)

Description

Banks

182. There is no explicit record-keeping requirement in the Law on Banks and Banking. Article 6 and article 9 of the Central Bank Regulation no. 5 contain certain provisions obliging banks and credit organisations to keep record. In article 6 it is stated, that banks and credit organisations must have internal

regulations (rules, procedures, orders, regulations) on how to record and keep information on customers, and how to collect, record and maintain information on suspicious transactions. Article 9 refers to the information collected according to article 6 and sets out, that this information shall be kept at least for a five year period. In addition, according to article 19 of the Law on Accounting Principles, information on financial accounts should be kept at least for five years after the execution of a financial transaction.

183. Based upon a court decision, law enforcement authorities may obtain access to client related information held by the banks and credit organisations.

Insurance and securities companies

184. There is no explicit requirement in the Law on Insurance concerning record-keeping. The Armenian authorities referred to article 16 of the Law on Insurance in this regard, but this article deals with the basic terms of the insurance contract. The Ministry of Finance and Economy is the insurance supervisor, but has not issued any guidance notes for insurance companies on record-keeping.

185. Like for insurance companies there seems to be no explicit record-keeping requirements for the securities sector. In any case, no reference is made to this issue in the Law on Securities Market Regulation. Neither has the securities supervisor, the Securities Commission, issued any guidance notes in this respect.

Analysis of effectiveness

186. As mentioned above, all banks and credit organisations were asked to prepare internal rules and procedures including record keeping requirements and copies of these internal rules and procedures were filed with the Central Bank on time. However, the evaluators have no information on how this obligation was implemented in practice. In any case, the obligation as described in Central Bank Regulation no. 5 is not sufficiently precise, since it only asks the banks "*to record and keep information on customers, and to collect, record and maintain information on suspicious transactions*". The obligation should set out into more detail that the information which has to be kept are the following: First of all client identification information must be kept for at least five years after the termination of the business relations. Secondly, all information relating to specific transactions must also be kept for at least five years after the transaction has been concluded.

187. As stated above it is unclear to the evaluators to which extent the insurance and securities sectors comply with record-keeping requirements at all.

Recommendations and comments

188. The evaluation team recommends Armenia as soon as possible to introduce formal record-keeping requirements. As mentioned, there are some requirements in place in the banking sector, but they are not sufficiently detailed and concise. The Armenian authorities should furthermore satisfy themselves, that the record-keeping requirements make it possible to really reconstruct all

transactions, including information on currency, for the purpose of potential criminal investigations.

189. The evaluators also recommend Armenia introduce as a matter of urgency formal record-keeping requirements in the insurance and securities sectors. As for the insurance sector, the insurance entities should record both initial proposal documentation (e.g. the client financial assessment), post-sale records associated with the maintenance of the contract and claim settlements. The supervisory agencies for the insurance and securities sectors should also play active roles in supervising the implementation of proper record-keeping regime.

Implications for compliance with Recommendation 12

Recommendation 12	Materially Non-Compliant

V – Suspicious transactions reporting
(Criteria 55-57 for all financial institutions plus sector specific criterion 108 for the insurance sector)

Description

Banks

190. Suspicious transactions' reporting was introduced in the banking sector in June 2003 with Regulation no. 5 of the Central Bank. Article 2.4 sets out types of transactions (indicators), which should be treated as suspicious. Furthermore, it determines (in article 2.4.7) under which circumstances a bank can decide not to file a report, eventhough the transaction as such are of a nature that normally should lead to a report. Accordingly, banks can refrain from sending a report, if the client has provided the bank with acceptable explanations or the transaction is in line with the activities, image and business reputation of the client.

191. Article 8 of Central Bank Regulation no. 5 obliges banks to have a separate unit (or employee) dealing with money-laundering prevention. The evaluators were told, that until present, banks usually have decided to appoint heads of security departments as compliance officers.

192. According to article 5.4 of Central Bank Regulation no. 5, a bank must include in its internal regulations to prevent money laundering also the responsibilities of the bank management and other staff and of the compliance officer/unit.

193. There are no provisions in place which prohibit the tipping-off to a client that a suspicious report has been send to the Central Bank. Protection for those who report in "good faith" is missing as well.

Insurance and securities companies

194. There is currently in place no obligation for insurance companies or securities companies to report suspicions related to money laundering or financing of terrorism.

Analysis of effectiveness

195. The principle of suspicious transaction/activity reporting is a cornerstone in any AML/CFT regime, and the lack in Armenia of a comprehensive system covering the whole financial sector and other relevant sectors[47] is crucial to the effectiveness of the entire effort against those types of crime. The lack of such a reporting system has an obvious impact on the possibilities for the law enforcement authorities to initiate investigations. Without a comprehensive reporting system, the Armenian law enforcement agencies may only very rarely get a basis to start an investigation.

196. The fact that the Central Bank has issued Regulation no. 5 is very positive, but the Central Bank regulation can only serve as a temporary solution while a comprehensive reporting obligation is being drafted. Furthermore, the reporting obligation in article 2.4 of Regulation no. 5 is too narrow. Firstly, it relates only to transactions, whilst suspicious activity does not seem to be covered. Consequently, attempted money laundering or financing of terrorism where the client leaves the bank without carrying out a transaction does not trigger the reporting obligation. Secondly, the list of "indicators" given in article 2.4 is meant to be exhaustive, but is far too limited. Banks should comply with a reporting obligation in any case they have a suspicion which cannot be disproved, and not just according to a list of indicators. Thirdly, the reporting obligation relates only to suspicions of money laundering, whereas a suspicion of financing of terrorism (without using proceeds from crime) is not covered.

197. By the time of the on-site visit, 5 suspicious transaction reports had been sent from banks to the Central Bank according to Regulation no. 5. Within the Central Bank structure a Special Committee has been established to discuss the reports, including what to do with the reports. The 5 cases relate to transactions of a total of USD 300.000. In one case the Central Bank decided to pass on the case to the Public Prosecutor's office and to freeze the money . There are no provisions in place setting out the conditions under which the Central Bank operates as "filtering unit", i.e. there are no provisions describing when the Central Bank should pass on the case to the law enforcement authorities. None of the 5 cases related to the UN lists on terrorism. The case which was submitted to the Public Prosecutor's office was not an Armenian case as such, but a case in a third country, where Armenia was asked for mutual legal assistance, because one of the suspects was a shareholder in an Armenian bank.

47 As defined by Directive 2001/97/EC (the second EU Anti-Money Laundering Directive)

Recommendations and comments

198. The evaluators recommend that Armenia as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities. This should be one of the key elements of a new and comprehensive AML/CFT law. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning financing of terrorism. All financial institutions and relevant non-financial institutions covered by the EC Directives should be subject to the reporting duty.

199. New legislation should also address specific questions as prohibiting tipping off to clients, that a report about their transactions has been sent to the authorities. Also the question of not holding the reporting institution liable for consequences of a suspicious transaction report should be addressed. The primary legislation should be supplemented with guidelines issued by a future Financial Intelligence Unit or by other relevant bodies concerning how to recognise suspicious transactions or activity. It should also be clear under what circumstances the FIU must pass on a case to other authorities.

Implications for compliance with FATF Recommendations 15, 16, 17 and 28

Recommendation 15	Materially Non-Compliant
Recommendation 16	Non-Compliant
Recommendation 17	Non-Compliant
Recommendation 28	Materially Non-Compliant

VI – Internal Controls, Compliance and Audit
(Criteria 58-61 for all financial institutions plus sector specific criteria 89-92 for the banking sector, criteria 109-110 for the insurance sector and criterion 113 for the securities sector)

Description

Banks

200. Article 5 of Central Bank Regulation no. 5 obliges banks and credit organisations to have internal regulations in place in order to prevent a bank from being misused for money laundering or terrorist financing. Article 5 describes 4 areas, which must be included in those internal regulations: 1) General procedures to perform financial operations, 2) the scope of information required by a bank from a client, 3) the compliance control procedure and 4) the responsibility of managers, staff members and compliance officer/unit. Furthermore, article 18 and article 19 sets out the obligation for the compliance officer/unit to check the adherence to the Regulation no. 5 regularly (it is up to the bank to decide on the frequency), and to present the results of each check to the Board of Directors and/or Supervisory Board. There is no obligation to train the employees on an on-going basis.

201. With regard to screening procedures when hiring employees, the evaluation team was advised that the Central Bank applies strict procedures eventhough there is no legal basis for this. The Central Bank furthermore informed the evaluators, that also private commercial banks use screening procedures, especially when hiring managerial staff. In such cases it is normal to control the criminal records of the candidates.

202. The question of applying AML/CFT standards to Armenian branches or subsidiaries abroad is of little relevance due to the fact that just one Armenian bank has a subsidiary abroad (in the Russian Federation). The evaluators did not receive any information concerning which AML/CFT standards are used in the supervision of that subsidiary.

Insurance and securities companies

203. Those insurance companies, which are joint stock companies (a majority of Armenian insurance companies), are obliged to have an internal control unit[48].

204. With regard to adequate screening procedures when hiring the staff of insurance companies, requirement for clean criminal records and qualification criteria ("Proficiency Certificate" for Directors, Chief Accountants of a company and individual insurers) are included in secondary legislation (Regulation for licensing of the Insurance Activity and for licensing of intermediary (broker) activity, article 1.9 and 1.10).

205. There is no legislation or guidance for insurance companies recommending that insurance and reinsurance companies foster close working relationships between underwriters and claims investigators. Neither are in place any reporting systems to alert senior management and/or the board of directors if anti-money laundering and terrorist financing procedures are not properly followed.

206.

The Law on Securities Market Regulation contains obligations for all broker-dealer companies[49], companies providing trust management services[50] and companies providing custodial services[51] to have internal control units. The more detailed description of the internal control unit functions is to be found in the Securities Market Code of Rules, Section D called "Internal Supervision of Professional Participants". Reports of internal control unit are accessible by the Securities Commission based on these rules. A clean criminal record is required as one of the conditions to be met before a professional participant is allowed to take part in the qualification examination[52].

48 Based on article 91 of the Law on Joint Stock Companies.

49 Article 76, paragraph 3.

50 Article 81, paragraph 2.

51 Article 86, paragraph 2.

52. Article 58, paragraph 3 of the Law on Securities Market Regulation.

Analysis of effectiveness

Banks

207. Compliance with internal regulations of a bank, including regulations on AML/CFT, is controlled by the supervision unit of the Central Bank as a part of the regular on-site controls. Also, as said above, the compliance officer/unit is obliged to control this area and the Central Bank can ask for the results of such a control on a case-by-case basis. With regard to the external auditors, these are also entitled to inspect this area, but this has not been done as of yet.

208. The evaluators were furthermore informed by the Central Bank, that it had organised a training seminar for private commercial banks in the area of anti-money laundering and terrorist financing.

Insurance and securities companies

209. It remains unclear if those insurance companies, which are limited liability companies also have a duty to make an internal control unit. For insurance companies organised as joint stock companies the rules concerning internal control etc. seems adequate. However, whether the supervisory department of the Ministry of Finance and Economy has access to the reports of such internal control units needs to be clarified[53].

210. As for the securities sector, there is an obligation for internal control units of all market participants to control the adherence to existing legal acts and regulations. As mentioned also the personal integrity is checked before a person can act as professional participant in the market, just as the Law on Securities Market Regulation[54] outlines the reasons for the deprivation of professional qualification. These are positive features of a preventive system. Nevertheless, representatives from the Securities Commission confirmed during the meetings with the evaluators, that if a person is not regarded as appropriate from the point of view of another supervisor (e. g. the Central Bank), such a person, if he formally complies with the criteria of the Securities Commission, still could be approved by the Securities Commission to have a position as professional participant.

Recommendations and comments

211. The evaluators recommend including in a new comprehensive preventive law also general components relating to the internal control of AML/CFT procedures and training of staff. Such provisions should apply in a uniform manner to all subjects of a new law.

53 Subsequent to the evaluation visit, the evaluation team was informed by the Armenian authorities that the Ministry of Finance and Economy has full access to the said reports.
54 Article 59.

212. The evaluators recommend that guidance for banks must provide that banks and banking groups should apply an accepted minimum standard of KYC policies and procedures on a global basis, covering foreign branches and subsidiaries. It must be provided that where the minimum AML/CFT requirements of the home and host jurisdictions differ, branches and subsidiaries in host jurisdictions should be required to apply the higher standard.

213. The evaluators also recommend the Armenian authorities to satisfy themselves, that internal control procedures apply also to those insurance companies, which are not organised as joint stock companies. In any case, the audit function of all insurance companies should ensure compliance with all applicable policies and procedures and should review whether the insurer's policies, practices and controls remain sufficient and appropriate for its business.

Implications for compliance with FATF Recommendations 19 and 20

Recommendation 19	Largely Compliant
Recommendation 20	Largely Compliant

VII – Integrity standards
(Criteria 62-63 for all financial institutions plus sector specific criterion 114 for the securities sector)

Description

Banks

214. The licensing procedure for banks consists of 3 stages: Preliminary approval, registration and issuing of the license. Requirements are stipulated in articles 25-29 of the Law on Banks and Banking[55]. The evaluators were told, that in the area of licensing there is in place also a Central Bank Regulation (Regulation no. 1 on Registration and Licensing of Banks, Foreign Banks Branches, Registration of Branches, Operating and Representative Offices), but the evaluation team did not have an opportunity to scrutinise this regulation. Generally, the requirements to get a banking license are comparable to international standards. The applicants must e.g. provide information related to the founders, to the amount of capital invested into a newly established bank, to future business plan, fit and properness of future managers etc.

215. Armenian banks intending to open a branch either on the territory or outside Armenia must have an approval of the Central Bank[56]. If the Central Bank suspects that the applicant bank is planning to commit money laundering through the branch the approval will not be granted[57]. If such a case occurs, the Central Bank will instantly inform the Office of the Prosecutor General.

55 For excerpts of the Law on Banks and Banking, see Annex 4.
56 According to article 28 of the Law on Banks and Banking.
57 Article 28, paragraph 6, letter f).

216. According to article 8, 9 and 18 of the Law on Banks and Banking, certain changes of shareholders needs prior approval of the Central Bank. The Central Bank is authorised to control any change of significant participation in a bank, which means that every change in ownership or voting rights over a threshold of 10 % is subject to a separate procedure and each applicant must comply with conditions determined in the Law. Article 18, paragraph 2, sets out the reasons for denial. According to this article, it is not possible to acquire a significant participation if e.g. the applicant is previously convicted or has been denied the right of occupying positions in financial, banking, taxation, customs, trade, economic, legal fields by a legally binding decision or by a sentence of a court. Furthermore, paragraph 4 of the same article stipulates more strict conditions for natural persons or legal persons with permanent residence in off-shore zones.

217. With regard to the fit and proper tests for the future management of a bank, amendments of the Law on Banks and Banking were introduced in 2001. Article 22 defines all positions to which these rules apply and also determines the conditions under which a person cannot be nominated to a managerial position. These include inter alia cases where a person was: 1) Criminally convicted, 2) deprived of right to have a position in financial, banking, economic, legal, etc. fields by a court, 3) not compliant to professional or qualification criteria prescribed by the Central Bank or 4) involved in a criminal procedure as a suspect, defendant or accused.

218. Registration with the Central Bank of changes in managerial positions is obligatory for all supervised entities according to article 33, paragraph 1, letter b), of the Law on Banks and Banking.

219. Foreign exchange offices are licensed according to article 2 of Central Bank Regulation no. 10. Basic information on founders (or owners), statement from a bank confirming the availability of financial funds, other technical preconditions (ownership of building or a leasing contract, adequacy of equipment in the room where the foreign exchange services will be provided, etc.) and a reference from 3 persons in relation to the employees is required. Furthermore, each employee must have a professional certificate issued by the Central Bank. There is not an explicit requirement to check the official criminal record of an applicant, but if the Central Bank Licensing Committee has a suspicion of a possible criminal background, they can ask the Criminal Registry for the record of the applicant. Providing the information on changes in ownership is obligatory according to chapter 5, paragraph 19 of Regulation no. 10.

Insurance and securities companies

220. Licensing of insurance market players and maintaining the register of licensed entities and individuals is the responsibility of the Ministry of Finance and Economy. Two regulations[58] are in force in this area: Regulation for Licensing Intermediary Insurance (Broker) Activity and Regulation for Licensing of the Insurance Activity.

58 Issued probably on the basis of article 30, paragraph 4 of the Law on Insurance.

In line with these regulations, information about e.g. the financial condition of the investors (potential owners) must be provided and a business plan likewise. Directors and Chief Accountants must have a Certificate of Proficiency but what conditions have to be met for obtaining such a certificate remained unclear to the evaluators .

221. In the securities sector, licensing criteria are determined by the Law on Securities Market Regulation. The Securities Commission is the authority to grant licenses. In case the applicant is a legal persons the existence of the minimum capital must be demonstrated, but the Securities Commission does not ask about the source of the capital. Where the applicant is a natural person a clean criminal record is asked for. Proposed managers have to comply with professional and personal integrity requirements. It is not clear whether subsequent changes in the ownership and/or at the managerial positions are subject to the prior approval of the Securities Commission[59], but registration of changes is carried out based on the obligation to inform the Securities Commission about changes determined in the articles 34-36 of the Law on Securities Market Regulation.

Non-profit organisations

222. No specific requirements are in place concerning the prevention of the potential misuse of non-commercial entities within the framework of AML/CFT.

Analysis of effectiveness

Banks

223. The procedure for prior approval of large shareholders is a step in the right direction, and generally the licensing procedure seems to be in line with international standards. Based on the Law on Banks and Banking, secondary legislation (Regulation no. 1) entered into force in order to introduce a set of requirements concerning the qualification and professional testing of bank management candidates. However, this piece of secondary legislation was not available to the evaluation team during the evaluation visit. It therefore remains unclear how these new conditions were implemented in case of existing banks[60].

224. Based on the procedure for approval of shareholders (recognition of significant shareholders, i.e. shareholders holding above 10 % in shares or voting right), the Central Bank has at its disposal a relatively detailed knowledge of shareholders of the supervised banks and credit organisations.

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59 Subsequent to the evaluation visit the evaluators were informed by the Armenian authorities, that a notification procedure is in place.

60 Subsequent to the evaluation visit, the Armenian authorities informed the evaluators that Regulation no. 1 has been in place since 1994 and that all existing bank managers are obliged to take qualification exams under this regulation. Moreover, their certificates should be renewed every 3 years, so all managers are examined regularly.

The evaluation team was informed by the Armenenian authorities, that the foreign participation in the banking sector is approximately 53 %, originating mainly from the Russian Federation, but also from Western Europe, Iran and USA. However, the level of communication and exchange of information among various supervisors in this area needs to be clarified by Armenian authorities, since shareholders and managers in one segment of the financial sector quite often try to invest or hold a managerial position in another.

Insurance and securities companies

225. For the insurance sector certain conditions are in place in terms of providing the supervisor (Ministry of Finance and Economy) with a business plan etc. Furthermore, directors and chief accountants must have a so-called Certificate of Proficiency. However, it remained unclear to the evaluators how far the documentation of the origin of capital invested into the insurance company is checked.

226. For the securities sector, after the Law on Securities Market Regulation entered into force, a re-licensing procedure for all professional participants took place. Changes in ownership and at managerial positions are also registered by the Securities Commission.

Recommendations and comments

227. A more effective co-operation between supervisory authorities in the area of monitoring the integrity of large investors and managers in financial entities is crucial and should be put into place as soon as possible, e.g. via conclusion of a formal Memorandum of Understanding.

228. The Armenian authorities should satisfy themselves that the potential misuse of non-profit organisations should be dealt with. As a minimum, such organisations should be registered and made known to the authorities.

Implications for compliance with FATF Recommendation 29

Recommendation 29	Largely Compliant

VIII – Enforcement powers and sanctions
(Criteria 64 for all financial institutions plus sector specific criteria 93-96 for the banking sector and criteria 115-117 for the securities sector)

Description

Banks

229. Articles 60-66 of the Law on Banks and Banking[61] give the authority to the Central Bank to conduct different enforcement actions. The scope of actions ranges from instructions, through fines and enables also the Central Bank to deprive a bank manager of his qualification certificate and to withdraw the license of the bank.

Insurance and securities companies

230. Also the Ministry of Finance and Economy, as insurance supervisor, can enforce sanctions against the supervised entities if they do not comply with the legislation. According to Law on Insurance, article 29, paragraph 4, letter c), the Supervisory Department has the right to ask the supervised company to remedy the situation. If this is not sufficient the operations of the company can be limited or the license withdrawn.

231. The Securities Commission is entitled to ask for any document during on-site inspections, off-site monitoring and within licensing procedures and following changes in the ownership and/or managerial changes. In case the legal stipulations are violated, either a corrective action, a fine or a revocation of a license or professional qualification is required. It is noted, that the Securities Commission has at its disposal the reports of the internal control units, which are obligatory to establish at each supervised entity.

Analysis of effectiveness

Banks

232. The Central Bank can exercise usual supervisory competences, including obtaining access to all information relating to the activities of the banks, including information on specific accounts. The enforcement powers of the Central Bank seem quite appropriate. However, it was unclear to the evaluators, how often the enforcement powers are used in the conduct of supervision, e. g. how many times a manager was deprived of his qualification certificate. Also, the Law on Banks and Banking in its article 60, letter b), states that the Central Bank may apply sanctions in case *"the requirements of this law, other laws regulating banking activities or relevant legal acts have been violated"*. It was unclear to the evaluators whether this wording also covers the enforcement of the obligations imposed by the secondary legislation of the Central Bank[62].

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61 See Annex 4.

62 Subsequent to the evaluation visit, the evaluators were informed by the Armenian authorities, that the enforcement of the obligations imposed by the secondary legislation of the Central Bank is also covered.

Insurance and securities companies

233. Regarding the insurance sector, the different ways for the Supervisory Department of the Ministry of Finance and Economy to enforce the obligations in the Law on Insurance seem quite appropriate. Furthermore, the evaluation team was informed during the on-site visit, that the supervisory staff is allowed by legislation to inform the law enforcement bodies about violations of the Law on Insurance found during their on-site inspections.

234. Also the enforcement powers being at the disposal of the Securities Commission seem sufficient. Furthermore, the powers have been implemented effectively, since every week 5-15 cases are brought to the Securities Commission by the staff, and as a result the Commission has imposed monetary penalties on a number of entities[63]. Again the critical question concerns the implementation of the powers. During the on-site evaluation visit the representatives of the Securities Commission informed the team that enforcement powers are not used very often.

Recommendations and comments

235. The Armenian authorities should satisfiy themselves that the enforcement powers of the financial supervisors are being applied in practice. To this end, training of supervisory staff in matters related to AML/CFT would be an asset. For the banking sector, the Central Bank should make sure, that a firm legal basis for enforcing also the Central Bank Regulations is in place.

Implications for compliance with FATF Recommendation 26

Recommendation 26	Materially Non-Compliant

IX – Co-operation between supervisors and other competent authorities (Criteria 65-67 for all financial institutions plus sector specific criteria 97-100 for the banking sector and criteria 118-120 for the securities sector)

Description

236. The Supervision Division at the Central Bank consists of 50 employees, out of which about 10-12 are specialised in anti-money laundering and terrorist financing issues. The evaluation team was informed that a separate checklist exists for the purpose of on-site inspections in this area. As for insurance supervision, the number of the supervisory staff in the Ministry of Finance and Economy is 14. As a common rule each insurance company is inspected once a year. The number of the supervisory staff in the Securities Commission is 10, and as a rule also securities firms are inspected once a year.

63 For the entire year of 2003, monetary penalties were imposed upon 33 entities (22 legal entities and 11 individuals).

237. The co-operation between different financial supervisory authorities is based on the Law on Public Institutions that contains a general provision obliging all public institutions to co-operate. Furthermore, it is possible to conclude Memoranda of Understanding (MoU) between public authorities. In the 2001 Annual Report of the Central Bank, a MoU with the Ministry of Finance and Economy is mentioned as being under consideration.

238. Co-operation with foreign banking supervisory agencies is established in several cases on written agreements. The evaluators were informed that such agreements had been signed at least with Russian, Cyprian and Lebanese supervisory authorities.

Analysis of effectiveness

239. All financial supervisory bodies seem to be adequately equipped with human and technical resources to carry out their primary tasks as prudential supervisors. However, in the specific field of AML/CFT, only the National Bank seem to have the necessary expertise, whereas the supervisory bodies for the insurance and securities sectors still have a long way to go before a satisfactory level is reached.

240. The cooperation between different financial supervisory authorities raised concerns of the evaluation team. It seems to be very limited and on a case-by-case basis only. Also, basic rules (e. g. licensing) are still quite different.

241. To the evaluators, it also seems that the ability to co-operate with foreign supervisory authorities is still quite fragmented. The evaluators were informed by the Armenian authorities, that an MoU is not a condition to exchange information, but such agreements are used regularly. For the insurance supervisor the co-operation with foreign supervisory bodies is not very developed, and the supervisor (the Ministry of Finance and Economy) furthermore expressed the opinion, that with regard to the very limited foreign ownership in the insurance entities there is no need to co-operate with foreign supervisory authorities as yet. Neither the Securities Commission has yet established co-operation with foreign supervisory bodies.

Recommendations and comments

242. The evaluators recommend that the law should clearly permit foreign country supervisors or auditors to carry out on-site inspections to verify compliance with home country KYC procedures and policies of local branches or subsidiaries of foreign banks.

243. Armenia should also consider additional training for financial supervisors in the field of AML/CFT. One training seminars was already provided by the Central Bank, however, the non-banking financial and non-financial sectors have had little if any specific training on AML/CFT issues, and their level of awareness is significantly lower than in the banking sector.

244. The evaluators finally recommend that the co-operation between the supervisory institutions of the Armenia must be developed. To this end, enhanced

coordination e. g. concerning how to avoid "circulation" of a candidate for a managerial position (persons who was rejected by one supervisor but later wants to become a manager of a different kind of financial institution) would be very valuable.

Implications for compliance with FATF Recommendation 26

Recommendation 26	Materially Non-Compliant

C. DESCRIPTION OF THE CONTROLS AND MONITORING OF CASH AND CROSS-BORDER TRANSACTIONS

FATF Recommendation 22 and 23

245. According to the Central Bank Regulation no. 8 on "Currency Regulation and Exchange Control in the Republic of Armenia", dated 2 of April 2002, there are no restriction in relation to the import of cash and securities denominated in foreign currency in Armenia. On the contrary, paragraph 2 of article 7 of the mentioned Regulation regulates that the export from Armenia of the cash and securities denominated in foreign currency is only allowed up to 10.000 USD or an equivalent amount of other currency. However, paragraph 3 of article 7 stipulates that transfer of money and securities in the value, which is above the threshold of 10.000 USD is only possible through the bank.

246. The above mentioned foreign currency regime is supervised at the borders by the Customs authorities, which are also authorised to impose administrative sanctions in case of non-compliance. The Customs authorities stated that in the year 2002 cash in an amount of USD 20.000 was seized.

247. Cross-border transportation of cash and bearer negotiable instruments in an amount below the above mentioned threshold does not have to be declared to the Customs.

248. It is the view of the evaluators, that the above described rules Armenia meets some of the requirements of FATF Recommendations 22 and 23. However, Armenia does not yet have in place a system for collecting and maintaining the data on currency transactions above a fixed amount, which would allow the competent authorities to use this data in money laundering cases.

D. OTHER RELEVANT AML/CFT MEASURES OR ISSUES

Foreign exchange offices and money remitters

249. As mentioned above[64] there are 270 foreign exchange dealers or remittance dealers (excl. branch offices) licensed in Armenia.

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64 See Part A – General – Overview of the financial sector.

250. The activity of foreign exchange offices is regulated by Regulation no. 10 of the Central Bank. In this regulation there are no explicit requirements to identify the clients. According to article 37 of Regulation no. 10 there is a duty to fill in a receipt for the foreign exchange purchase or sale and give it to the the client, but this receipt does not contain client identification data.

251. It is understood by the evaluators, that foreign exchange offices and money remitters are not applying any client identification procedure, not even for large exchange operations. While it is obvious, that exchange offices and money remitters rarely – if ever – creates real permanent business relations with their clients, there should at least be in place an obligation to identify clients exchanging large portions of money. According to the EU Directives the threshold is euro 15.000 or the equivalent in other currencies.

252. No separate record keeping obligations are provided in Regulation no. 10 of the Central Bank.

253. Foreign exchange offices do not have in place internal control units. Nonetheless, they are supervised by a department of the Central Bank, but not on a regular basis. The Central Bank issues licenses for foreign exchange offices. To get a license the professional integrity of the applicant is tested[65]. However, it seems that a clean criminal record is not one of the criteria to get a license.

254. Central Bank Regulation no. 10 in article 9 states that foreign exchange offices shall be held liable in cases stipulated in the Law on Foreign Exchange and Currency Control. Since the evaluation team was not provided with this law, it was unclear to the evaluators whether the Central Bank is authorised by this law to enforce the requirements set forth in Regulation no. 10.

Other businesses

255. The gaming industry is quite well-developed in Armenia. At the time of the on-site visit 35 casinos were in operation. Until recently there were 50 casinos, but it is now no longer permitted to have them located in the center of Yerevan, which has meant a certain reduction of the number. Furthermore, some lotto companies are in operation.

256. No casinos or lottos have state participation. The casinos are organised either as limited liability companies or as joint stock companies. Just 3-4 casinos have foreign capital, and even for those casinos the foreign capital is insignificant.

257. Both casinos and lotto companies need a license from the Ministry of Finance and Economy in order to become operational. The applicants must submit a company charter and a list of the owners to the Ministry.

65 According to chapter 7 of Central Bank Regulation no. 10.

258. Casinos in Armenia are not asking for identification when clients are entering the casino, and it is not normal to hold a list of winners. However, lottos are subject to an obligation according to which all winners must be reported to the Ministry of Finance and Economy.

259. The Ministry of Finance and Economy is also responsible for the licensing of pawn shops and auditing companies, however, those are not subject to formal AML/CFT provisions.

260. The evaluators recommend that the entire preventive regime, including customer identification, record keeping, training, internal reporting and suspicious transaction reporting should apply to all institutions and persons subject to the EC Directives.

Table 1. Rating of Compliance with FATF Recommendations Requiring Special Action

The rating of compliance vis-à-vis the FATF Recommendations has been made according to four levels of compliance mentioned in the Methodology: Compliant, largely compliant, materially non-compliant and non-compliant.

FATF Recommendation	Based on Criteria Assessment	Rating
1 – Ratification and implementation of the Vienna Convention	1	Compliant
2 – Secrecy laws consistent with the 40 Recommendations	43	Materially Non-Compliant
3 – Multilateral cooperation and mutual legal assistance in combating ML	34, 35, 36	Largely Compliant
4 – ML a criminal offence (Vienna Convention) based on drug ML and other serious offences.	2	Largely Compliant
5 – Knowing ML activity a criminal offence (Vienna Convention)	4	Compliant
7 – Legal and administrative conditions for provisional measures, such as freezing, seizing, and confiscation (Vienna Convention)	7, 7.1, 7.3, 8, 9, 10,	Materially Non-Compliant
8 – FATF Recommendations 10 to 29 applied to non-bank financial institutions; (e.g., those defined in the Methodology)		Non-Compliant
10 – Prohibition of anonymous accounts and implementation of customer identification policies	45, 46, 46.1, 46.2	Materially Non-Compliant
11 – Obligation to take reasonable measures to obtain information about the beneficial owner	46.1, 47	Materially Non-Compliant
12 – Comprehensive record-keeping for five years of transactions, accounts, correspondence, and customer identification documents	52, 53, 54	Materially Non-Compliant

14 –Pay special attention to complex, unusual large transactions	49	Materially Non-Compliant
15 –If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the FIU	55	Materially Non-Compliant
16 – Legal protection for financial institutions, their directors and staff if they report their suspicions in good faith to the FIU	56	Non-Compliant
17 – Directors, officers and employees, should not warn customers when information relating to them is reported to the FIU	57	Non-Compliant
18 – Compliance with instructions for suspicious transactions reporting	57	Materially Non-Compliant
19 – Internal policies, procedures, controls, audit, and training programs	55.1, 58, 58.1, 59, 60	Largely Compliant
20 – AML rules and procedures applied to branches and subsidiaries located abroad	61	Largely Compliant
21 – Special attention given to transactions with higher risk countries	50, 50.1	Materially Non-Compliant
26 – Adequate AML programs in supervised banks, financial institutions or intermediaries; authority to cooperate with judicial and law enforcement	44, 66	Materially Non-Compliant
28 – Guidelines for suspicious transactions' detection	17.2, 50.1, 55.2	Materially Non-Compliant
29 – Preventing control of, or significant participation in financial institutions by criminals	62, 62.1	Largely Compliant
32 – International exchange of information relating to suspicious transactions, and to persons or corporations involved	22, 22.1	Non-Compliant
33 – Bilateral or multilateral agreement on information exchange when legal standards are different should not affect willingness to provide mutual assistance	34.2, 35.1	Largely Compliant
34 – Bilateral and multilateral agreements and arrangements for widest possible range of mutual assistance	34, 34.1, 36, 37	Compliant
37 – Existence of procedures for mutual assistance in criminal matters for production of records, search of persons and premises, seizure and obtaining of evidence for ML investigations and prosecution	27, 34, 34.1, 35.2, 37	Compliant
38 – Authority to take expeditious actions in response to foreign countries' requests to identify, freeze, seize and confiscate proceeds or other property	34, 34.1, 35.2, 39	Largely Compliant
40 – ML an extraditable offence	40	Compliant
SR I – Take steps to ratify and implement relevant United Nations instruments	1, 34	Non-Compliant
SR II – Criminalise the FT and terrorist	2.3, 3, 3.1	Materially Non-

organisations		Compliant
SR III – Freeze and confiscate terrorist assets	7, 7.1, 7.3, 8, 13	Materially Non-Compliant
SR IV – Report suspicious transactions linked to terrorism	55	
SR V – Provide assistance to other countries' FT investigations	34, 34.1, 36, 37, 40, 41	Materially Non-Compliant
SR VI – Impose AML requirements on alternative remittance systems	45, 46, 46.1, 47, 49, 50, 50.1, 52, 53, 54, 55, 56, 57, 58, 58.1, 59, 60, 61, 62	Non-Compliant
SR VII – Strengthen customer identification measures for wire transfers	48, 51	Non-Compliant

Table 2. Summary of Key Problem Areas to be Resolved under each heading

Heading	Key Problem Areas to be Resolved
Criminal Justice Measures and International Cooperation	
I—Criminalisation of ML and FT	There is no specific provision on the financing of terrorism. The offences of money laundering and financing of terrorism do not extend to legal entities. The evaluation team expresses its' reservations concerning whether the legal means and resources in Armenia currently are adequate to enable an effective implementation of money laundering and terrorist financing provisions.
II—Confiscation of proceeds of crime or property used to finance terrorism	The legal regime on confiscation of instrumentalities and proceeds is too limited since it is not mandatory and it is applied only as a supplementary punishment. Furthermore, the confiscation can only be assigned for grave and particularly grave crimes committed with mercenary motives. This means, for example, that confiscation of property is not possible even in respect of Article 190, paragraph 1, which deals with ordinary money laundering. Confiscation of property is neither mandatory in cases of financing of terrorism, but due to the prescribed sanctions for terrorism it is possible to apply confiscation as a supplementary punishment. However, the property, which is intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations, cannot be confiscated. As for freezing of assets of terrorists, those who finance terrorism and terrorist organisations, there is no comprehensive normative act providing for a mechanism to implement the freezing in all financial and non-financial sectors in

	accordance with the United Nations resolutions.
III—The FIU and processes for receiving, analysing, and disseminating financial information and other intelligence at the domestic and international levels	Since in Armenia there is no FIU or other equivalent authority, there is currently no general mechanism in place whereby the entire financial sector and other businesses should report cases of suspicious transactions or activities. Neither is in place any general system, according to which the financial sector and other businesses should report a suspicion of funds related to the financing of terrorism. For the banking sector, the Central Bank Regulation no. 5 imposes a reporting obligation in case of suspicious transactions, but this Regulation can only serve as a temporary solution while a general preventive act is being prepared.
IV—Law enforcement and prosecution authorities, powers and duties	The relevant legislation does not provide for the use of controlled delivery and for undercover operations, which are important tools that every law enforcement body should be able to use in cases of organised crime, including money laundering and financing of terrorism. As for the Police, the evaluation team was told that they are not conducting any financial investigations in respect of criminal offences that fall under their responsibility. Furthermore, the evaluators had the impression that the Police officers are still not aware of the risk that money laundering represents to every country, including Armenia. It seems that they are relying too much on the general obligation to declare the property and on its taxation.
V—International co-operation	The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (Strasbourg Convention) have not yet been ratified. Where a foreign request relates to a money laundering case, the dual criminality principle should in principle not restricts Armenia very much in providing assistance, due to the fact, that article 190 of the Criminal Code is an all-crime money laundering offence. However, the evaluators were somewhat concerned about the evidentiary standard given in article 190 and the possible implications for international assistance. Where the foreign request relates to the financing of terrorism, the evaluators believe, that the dual criminality requirement might prevent Armenia from providing the necessary assistance.
Legal and Institutional Framework for All Financial Institutions	
I—General framework	The serious general impediment for an effective implementation of the FATF Recommendations and

	other international standards is the lack of a general preventive law and the lack of a central authority to ensure the proper implementation of the law.
II—Customer identification	As regards identification requirements in the banking sector, some basic identification requirements are in place, but the legislative basis remains fragmented and a question arises how far the new obligations are applied to existing clients of banks. Foreign exchange offices and money remitters are not applying any client identification procedure, not even for large exchange operations. For the securities sector it is clear that dealing through intermediaries can only be done on the basis of a contract. However, there seems to be no precise indications concerning which information has to be in the contract about the identity of the client.
III—Ongoing monitoring of accounts and transactions	There are no rules which specifically require banks or credit organisations to pay special attention to complex, large unusual transactions or unusual patterns of transactions. Neither are there rules in place, which require an intensified monitoring for higher risk accounts. There is also a lack of specific rules or guidelines concerning how banks should react to transactions from respondent banks located in jurisdictions that have poor "know-your-customer" standards or have been identified as being non-cooperative in the fight against money laundering.
IV—Record-keeping	The obligation as described in Central Bank Regulation no. 5 is not sufficiently precise, since it only asks the banks "*to record and keep information on customers, and to collect, record and maintain information on suspicious transactions*". The obligation should set out into more detail what information has to be kept. It is unclear to which extent the insurance and securities sectors comply with record-keeping requirements at all.
V—Suspicious transactions reporting	There is no general reporting regime of suspicious transactions/activities. This is crucial to the effectiveness of the entire AML/CFT framework. The reporting obligation in Regulation no. 5 is too narrow.
VI—Internal controls, compliance and audit	Foreign exchange offices do not have in place internal control unit. Presumably, they are supervised by a department of the Central Bank, but the scope of supervision is unclear. It is unclear if those insurance companies, which are limited liability companies, also have a duty to create an internal control unit.
VII—Integrity standards	A more effective co-operation between supervisory authorities in the area of monitoring the integrity of large investors and managers in financial entities is

	crucial.
VIII—Enforcement powers and sanctions	The enforcement powers of the Central Bank seem quite appropriate. However, it was unclear to the evaluators, how often the enforcement powers are used in the conduct of supervision, both by the Central Bank and the other financial supervisors.
IX—Co-operation between supervisors and other competent authorities	The co-operation among different financial supervisory authorities raised concerns of the evaluation team. It seems to be very limited and on a case-by-case basis only. Also, basic rules (e. g. licensing) are still quite different.To the evaluators it seems also, that the ability to co-operate with foreign supervisory authorities is still quite fragmented.

Table 3. Recommended Action Plan to Improve the Legal and Institutional Framework and to Strengthen the Implementation of AML/CFT Measures in Banking, Insurance and Securities Sectors

Criminal Justice Measures and International Cooperation	**Recommended Action**
I—Criminalisation of ML and FT	The UN 1999 Convention for the Suppression of the Financing of Terrorism and the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (the Strasbourg Convention) should be ratified as soon as possible. The evaluators recommend Armenia consider extending the "*actus reus*" of the offence to acquisition, use and possession of laundered funds. Consideration should also be given to the introduction of negligent money laundering. A mental element based on suspicion could also usefully be considered. The evaluators also recommend Armenia to satisfy itself that the evidentiary standard to reach a money laundering indictment and conviction is not hampering the effort to fight money laundering. Armenia should also seriously consider introducing a separate provision on financing of terrorism.
II—Confiscation of proceeds of crime or property used to finance terrorism	The evaluation team recommends that the legal regime on confiscation of instrumentalities and proceeds should be put in line with international conventions and standards. Confiscation should be mandatory at least in respect of organised crime, drug trafficking, money laundering, financing of terrorism and other major proceeds-generating offences. Armenia should also introduce legislation to implement without delay the freezing or seizure of assets of terrorists, those who finance terrorism and terrorist organisations in all financial and non-financial sectors in accordance with the relevant

	United Nations resolutions.
III—The FIU and processes for receiving, analysing, and disseminating financial information and other intelligence at the domestic and international levels	The evaluation team recommends the creation of an FIU as a matter of urgency. The FIU should be adequately structured, funded and staffed, and provided with sufficient technical and other resources to fully perform its functions. The FIU should have access to relevant registers, and it should be authorised to disseminate financial information and other intelligence both to the national law enforcement authorities and to foreign FIUs. Together with the creation of an FIU the evaluators also recommend the introduction of an obligation for all financial intermediaries and other relevant professions to report suspicious transactions and activity to the FIU.
IV—Law enforcement and prosecution authorities, powers and duties	The evaluation team recommends, that the controlled delivery and the monitoring of accounts should be regulated by the relevant laws of Armenia and included among the investigative techniques, which can be used by the law enforcement and prosecution authorities. Moreover, the authorities may also wish to consider regulating in the relevant laws the use of undercover operations and informers as additional tools in the investigations of money laundering, financing of terrorism and organised crime in general. Financial investigations are important parts of the investigation of all proceed-generating offences. The evaluation team, having interviewed officials from the various segments of the Armenian criminal justice system, found that there is very little attention paid to this important method of work in the Police or Prosecutor's office. The evaluation team thus recommends that these issues should be addressed by all relevant law enforcement authorities as a matter of urgency.
V—International co-operation	The Armenian authorities should take immediate steps to prepare for the ratification and implementation of the relevant international instruments, which have not yet been joined, particularly the Council of Europe 1990 Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and the UN 1999 Convention for the Suppression of the Financing of Terrorism. The Armenian legislation should be more precise in flagging out exactly what measures can be provided as assistance in criminal matters. The reference in article 477 of the Criminal Procedure Code to *"based on general rules"* is too vague. The Armenian authorities should also make sure, that assistance in the form of seizure or other kinds of provisional measures as well as confiscation can be provided to a requesting state,

	also where the request is related to the seizure or confiscation of proceeds of crime. The evaluators also recommend Armenia to make sure, that the necessary assistance can be provided for requests concerning financing of terrorism. The evaluators finally recommend the Armenian authorities to analyse whether the non-extradition of own nationals is being followed up by a proper transfer of criminal proceedings from the foreign country to Armenia, and to ensure that this occurs.
Legal and Institutional Framework for Financial Institutions	
I—General framework	The evaluators recommend that Armenia urgently drafts the law on prevention of money laundering and terrorism financing. This law must – apart from defining the general AML/CFT obligations – provide for the establishing of a competent state authority to receive reports (the FIU) and bodies responsible for the supervision of implementation of measures against money laundering and terrorism financing.
II—Customer identification	The Armenian authorities should clarify whether the Civil Code prohibits the anonymous accounts or allows them and whether in the banking practise such accounts are in existence or not. It is also recommended to provide in enforceable legal acts obligations for banks and credit organisations to identify and record the identity of their permanent clients. Furthermore, the same requirements should apply for occasional clients when performing transactions over a specified threshold. The evaluators furthermore recommend as a matter of priority, that a clear customer identification regime should be put in place for the securities sector. As regards international transfers of funds Armenian authorities should as a matter of priority make sure, that they get in place appropriate provisions allowing Armenia to comply with the requirements of FATF Special Recommendation VII. Potential new provisions in this field should cover both domestic and international transfers.
III—Ongoing monitoring of accounts and transactions	The evaluators recommend the Armenian authorities to provide directly in enforceable laws or regulations that financial insitutions must perform ongoing monitoring of accounts and transactions. The evaluators recommend the Central Bank to consider on an up-dated basis to provide all financial institutions in Armenia with information about which countries and jurisdictions should be considered non-cooperative in an AML/CFT context. The evaluators recommend to put in place

	also obligations concerning on-going monitoring of transactions in the non-bank financial sectors.
IV—Record-keeping	The evaluation team recommends Armenia as soon as possible to introduce formal record-keeping requirements, both in the banking, insurance and securities sectors. The financial supervisory agencies should also play active roles in supervising the implementation of proper record-keeping regime.
V—Suspicious transactions reporting	The evaluators recommend that Armenia as a matter of the highest priority should set up a system of mandatory reporting of suspicious transactions and activities. The reporting obligation should relate both to suspicions concerning money laundering and to suspicions concerning financing of terrorism. All financial institutions and relevant non-financial institutions covered by the EC Directives should be subject to the reporting duty. New legislation should also address specific questions as prohibiting tipping off to clients, that a report about their transactions has been sent to the authorities. Also the question of not holding the reporting institution liable for consequences of a suspicious transaction report should be addressed.
VI—Internal controls, compliance and audit	The evaluators recommend including in a new comprehensive preventive law also general components relating to the internal control of AML/CFT procedures and training of staff. The evaluators also recommend the Armenian authorities to satisfy themselves, that internal control procedures apply also to those insurance companies, which are not organised as joint stock companies.
VII—Integrity standards	A more effective co-operation between supervisory authorities in the area of monitoring the integrity of large investors and managers in financial entities is crucial and should be put into place as soon as possible. The Armenian authorities should satisfy themselves that the potential misuse of non-profit organisations should be dealt with. As a minimum, such organisations should be registered and made known to the authorities.
VIII—Enforcement powers and sanctions	The Armenian authorities should satisfy themselves, that the enforcement powers of the financial supervisors are being applied in practice. To this end, training of supervisory staff in matters related to AML/CFT would be an asset. For the banking sector, the Central Bank should make sure, that a firm legal basis for enforcing also the Central Bank Regulations is in place.
IX—Co-operation between supervisors and other competent authorities	The evaluators recommend that the law should clearly permit foreign country supervisors or

	auditors to carry out on-site inspections to verify compliance with home country KYC procedures and policies of local branches or subsidiaries of foreign banks.The evaluators finally recommend that the co-operation between the supervisory institutions of the Armenia must be developed.

ANNEX 1

EXCERPTS OF THE CRIMINAL CODE

Article 14. The effect of the criminal law with regard to persons who committed crime in the territory of the Republic of Armenia.

1. The person who committed a crime in the territory of the Republic of Armenia is subject to liability under the Criminal Code of the Republic of Armenia.
2. The crime is considered committed in the territory of the Republic of Armenia when:
1) it started, continued or finished in the territory of the Republic of Armenia;
2) it was committed in complicity with the persons who committed crimes in other countries.
3. In case of crimes committed in the territory of the Republic of Armenia and other states, the person's liability arises under the Criminal Code of the Republic of Armenia, if the person was subjected to criminal liability in the territory of the Republic of Armenia and unless an international treaty of the Republic of Armenia prescribes otherwise.
4. The person who committed a crime on board of a ship or flying aircraft bearing the flag or the identification of the Republic of Armenia is subject to criminal liability, regardless of their whereabouts, under the Criminal Code of the Republic of Armenia, unless otherwise stipulated in an international treaty of the Republic of Armenia. Also subject to liability under the Criminal Code of the Republic of Armenia, is the person who committed a crime on board of a military ship or aircraft of the Republic of Armenia, regardless of their location
5. The issue of the criminal liability of foreign diplomatic representatives and other persons enjoying diplomatic immunity, in the case of committal of crime by the latter in the territory of the Republic of Armenia, is resolved in accordance with the norms of international law.

Article 15. Effect of criminal law with regard to persons who committed crimes outside the territory of the Republic of Armenia.

1. The citizens of the Republic of Armenia who committed crime outside the territory of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if the act committed by them is recognized as a crime in the legislation of the state where the crime was committed, and if they were not convicted in another state. When convicting the above mentioned persons, the punishment can not exceed the upper limit for punishment in the state where the crime was committed.
2. The citizens of the Republic of Armenia who committed crime outside the territory of the Republic of Armenia, as well as stateless persons permanently residing in the Republic of Armenia, are subject to criminal liability under Articles 384, 386-391, 393-397 of this Criminal Code, regardless whether the act is considered or not considered a crime in the state where the crime was committed.
3. Foreign citizens and stateless persons not permanently residing in the Republic of Armenia, who committed a crime outside the territory of the Republic of Armenia, are subject to criminal liability under the Criminal Code of the Republic of Armenia, if they committed:
1) such crimes which are provided in an international treaty of the Republic of Armenia;

2) such grave and particularly grave crimes which are directed against the interests of the Republic of Armenia or the rights and freedoms of the RA citizens.

4. The rules established in part 3 of this Article are applicable if the foreign citizens and stateless persons not permanently residing in the Republic of Armenia, have not been convicted for this crime in another state and are subjected to criminal liability in the territory of the Republic of Armenia.

Article 16. Extradition of persons who committed a crime.

1. The citizens of the Republic of Armenia who committed a crime in another state are not extradited to that state.
2. In accordance with an international treaty of the Republic of Armenia, the foreign citizens and the stateless persons who committed a crime outside the territory of the Republic of Armenia and who find themselves in the Republic of Armenia, can be extradited to a foreign state, for criminal liability or to serve the punishment.
3. The persons specified in part 2 of this Article are not extradited to foreign states if there are serious reasons to believe that they can be subjected to torture there.
4. If the legislation of the country seeking extradition of persons who committed a crime envisages death penalty for the given crime, then the extradition of persons who committed a crime can be turned down, unless the party seeking extradition presents satisfying assurances to this country that the death penalty will not be executed.
5. In case of refusal to extradite the person who committed a crime, the prosecution for the crime committed in the territory of a foreign country is done in accordance with the legislation of the Republic of Armenia.

Article 28. Types of guilt.

1. The guilt is manifested willfully or through negligence.
2. An action committed through negligence is a crime if it is particularly envisaged in the Special Part of this Code.

Article 50. Basic and supplementary punishments.

1. Public works, correctional labor, arrest, service in disciplinary battalion, imprisonment for a certain term and life sentence are used only as basic punishments.
2. Fines and the prohibition to hold certain posts or practice certain professions are imposed both as basic and supplementary punishments.
3. Deprivation of special titles or military ranks, categories, degrees or qualification class, as well as confiscation of property are applied only as an supplementary punishments.
4. Only one basic punishment can be assigned for one crime. One or more supplementary punishment can be added to the basic punishment in cases envisaged in the Special part of this Code.
5. Fines, confiscation of property and the prohibition to hold certain posts or practice certain professions, as supplementary punishment, can be assigned only in cases envisaged in the Special Part of this Code.

Article 55. Confiscation of property.

5. Confiscation of property is the enforced and uncompensated seizure of the property considered to be the convict's property or part thereof in favor of the state.
6. The amount of confiscation is determined by the court, taking into consideration the damage to property inflicted by the crime, as well as amount of criminally acquired property. The amount of confiscation can not exceed the amount of criminally acquired property or profit.
7. Confiscation of property can be assigned in cases envisaged in the Special Part of this Code and for grave and particularly grave crimes committed with mercenary motives.
8. The property necessary for the convict or the persons under his care is not subject to confiscation, in accordance with the list envisaged by law.

Article 216. Acquisition or sale of property obtained in an obviously criminal way.

1. Acquisition or sale of property obtained in an obviously criminal way, if this had not been previously promised, is punished with a fine in the amount of 200 to 400 minimal salaries, or correctional labor for 1-2 years, or with arrest for the term of up to 3 months.
1. The same action committed:
1) in large amount;
2) by a group with prior agreement, is punished with a fine in the amount of 300 to 500 minimal salaries, or with imprisonment for the term of up 2 years.
3. Actions envisaged in parts 1 or 2 of this Article committed:
1) in a particularly large amount;
2) by an organized group,

is punished with imprisonment for the term of 2 to 5 years.

Article 217. Terrorism.

4. Terrorism, i.e. committal of explosion, arson or actions causing significant human losses, or other actions inflicting significant damage to property or actions causing danger to public, or threat of such actions, if these actions were committed with the purpose of violation of public security, intimidation of the population or exerting pressure on decision making by a state official, as well as, for the purpose of fulfilling another demand of the perpetrator, is punished with imprisonment for the term of 5 to 10 years.
5. The same action committed
2) by a several persons with prior agreement,
3) using firearms, is punished with imprisonment for the term of 8 to 12 years.
6. Actions envisaged in parts 1 or 2 of this Article, if they were committed:
1) by an organized group;
2) were accompanied with use of mass destruction weapon, radioactive materials or with a threat to use other means causing mass losses,
3) caused death by negligence or other grave consequences, is punished with imprisonment for the term of 10 years to 15 years.

3. A person who participated in terrorism is exempted from criminal liability if he advised the authorities on time, or otherwise, contributed into the prevention of terror act, and if his actions do not contain the elements of other crime.

Article 389. International terrorism

International terrorism, i.e., organization or implementation of an explosion or arson or other acts in the territory of a foreign sate, with the purpose of international complications or provocation of war or destabilization of a foreign state, aimed at the destruction of people, or bodily injuries, destruction or spoilage of facilities, roads and means of transportation, communications, or other assets, is punished with imprisonment for 10-15 years, or for life.

ANNEX 2

CENTRAL BANK REGULATION 5

Safeguarding Banks and Credit Organizations from Circulation of Criminally Obtained Funds; Preventing Funding for Terrorism

Chapter 1. General provisions

1. This Regulation shall regulate procedure and conditions for the mandatory measures and action by banks and credit organizations to prevent 1) circulation of criminally obtained funds in banks and foreign bank branches functioning in the Republic of Armenia (hereinafter referred to as banks); and ii) funding for terrorism.
2. For the context of this Regulation:
   2.1 funds shall involve money (the Dram of the Republic of Armenia and foreign currency), precious metals, securities;
   2.2 circulation or investment of funds shall mean.- i) participation in bank's statutory fund, acquisition of bonds issued by bank, investment in banking, 'depot', correspondent, sub- correspondent, deposit or other type of accounts estab- lished with bank, and transfer of such funds or carrying out other transactions and operations; ii) acquisition of bonds issued by credit organization, or involvement in operations that create monetary liabilities to credit organization but are not related to sale of goods, services and work by credit organization to creditor.
   2.3 banking account shall mean an account that has been established with bank in accordance with requirements in the Civil Code, chapter 50, of the Republic of Armenia;
   2.4 a transaction shall be meant suspicious, if: 2.4.1 a customer places funds onto his/her banking account and transfers or withdraws them the same banking day;
   2.4.2 a customer transfers an amount onto his/her banking account that is not virtually appropriate to the size of amounts usually transferred to that account;
   2.4.3 a customer puts cash funds onto his/he banking account that are not virtually appropriate to the size of funds usually transferred to that account;
   2.4.4 a customer places small amounts onto his/her banking account or small amounts are transferred to that account, at an unusual frequency;
   2.4.5 a customer transfers certain funds from various branches of bank onto his/her banking account over an unreasonable period of time (throughout a day, for instance);
   2.4.6 a customer falls to disclose before bank or credit organization the true possession or origination of the amounts in question, under Armenian Law on 'Banks and Banking', Article 40, Armenian Law on 'Credit Organizations', Article 14, and 'Model lists of information required by bank to establish banking account and by credit organization in servicing customers and creditors';
   2.4.7 there occur cases or ways of carrying out operations considered suspicious by internal regulations of bank or credit organization, or which are suspicious to bank or credit organization management and staff.

In the context of subpoints 2.4.2 and 2.4.3, an amount not virtually appropriate to the size of amounts transferred to banking account shall mean the amount that exceeds the 2-fold of the average of the amount transferable to the account within the period set by internal regulations of bank.
In the context of subpoint 2.4.4, an unusual fre- quency of transfer shall mean the frequency of transfers that exceed the 2-fold of entries or transfers made within the period set by internal regulations of bank.
In the context of subpoint 2.4.4, a small amount shall mean the amount which is less the 5 per cent of the balance in the account within one month.
Operations set forth in this subpoint shall not be considered suspicious, if- i) customer has provided the bank with acceptable explanations -and explications that dispel within reason suspicions of bank, or ii) bank has not doubted lawful transaction performed by customer, knowing his/her activities, image, business reputation.

Chapter II. Required bank and credit organization action to prevent circulation or investment of criminally obtained funds and sources for funding terrorism

3. Circulation of criminally obtained funds and sources for funding terrorism in banks or credit organizations is prohibited.
4. Banks or credit organizations must conduct a policy that would as far as possible rule out any investments or circulation of criminally obtained funds and sources for funding terrorism. Such a policy shall be reflected in bank's internal regulations as set forth in this Regulation, points 5 and 6.
5. Banks and credit organizations must have internal regulations (rules, procedures, orders, regulations) in place for preventing circulation of criminally obtained funds and sources for funding terrorism. Such internal regulations shall define:
   - 5.1 the procedures required to perform by bank or credit organization units and employees in carrying out financial and other operations with bank or credit organization customers, creditors or partners;
   - 5.2 the information the bank or credit organization would require from, customer, creditor or partner in carrying out financial and other operations;
   - 5.3 the,procedure and conditions of exercising control over adherence to procedures and requirements set forth in internal regulations;
   - 5.4 the scope of responsibility of bank management, staff and authorized unit or employee, as set forth in point 8 of this Regulation, for non-adherence to procedures and requirements set forth in internal regulations, under Armenian Law and bank's internal regulations.

6. Banks and credit organizations must have internal regu- rations (rules, procedures, orders, regulations) for due diligence to record and keep information on customers, and to collect, record and maintain information on suspicious transactions.

7. Approved copies of each of such internal regulations, provided for in points 5 and 6 of this Regulation, with supplements and changes therein, shall be presented by bank or credit omanization to the Central Bank within a week.

8. Banks and -credit organizations must have in place a unit, or an employee, to deal with prevention of circulation of criminally obtained funds and sources for

funding terroism, or assign another unit or employee (legal or security department or unit, for instance) with such responsibility.

9. Information collected by bank or credit organization on customers, creditors or partners, and other such data relating to suspicious transactions carried out by such customers shall be held by bank or credit organization in paper-based and/or electronic means at least for a five year period.

10. In the event a customer, creditor or partner acts as an agent, representative or an authorized party for another person, bank or credit organization must identify the true beneficiary of that banking account and verify the information relating to such agent, representative or authorized party, as required by its internal procedures. Such an account may be established once required information is obtained and appropriate records are made. Identification of the true beneficiary of banking account and verification of the information relating to the agent, representative or authorized party by bank or credit organization is not required If such an agent, representative or authorized party is licensed to carry out certain financial operations in the financial markets.

11. In the event a customer, creditor or partner is a legal entity registered and/or operating in an offshore country or area, is a party with a non-legal entity status, or a sole entrepreneur, the bank or credit organization must identify sources of income of such parties, as required by its internal procedures.

12. Banks and credit organizations must, in internally defined frequency and manner, verify information that has been required from customers, creditors or partners in concluding financial or other operations.

13. Banks or credit organizations may at their discretion regulate other issues that are beyond the framework of this Regulation and relate to prevention of circulation of criminally obtained funds and sources for funding terrorism.

14. Bank must halt the operations carried out through the accounts the owners of which are suspected in circulation of criminally obtained funds or funding for terrorism.

15. Credit organization must halt the operations once even if a party involved in such operations Is suspected in circulation of criminally obtained funds or funding for terrorism.

Chapter III. Reporting by banks and credit' organizations

16. Bank or credit organization must report on suspicious transactions (form ST/lbs or form ST/2fiu) by documents or electronically to the bank supervision unit of the Central Bank not later than the banking day following occurrence of the suspicious transaction.

17. Presentation of the form ST/Ihs shall not be treated as performance of obligation to inform crime, provided for in Armenian Law on 'Bank Secrecy', Article 17, if bank manager has been firmly aware of a prepared or already committed crime.

Chapter IV. Bank's Internal control over criminally obtained funds

18. As fulfillment of a minimum requisite for internal control under Armenian Law on 'Banks and Banking', Article 21 (4), bank's internal control unit (internal control group, examiner or controller) must, in a defined frequency and manner, examine compliance of banking (financial) operations, bank unit and staff activity and action to: i) Armenian Law on 'Banks and Banking', Article 40; ii) laws and regulations of the Republic of Armenia relating to preventing criminally obtained funds, iii) this regulation and; iv) bank-approved and validated internal regulations (procedures, orders, guidelines).

19. Upon completion of the examination set forth in point 18 hereinat)ove, bank's internal control unit shall report in writing to its executive body and/or board (board of directors or supervisory board) on the results of examination within the period specified by authorized body of bank management.

Chapter V. Responsibility for non-adherence to requirements of this Regulation

20. Failure to adhere to the requirements of this Regulation banks, credit organizations, bank and credit organization management and staff shall bear responsibility as provided for in Armenian Law on 'Banks and Banking', Chapter 7, and Armenian Law on 'Credit Organizations', Chapter 5.

Chapter VI. Transitional provisions

21. Within three month period upon entry of this Regulation into force, authorized bodies of bank and credit organization management must-

a) adopt and have in place internal regulations set forth in this Regulation, points 5 and 6;
b) establish the unit specified in this Regulation, point 8, or assign such obligations to other structural units or employee;
c) bring their financial and other operations in compliance with this Regulation and their internal regulations.

ANNEX 3

EXCERPTS OF THE CRIMINAL PROCEDURE CODE

Article 13. Security of Property
1. Imposition of an arrest on bank deposits and other property of a person may be ordered in the course of criminal proceedings and upon a decision of the court, the agencyfor inquest, the investigator, or the prosecutor.
2. Any property seized during a procedural action should be mentioned and described indetail in the record of the respective procedural action, and the owner of the property shall receive a copy of the record.
3. In the course of criminal proceedings, imposition of fines as well as forced alienation of property may be ordered only upon a decision of the court.

Article 52. The Prosecutor
1. The prosecutor is a state official, who conducts, within the limits of his/her competence, at all stages of the criminal procedure, the criminal prosecution, supervises the legitimacy of the preliminary investigation and inquest, supports the prosecution in court, appeals against the court verdicts and other decisions. The prosecuting attorney supporting the prosecution in court is called the prosecutor.
2. The prosecutor is entitled to lodge to the accused or to a person, who bears proprietary responsibility for the actions of the latter, a claim [suit] in protection of the interests of the state.
3. During the exercise of his/her powers at the proceedings of criminal case the prosecutor is independent and submits only to law. He/she shall execute the legitimate instructions of the superior prosecutor. If the subordinate prosecutor considers the instruction illegitimate, he/she appeals it to a superior prosecutor without executing it.

Article 53. The Powers of the Prosecutor at the Pre-trial Proceedings of the Criminal Case
1. The prosecutor is authorized to conduct the following during the pre-trial proceedings:
1) to institute and carry out criminal prosecution and to start proceedings of cases instituted by the body of inquiry, the investigator, to cancel the decision of the body of inquiry and the investigator on suspension of a case, to institute a criminal case based on
court motion, to cancel the decision of the body of inquiry and the investigator rejecting theinstitution of a criminal case and to institute a criminal case.
2) to investigate personally the criminal case in its full volume, passing necessary decisions during the preliminary investigation and implementing investigatory and otherprocedural actions in accordance with provisions of this Code;
3) in case of a crime, instructs the body of inquiry and the investigator to prepare the materials for the institution of a criminal case.
4) To instruct the body of inquiry and the investigator to conduct urgent investigatory measures or conduct them personally;
5) To participate in the inquest;
6) To carry out prosecutorial management of the inquest and the preliminary investigation.

2. During the implementation of the procedure of prosecutorial management of the inquest and the preliminary investigation, the prosecutor is exclusively entitled to the following:
1) to check the implementation by the body of inquiry the requirements of law on receiving, registration of and follow up on the reports on committed or prepared crimes, on other accidents;
2) to request from the investigator and the body of inquiry for examination of criminal cases, materials and documents and to get acquainted with the data on the course of investigation at the place of their location;
3) to withdraw from the inquirer and to transfer to the investigator or subordinate prosecutor any criminal case, to transfer the criminal case from the investigator to the subordinate prosecutor or vice versa, to transfer the criminal case from one body of inquest to another, or from one investigator and subordinate prosecutor to another, or to accept the criminal case for his/her proceedings: in order to ensure the comprehensive, full and objective investigation;
4) to instruct an investigating team to undertake a criminal case, to establish the composition of the team, to appoint the team leader or to lead the team personally;
5) to resolve issues regarding challenges (rejections) declared to subordinate prosecutor,
investigator, or the officer of the body of inquiry, and also their self-rejections;
6) to give written instructions to subordinate prosecutor, investigator, and the body of inquiry on the decisions passed and on implementation of investigatory and other procedure actions;
7) to resolve objections, prescribed by this Code, brought by the body of inquiry and its employee, the investigator, who disagree with the instructions of inferior prosecutor, conducting the procedure management of the investigation;
8) to cancel illegitimate and ungrounded resolutions of the inferior prosecutor, the investigator, the body of inquiry, and its officer and also the instructions of the inferior
prosecutor;
9) to resolve the appeals against the decisions and actions of the subordinate prosecutor, investigator and the body of inquiry, with the exception of appeals the consideration of which is in the competence of the court;
10) to dismiss inferior prosecutor, the investigator, and the officer of the body of inquiry from further participation in the implementation of criminal proceedings on that case, if they have violated the law during the investigation of the case;
11) to apply to the appropriate bodies for deprivation from immunity for criminal prosecution of persons, possessing that immunity, if these persons are subject to involvement in the criminal case as accused;
12) to return criminal cases to the investigator and the body of inquiry with his/her obligatory instruction on implementation of additional investigation;
13) to cancel the decision of the body of inquest or the investigator to suspend the case, and other decisions, in cases envisaged in this Code;
14) to approve the criminal information, and for the criminal cases with respect to the persons, committed crimes in the state of insanity or became insane, the final decision [act].
15) To forward the case to the court.
3. The prosecutor, during administration of the procedural management, is also entitled
to:
1) pass separate necessary decisions personally and to conduct separate investigatory

and other procedure decisions, and also the consideration of the cases in their full volume;
2) to receive from the body of inquiry data on the conduct of operative-investigatory activity and the undertaken measures on the disclosure of crimes, on revealing of disappeared persons and lost property;
3) to demand documents and materials, which might contain data on accidents and the persons involved in it;
4) to give to the body of inquiry written instructions, obligatory for them, on the implementation of operative-investigatory measures in connection with the criminal case proceedings;
5) to apply to the court in order to select arrest as a measure securing the appearance and to extend arrest, to impose arrest upon the arrest of communications, telephone conversations, postal, telegraph and other messages, and for warrants for wire-tapping the telephone conversations, searching apartments;
6) to refuse from the criminal prosecution of the accused, to suspend the criminal proceedings or to terminate the criminal prosecution;
7) to assign the body of inquiry the execution of the resolutions on detention, bringing to court, arrest, the implementation of other procedure actions, and also to receive immediate assistance upon from the body of inquiry, for implementation of investigatory and other procedural actions;
8) to undertake measures for the protection of the injured, the witness, and other persons participating in the criminal proceedings;
9) to address the court with motions, prescribed by this Code;
10) to release the persons, imprisoned without legitimate bases or without necessity;
11) to cancel the arrest of communications, telephone conversations, postal, telegraph and other messages when the necessity for such arrest terminates.
4. The prosecutor, during the pre-trial proceeding of the criminal case, exercises also other powers, prescribed by this Code.

Article 54. Powers of the Prosecutor During Consideration of the Criminal Case or Materials in the Court
1. During consideration of the criminal case by the court, the prosecutor:
1) declares challenges;
2) brings motions;
3) expresses opinion regarding the motions of other participants of the trial;
4) ensures the presentation to the court of the evidences; gives to the body of inquiry mandatory assignments for the submission of the evidence to court;
5) participates in the examination of case materials;
6) objects against unlawful actions of other party;
7) objects against unlawful, groundless actions of the presiding person;
8) requests the inclusion into the protocol of court session of records regarding circumstances mentioned by him;
9) exercises the right to dismiss criminal prosecution against the accused;
10) announces the indictment in the court, makes the opening and closing speeches and a remarks in the court of first instance and the appelate court, and be present at the session of the cassation court;
11) appeals the verdict and other court decisions in cases prescribed by this Code;
12) exercises other powers, prescribed by this Code.
2. The prosecutor, participating in the court session is obligated to:
1) To obey to the order in the court session and observe the legitimate instructions of the presiding person;
2) exercise other powers, prescribed by this Code.

3. Participation of the prosecutor in court is mandatory during consideration of criminal cases.

Article 55. The Investigator

1. Investigator is a state official, who is authorized to conduct preliminary investigation of the criminal case within the limits of his/her competence.
2. The investigator is authorized to prepare materials on the event of the crime and in accordance with the rules of subordination established by this Code, the investigator accepts the case for his/her proceedings or forwards it to other investigator or the body of inquiry; the investigator can institute a criminal case during his rpoceedings, if an event of a new crime by another person has been discovered. The investigator is also entitled, in accordance with the provisions of this Code, to reject the institution of the proceedings ofthe criminal case.
3. After accepting the criminal case for his/her proceeding, the investigator, for the purpose of comprehensive, full and objective investigation shall independently lead the course of investigation, make necessary decisions, conduct investigatory and other procedural actions in accordance with the provisions of this Code with the exception of cases, when criminal procedure law stipulates to receive warrants from the prosecutor. The investigator bears responsibility for the lawful and timely implementation of investigatory and other procedural actions.
4. The investigator, in particular, is authorized to conduct the following:
1) Prior to the institution of the criminal case, to conduct the examination of the site and to appoint expert inquiry;
2) To interrogate the suspect, the accused, the injured, the witness, appoint expert examination, conduct observations, searches, seizures, and other investigatory actions;
3) undertake measures for the compensation of the damage caused to the injured ;
4) request documents and materials of the case, which may contain data on accidents and the persons involved in it;
5) request the conduct of revision, inventory, institutional expert examination, other check up actions;
6) receive from the body of inquiry, in connection with the prepared materials and the case under investigation, data on the implementation of operative-investigatory actions and the measures undertaken for disclosure of the crime, finding disappeared persons and lost property;
7) give to the body inquiry mandatory written assignments on implementation of operative-investigatory measures in connection with prepared materials and proceedings of the criminal case;
8) assign to the body of inquiry the fulfillment of resolutions on detention, bringing to court, arrest, conducting of other procedural actions, and also receive without delay from the body of inquiry facilitation at the execution of investigatory and other procedure actions;
9) when receiving a report from the body of inquest about a committed crime, to go to the site of the crime and to get involved in the investigation of the case by means of institution of a criminal case or undertaking the instituted case in one's proceedings.
10) assign the body of inquiry the execution of separate investigatory actions;
11) summons persons as witnesses;
12) draw in for the participation [in the actions] the witnesses to the search, interpreters,
translators, specialists and experts;
13) detain the person suspected in crime commitment;
14) pass resolution on impleading the person to the case as the accused, put forward charges and to inform the prosecutor within 24 hours;

15) recognize respective persons as the injured, civil plaintiff, civil defendant;
16) ensure the appointment of lawyers in the capacity of defense attorneys and to permit the persons to participate in the capacity of defense attorneys and the representatives;
17) dismiss defense attorneys and representatives from the participation in proceedings of the criminal case, if circumstances are revealed which exclude their participation in the criminal proceedings, as mentioned in article 93 this Code;
18) exempt respective persons from the payment for the legal counsel;
19) resolve challenges declared to the witness to the search, the translator and the interpreter, the specialist, the expert;
20) resolve motions of persons participating in criminal proceedings, and also applications and requests submitted by other persons;
21) resolve the complaints of the persons participating in criminal proceedings, within the limits of his/her competence;
22) pass resolutions on the selection, alteration, cancellation of the precautionary measures and on implementation of other measures of procedural compulsion, with the exception of arrest; release upon his/her resolution the suspect and the accused kept in detention after expiration of the prescribed period;
23) pass resolution on the suspension of criminal proceedings;
24) appeal to the court with motions: on selection of arrest with respect to the accused as a precaution measure and on prolongation of the period of his/her detention; on imposing arrest on telephone conversations, postal, telegraph and other communications wire-tapping, with motion on the permission for search of the apartment;
25) to cancel the arrest on telephone conversations, postal, telegraph and other communications and wire-tapping, in case the necessity for such action ceases to exist;
26) appeal any illegitimate instruction of the prosecutor, without suspending its execution;
27) appeal instructions of the prosecutor to a superior prosecutor without executing it in case of disagreement with the instructions on calling the person as accused, on qualifying the action and on the volume of indictment, on sending the case for taking the accused to court or on abating the case;
28) ; pass resolution on abatement of the criminal proceedings and on termination of criminal prosecution;
29) prepare and present for the approval of the prosecutor the indictment, and as for criminal cases with respect to persons, committed actions forbidden by criminal law in the state of insanity or who has fallen into such state after the accomplishment of the action, the final act.
5. The investigator is obligated the legitimate instructions of the prosecutor.
6. The investigator also carries out other authorities envisaged in this Code.

Article 56. Bodies of Inquiry
The following are the bodies of inquiry:
1) the police;
2) the commanders of military units, the heads of military institutions, regarding the cases
of military crimes, and also regarding the cases of the deeds, committed on the territory of military units or incriminated to the conscripts;
3) the bodies of state fire control: regarding the cases on fires;
4) the state tax bodies: regarding the tax crimes ;
5) the custom's bodies: regarding the cases on smuggling;

6) national security bodies: regarding the cases within their competence.

Article 172. Maintenance of an Official and Commercial Secrets
1. During a criminal proceeding measures prescribed by law shall be taken to secure the confidentiality of the information which constitutes an official, commercial or any other secret protected by law.
2. While carrying out court proceedings, no information which constitutes an official, commercial or any other secret protected by law shall be gathered, preserved, used or disseminated without necessity. Upon the order of the court as well as of the inquiry body, investigator, prosecutor, the participants of the investigation and other court proceedings shall not disclose any of the mentioned information, for which they sign a document.
3. Persons who are asked by the body which carries out the criminal proceeding in accordance with provisions of the present Code not to disclose information about a secret protected by law shall not have the right to refuse to fulfill that requirement but shall have the right to demand from the inquiry body or other corresponding body a proof of the necessity of such a disclosure.
4. A state employee, a representative of an organization, institution or a manufacture who had disclosed information about an official, commercial secret or any other secret protected by law shall inform the head of the corresponding state body about that if not forbidden to do so by the body which carries out the criminal proceeding.
5. Evidence which may disclose information which constitutes an official, commercial or any other secret protected by law may be investigated, at the request of the persons involved in the criminal proceeding, at a closed-door session of the court.

Article 189. Preliminary investigation bodies
Procuracy investigators, the investigators of the internal affairs and national security bodies conduct preliminary investigation of criminal cases.

Article 190. Investigative subordination
Procuracy investigators conduct preliminary investigation concerning the crimes specified
in articles 66, 69, 72, 721, 75-77, part 3 of article 94, 971, 972, 99-104, 112, 1121, 113-115, 117, 118, 120-123, 126, 128-130, 1301, parts 2, 3 of article 131, 133, 1331, 1332,134, 1341, 135-142, 151, 153, 165, 166, 1801, 182-185, 1851, 186-191, 1911, 1912, 1913, 1914, 192-195, 2034, 2062, 2063, 207, 2071, 208, 2081, 209, 2091, 2161, 2201, 221, part 2 of article 229, 231, 2311, 235, 236, 2376, 2377, 2378, 23710, 23711, 23712,23713, part 2 of article 238, 239, 240, 2401, 2402, 241, 2411, 244 of the Penal Code of the Republic of Armenia.
The investigators of the internal affairs and national security bodies conduct preliminary investigation of criminal cases specified in other articles of the Penal Code of the Republic of Armenia.
The procuracy investigators conduct the preliminary investigation of crimes committed by parliamentarians, judges, prosecutors, investigators, officers of the internal affairs and national security bodies and lawyers.
In the case of the joinder of cases accusing one or several persons in one proceeding under preliminary investigation of various bodies, the jurisdiction is defined by the prosecutor.

Article 225. Grounds for conducting search
The investigator, having sufficient ground to suspect that in some premises or in some other place or in possession of some person, there are instruments of crime, articles

and valuables acquired by criminal way, as well as other items or documents, which can be significant for the case, conducts a search in order to find and take the latter.
The search can also be conducted to find searched-for persons and corpses.
The search is conducted only by a court decree.

Article 226. Grounds for seizure
When necessary to take articles and documents significant for the case, and provided it is known for sure where they find themselves and in whose possession, the investigator conducts seizure.
The seizure of documents which contain state secrets is conducted only by permission of the prosecutor and in agreement with the administration of the given institution.
No enterprise, institution or organization, no official or citizen has the right to refuse to give the investigator the articles, documents or their copies which he would demand.

Article 232. Arrest of property
Arrest of property is practiced as a remedy to secure property in civil claim and to prevent possible seizure and for coverage of court expenses.
Arrest of property is imposed on the property of the suspect and the accused as well as those persons whose actions can cause financial responsibility, regardless who posses what property.
The arrest of property commonly shared by spouses or the family is imposed on the part owned by the accused. In case of sufficient evidence that the commonly shared property increased or was acquired in a criminal way, the arrest can be imposed on the whole property of the spouses or the family or on a larger part of it.
Seizure can not be imposed on the property which according to law can not be seized.

Article 233. Grounds for arrest of property
Arrest of property can be applied by the bodies conducting criminal proceedings only in the case when the materials collected for the case provide sufficient ground to suspect that the suspect, the accused or other person who has the property, can hide, spoil or consume the property, which is liable to seizure.
Arrest of property is carried out based on the decree of the investigating body, the investigator or the prosecutor.
The decision on the seizure of property must indicate the property subject to seizure, the value of the property based on which it sufficient to impose arrest to secure the civil claim and court expenses.
When necessary, if there is a grounded suspicion, that the property will not be surrendered for seizure of one's own accord, the prosecutor appeals to the court for a search permission, as established in this Code.

Article 239. Monitoring of correspondence, mail, telegrams and other communications
When there are sufficient grounds to believe that there is probatory value data in the mail or other correspondence, mail, telegrams and other communications (referred to below as correspondence) sent by the suspect or the accused or to them by other persons, the investigator can make a grounded decision to impose monitoring on the correspondence of these people.
The decision must indicate the name of the post office which is responsible for withholding of the correspondence, the name(s), surname(s) of the person(s) whose correspondence will be withheld, the accurate address of these persons, type of correspondence which is monitored and the period of monitoring.

The correspondence which can be arrested, in particular, concerns the following items:
letters, telegrams, radiograms, parcels (printed matter), cases, post containers, transmissions, fax and e-mail messages.
Decision on the monitoring of correspondence is sent to the appropriate post office director for whom it is mandatory.
The director of the post office withholds the correspondence indicated in the decision of the investigator and advises the latter about that.
The monitoring of correspondence is lifted by the investigator, prosecutor or court which took the decision.

Article 281. Implementation of operative and search actions by court decree
Operative and search actions concerned with the restriction of the confidentiality of correspondence, telephone conversations, mail, telegrams and other communications are implemented by court decree.
Based on court decree, operative and search actions mentioned in the law on "Operative and search actions" are conducted.

Article 474. Instructions to perform procedural actions
If necessary to conduct interrogation, examination, seizure, search, expert examination and other investigatory and procedural actions envisaged in this Code in foreign countries, the court, the prosecutor, the investogator and inquest body delegate the performance of these actions appropriate bodies of the foreign country, if there is an international agreement on legal assistence.
The instruction about conducting a separate investigatory action is sent by the Prosecutor General of the Republic of Armenia, and the instruction on procedural actions, by the Minister of Justice or his deputies.
The instruction is written in the language of the foreign country in question where it is sent, if not otherwise envisaged in the foreign treaty.

Article 477. Implementation of instructions to perform procedural actions
The court, the prosecutor, the investigator, the inquest body, perform their instructions as established in this Code, based on general rules.
When performing the instructions, the procedural norms of the foreign country can be applied, if this is envisaged in the international treaty signed with this country.
In cases envisaged in the international treaty, when implementing the instruction, the representative from the appropriate institution of the foreign country can be present.
If the instruction can not be implemented, the received documents are returned through the ministry of justice or the procuracy to the institution from which the instruction came, indicating the reasons which prevented its implementation. The instruction is returned in all cases, if its implementation can affect the independence or security of the Republic of Armenia, or contradicts the legislation of the Republic of Armenia.

Article 478. Sending the case materials for continuation of the criminal prosecution
In the case of the crime committed by a foreign citizen in the territory of the Republic of Armenia and in the case of his departure from the country, all materials of the initiated case are forwarded to the procuracty of the Republic of Armenia which decides the issue of sending them to the appropriate institutions of the foreign country for the continuation of the investigation.

Article 479. Implementation of the application for the continuation of criminal prosecution or initiation of criminal prosection

The application of the appropriate institution of the foreign country concerning the crime committed by a citizen of the Republic of Armenia in the foreign country who returned to Armenia, for further investigation, is considered by the procuracy of the Republic ofArmenia. In such cases, the preliminary investigation of the case and trial is done as envisaged in the procedure of this Code.

The evidences received while conducting the investigation in a foreign country, within his jurisdiction, by the authorized official, in the case of continuation of the investigation in the Republic of Armenia, have equal legal rights with all other evidences.

The authorized body in the Republic of Armenia can initiate a criminal case and investigate that, prior to the initiation of the criminal case by the appropriate bodies in the foreign country where a citizen of the Republic of Armenia committed a crime and then returned to this country.

ANNEX 4

EXCERPTS OF THE LAW ON BANKS AND BANKING

PART TWO: FORMATION AND WINDING UP OF BANKS

Article 7: Founders and shareholders (owners)

Exceptionally, legal entities and individuals of both Armenian and foreign origin, as well as entities status, shall be authorised to contribute to the share capital of banks.
The founders and shareholders (owners) of a bank may not include representative councils and their executive bodies, social, political and welfare organisations, benevolent organisations and social funds.
The value of the contribution of any single founder (owner) may not exceed 35% of the bank's share capital.

Article 8: Documents to be provided in order to obtain a licence to perform banking operations

In order to obtain a licence to perform banking operations and transactions, the following documents must be submitted:
a) a licence application,
b) a copy of the by-laws and other constitutive documents
c) an economic study of factors justifying the formation of the bank (forecast balance sheet and profit and loss account)
d) a report by a bank, audit firm or financial institution, mandated by the founders, describing their financial position and assets; individuals shall be required to produce a declaration of revenues
e) information on the professional skills of the proposed heads of management (President and Chief Accountant)
f) information on the payment of the minimum share capital.

Article 9: Presentation of documents required to obtain the licence to perform banking operations

Banks shall operate in accordance with a licence issued by the Central Bank.
The documents required in order to obtain this licence shall be sent by registered mail to the Armenian Central Bank.
The Central Bank shall accept the founders' application, if, at the time of submission of the application, the share capital of the bank corresponds to the minimum statutory amount defined by the Central Bank. At least 75% of this minimum amount must be paid in by the founders.

Article 10: Additional documents required from foreign banks, joint ventures and branches of foreign banks, in order to obtain the licence to perform banking operations

The following documents shall be required from foreign banks, joint ventures and branches of foreign banks, in addition to those already listed in article 8 of this law, in order to obtain the licence to perform banking operations. a) Foreign legal entities

shall be required to supply: - minutes of the decision taken by the management of the foreign founder shareholder (or owner) to participate in the formation of a branch of the foreign bank in the Republic of Armenia, - a written declaration by the founder or shareholder (or owner) of the foreign bank, with full management powers, indicating that it has no objection concerning the participation in the formation of a bank in the Republic of Armenia, or a declaration from the duly authorised body or legal department certifying that such authorisation is not necessary in accordance with the legislation of the country of origin of the founder or shareholder (owner). b) Foreign nationals: - a certificate issued by a leading bank of the country of origin attesting the solvency of the individual in question, - guarantees from at least two foreign legal entities concerning the individual's financial standing. In order to ensure that there is equality of competition among all banks, the Armenian Central Bank may request additional information or documents from the founders, foreign banks, joint ventures and shareholders (owners) of branches of foreign banks.

Article 11: Period allowed for review of licence applications and obligations of the Central Bank

The period allowed for the review of licence applications by the Central Bank of Armenia shall be one month from the date of receipt of the documents provided for by law. If the application has not been examined at the end of this period, the founders may serve notice on the Central Bank of Armenia, who shall have to pay compensation amounting to 0.01% of the share capital per further day's delay. The application shall be considered to have been reviewed from the date of postage of a registered letter to the founders of the bank.

Article 12: Reasons for refusal of a licence

The Central Bank of Armenia may refuse to issue a licence for the following reasons: a) failure of the by-laws or other constitutive documents to comply with legislation in force, b) proven lack of professional skills on the part of the bank's management (President and Chief Accountant).

Article 13: Registration

When it issues the licence, the Central Bank of Armenia shall register the bank and inform it of its registration number. Registration of the bank shall confer legal personality on it. Banks shall not be obliged to register with the municipal and regional executive committees.

Article 14: Formalities for setting up bank branches, subsidiaries and representative agencies

Banks registered in the Republic of Armenia shall be authorised to set up branches, subsidiaries and representative agencies both in the Republic of Armenia and abroad. These shall not have separate legal personality. They shall be registered by the Central Bank of Armenia (if set up within the territory of the Republic of Armenia) or in accordance with the legal procedure in force in the country of formation if they are located abroad. Bank branches and subsidiaries shall be authorised to perform banking transactions from the time of their registration. Representative agencies shall fulfill; a role of observation of financial markets and shall be authorised to conclude agreements in the name of the bank, as well as performing other similar duties, but

shall not be authorised to perform banking transactions. The following documents shall be required in order to register a branch, subsidiary/representative agency: - an application from the parent bank - a copy of the by-laws of the parent bank - a list of authorised activities (except for representative agencies).

Article 15: Withdrawal of licences

The licence to perform banking operations may be withdrawn by the Central Bank of the Republic of Armenia in the following cases: a) the documents submitted to obtain the licence do not appear to be authentic, b) the licensee does not begin to perform banking operations within one year from the date of its registration c) the share capital has not reached the required legal level within one year of the bank's registration d) the entity performs activities forbidden under article 6 of this law e) there is proof of violation of the legislation intended to prevent monopolies. The licence may also be considered void in the cases provided for in paragraph 2 of article 36 of the law of the Republic of Armenia relating to the Central Bank of the Republic of Armenia. Banks holding a licence declared void shall not be authorised to perform the activities provided for in this law, except in the cases provided for by law, and shall be wound up in accordance with the legislation applicable in their specific case.

Article 16: Obligation for banks to inform the Central Bank of changes in their constitutive documents

Banks shall be obliged to inform the Central Bank of changes in their constitutive documents (including changes in the amount of their share capital) within one month of the date of such change, attaching copies of the amendments authenticated by a notary. If the provisions of article 12 of this law apply to the amendments, the licence may be considered void in accordance with the provisions laid down in the second part of article 15 of this law.

Article 17: Winding up of banks

The activities of banks may be wound up in accordance with this law and the law of the Republic of Armenia relating to the Central Bank of Armenia, as well as in the other cases provided for by the legislation of the Republic of Armenia.

Article 18: Means of recourse against the decisions of the Central Bank of the Republic of Armenia

Banks and their founders may appeal against the decisions of the Central Bank of the Republic of Armenia before the relevant courts or may request arbitration.

PART THREE: FINANCIAL RESOURCES OF BANKS AND DEFENCE OF CUSTOMERS INTERESTS

Article 19: Compliance with banking standards

In order to ensure their liquidity and safeguard the interests of their customers, banks shall be required to comply with the standards laid down by the Central Bank of Armenia, in accordance with the provisions of the law of the Republic of Armenia relating to the Central Bank of the Republic of Armenia, and similarly to establish insurance and reserve funds.

Article 20: Secrecy commitment

Banks shall have a secrecy commitment vis-a-vis their customers and correspondent banks with regard to their deposits, accounts and transactions. Banks may be held liable for the publication or disclosure of banking secrets by any other means, in accordance with the legislation of the Republic of Armenia. Information on legal entities, the status of their accounts and their banking transactions may be provided to the supervisory bodies, arbitration tribunals and examining jurisdictions, and depending on the circumstances, to the Central Bank of the Republic of Armenia, as well as to the tax authorities with regard to tax matters. Information on the accounts and deposits of private individuals may be communicated to those individuals and their legal representatives, as well as to tribunals and examining jurisdictions within the scope of their competence, and where it is possible to proceed with the seizure and placing under seal or blockage o fthe monetary and other assets (including securities) recorded in the accounts of or deposited by such individuals. In the event of death of an individual, information on the status of his or her accounts and deposits may be communicated to his or her successors in law, whose identity shall be confirmed by a State notary with responsibility for execution of successions, or by the equivalent departments of foreign consultants.

PART FOUR: RELATIONS BETWEEN BANKS AND THEIR CUSTOMERS

Article 22: Loans, deposits and other interbank transactions

Banks may lend or deposit amounts to or with other banks and perform the reciprocal transactions provided for in their by-laws, on predetermined terms. In order to be in a position to extend loans to customers and meet their other obligations, banks may solicit a loan from the Central Bank of the Republic of Armenia, if their own funds are insufficient. The terms of such transactions shall be defined by the Central Bank of the Republic of Armenia.